



Legislation Text

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Int. No. 1213-A

By Council Members Reyna, Brewer, Chin, Dickens, Eugene, King, Koo, Mendez, Rose, Wills, Gennaro, Vallone, Van Bramer, Greenfield and Jackson

A Local Law to amend the administrative code of the city of New York, in relation to replacing certain fines with opportunities to cure.

Be it enacted by the Council as follows:

Section 1. Paragraph (i) of subdivision d of section 16-116 of the administrative code of the city of New York, as amended by local law number 42 for the year 1996, is amended to read as follows:

(i) Except as provided in paragraph (ii) of this subdivision, violation of any of the provisions of this section or any rules promulgated pursuant thereto shall be punishable by a civil penalty of not less than fifty nor more than one hundred dollars, provided that a first-time violation of subdivision (b) of this section or any rules promulgated thereto by any owner, lessee or person in control of a commercial establishment shall be mitigated to zero dollars if, on or before the initial return date stated on the notice of violation, such owner, lessee or person submits proof of having cured the violation at the hearing of such notice of violation. Any notice of violation, appearance ticket or summons issued for a violation of this section shall be returnable before the environmental control board which shall impose the penalty herein provided.

§ 2. Section 20-275 of the administrative code of the city of New York is amended to read as follows:

§ 20-275. Violation. a. Any person who shall violate any of the provisions of this subchapter or any rule or regulation issued thereunder shall be guilty of a class A misdemeanor and upon the first conviction be subject to a fine of at least five hundred dollars and upon any subsequent convictions be subject to a fine or one thousand dollars and/or imprisonment of at least fifteen days.

b. Any person who violates any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each violation; except that a person shall not be subject to such civil penalty for a first-time violation of section 20-270 or 20-271 of this subchapter or any rule or regulation issued thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-270 or section 20-271 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 3. Subchapter 17 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-332 to read as follows:

§ 20-332. Violation. Any person who violates any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each violation; except that a person shall not be subject to such civil penalty for a first-time violation of subdivision b of section 20-324 of this subchapter and any rule or regulation issued thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of subdivision b of section 20-324 of this subchapter

or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 4. Subdivision d of section 20-240.1 of the administrative code of the city of New York is amended to read as follows:

d. Any person who violates the provisions of this section or section 20-237 shall be considered to be an unlicensed general vendor or an unlicensed food vendor and shall be subject to the penalty and enforcement provisions of either subchapter twenty-five of chapter two of this title or subchapter two of chapter three of title seventeen of the code, whichever is applicable; except that a person shall not be subject to the civil penalty described above for a first-time violation of subdivision b of section 20-237 and any rule or regulation issued thereunder, if such person proves to the satisfaction of the department within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that he or she has cured the violation. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof of compliance shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of subdivision b of section 20-327 or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted to the department electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 5. Section 20-728 of the administrative code of the city of New York is amended to read as follows:

§ 20-728. Penalties. Violation of this subchapter or any rule or regulation promulgated thereunder, shall be punishable by payment of a civil penalty in the sum of not less than twenty-five nor more than one hundred dollars for each violation; except that a person shall not be subject to the civil penalty described above for a

first-time violation of any provision of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that he or she has cured the violation. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of any provision of this subchapter or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 6. Section 20-743 of the administrative code of the city of New York, as added by local law number 31 for the year 2003, is amended to read as follows:

§ 20-743. Penalties. Any person, partnership, corporation or other business entity who violates any provision of this subchapter or any of the regulations promulgated hereunder shall be liable for a civil penalty or not less than two hundred fifty dollars nor more than five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than seven hundred fifty dollars; except that a person, partnership, corporation or other business entity shall not be subject to the civil penalty described above for a first-time violation of subdivision (a) of section 20-740 of this subchapter or any rule or regulation promulgated thereunder, if such person, partnership, corporation or other business entity proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person, partnership, corporation or other business entity who has received, for the first time, a

notice of violation of subdivision (a) of section 20-740 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person, partnership, corporation or other business entity may seek review, in the department's administrative tribunal, of the determination that the person or entity has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 7. Section 20-748 of the administrative code of the city of New York is amended to read as follows:

§ 20-748. Penalties. Violation of this subchapter, or any regulation promulgated pursuant to it, shall be punishable by payment of a civil penalty not to exceed two hundred fifty dollars; except that a person shall not be subject to a civil penalty described above for a first-time violation of section 20-746 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-746 of this subchapter or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 8. Section 20-753 of the administrative code of the city of New York, as added by local law number 32 for the year 1990, is amended to read as follows:

§ 20-753. Penalties. Any person who shall violate the provisions of this subchapter or the regulations promulgated pursuant to this subchapter shall, upon conviction thereof, pay a civil penalty or not less than fifty dollars and not more than two hundred and fifty dollars for the first offense and for each succeeding offense a penalty of not less than one hundred dollars nor more than five hundred dollars for each such violation; except

that a person shall not be subject to the civil penalty described above for a first-time violation of subdivision c of section 20-750 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of subdivision c of section 20-750 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination. For the purposes of this section, if on any single day the current selling price list is not displayed in accordance with this subchapter or the regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

§ 9. Section 20-810 of the administrative code of the city of New York, as added by local law number 2 for the year 2010, is amended to read as follows:

§ 20-810. Violations. A person violating sections 20-808 or 20-809 of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation; except that a person shall not be subject to the civil penalty described above for a first-time violation of section 20-809 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-809 of this subchapter or any rule or

regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 10. Section 24-165 of the administrative code of the city of New York is amended by adding a new subdivision (g) to read as follows:

(g) The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within forty five days of the return date set forth on the notice of violation, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that the work has been performed to permanently correct the violation. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.

§ 11. Section 24-166 of the administrative code of the city of New York is amended by adding a new subdivision (c) to read as follows:

(c) The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within forty five days of the return date set forth on the notice of violation, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that the work has been performed to permanently correct the violation. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.

§ 12. The row in the table of civil penalties following subparagraph (i) of paragraph 5 of subdivision (b) of section 24-178 of the administrative code of the city of New York that begins 24-165 is amended, and a new row immediately following such row is added, to read as follows:

24-165	As Per Schedule E, F, or G, whichever is applicable	[As Per Schedule E, F, or G, whichever is applicable] 0
24-166	875	0

§ 13. Section 24-227 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within forty five days of the return date set forth on the notice of violation, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that (i) permanent improvements or modifications have been made to the establishment, including but not limited to the installation of appropriate sound insulation, isolators, suspension mounting and/or sound mitigation devices or materials; and (ii) appropriate sound measurements taken in accordance with the department's rules substantiate that the establishment is in full compliance with the sound levels set forth in this section. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.

§ 14. The row in table I following paragraph (5) of section 24-257 of the administrative code of the city of New York that begins 24-227 is amended to read as follows:

24-227	875	[275] 0	1,750	440	2.625	660
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§ 15. The row in table I following paragraph (5) of section 24-257 of the administrative code of the city of New York that begins 24-231(a) is amended to read as follows:

24-231(a) 8,000 [2,000] 0 16,0004,000 24,0006,000						
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§ 16. By June 30, 2014, the department of consumer affairs shall promulgate rules establishing opportunities to cure the first violation of the following signage mandates:

- 1) requiring the posting of refund policies;
- 2) requiring the posting of a sign stating that individuals may complain to the department of consumer affairs about a business licensed by such department;
- 3) prohibiting signs stating that a business is not liable for such business’s negligence if such a statement is invalid under law;
- 4) requiring that parking lots and garages post a sign stating:
 - a) the business hours of such lot or garage;
 - b) the licensed capacity of such lot or garage;
 - c) such lot or garage is at full capacity for car or bicycle parking; and
 - d) minimum number of bicycle parking spaces;
- 5) requiring that parking lots and garages have separate entrances and exits, with the main entrance and exit clearly designated with illuminated signs marked “entrance” and “exit”;
- 6) requiring that all required signage is illuminated, clearly visible, and readable;
- 7) requiring that those lots and garages with waivers under section 20-327.1 of the administrative code post a sign with respect to bike parking;
- 8) requiring that auxiliary signs of parking lots and garages contain equally sized letters and numbers;
- 9) requiring that businesses that accept credit cards post a list of limitations that such business put on credit card usage at or near the entrance of each such business, and in all advertising indicating that credit cards are accepted;

10) requiring that electronic or home appliance service dealers include a notice in the department or area where electronic and home appliances are accepted for repair stating that customers are entitled to written estimates for repairs and other customer rights, and that the regulations of the department of consumer affairs relating to television, radio and audio servicing are available for review from the service dealer upon request;

11) requiring a tax preparer to display a sign:

a) identifying him or herself, including his or her address, telephone number, and qualifications;

b) stating that both the preparer and taxpayer must sign every tax return;

c) stating how his or her fees are calculated;

d) stating that he or she or his or her agency will not represent the taxpayer in an audit, if true; and

e) stating that he or she is not licensed by the state board of public accounting or the New York state bar, or both, if true;

12) requiring dealers of products for the disabled to post a sign summarizing any provisions of the New York city products for the disabled law;

13) requiring any bus to include a posted sign on the windshield and near the entrance door of such bus that designates the departure time and destination of such bus;

14) requiring laundries:

a) to distinguish in their advertising between services being offered at different prices;

b) to post an out-of-order sign on non-functioning machines on such laundry's premises;

c) to post a notice that complaints and claims for refunds may be made to a certain person or persons;

and

d) to post any sign in both english and spanish, if applicable;

15) requiring sidewalk cafes to post a sign stating the maximum number of tables and chairs licensed for such sidewalk café, and prohibiting other signage at a sidewalk café except for signage meeting certain specifications;

16) requiring motor vehicle rental businesses to post a notice of the department of consumer protection's consumer protection law;

17) requiring any labeling declaration to be written in the english language;

18) requiring that amusement arcades and gaming cafes post a sign describing age restrictions during certain hours of operation; and

19) requiring signage at businesses that sell beverages for off-premises consumption in beverage containers that are covered by title ten or article twenty-seven of the environmental conservation law of the state of New York to be placed within a certain distance of cash registers or to be visible to consumers from any specific vantage point; and

20) requiring stores with weighing and measuring devices for customer use to post a sign informing customers that they may reweigh products using such weighing or measuring device or devices.

The rules promulgated pursuant to this section shall include language to the effect that a person shall not be subject to a civil penalty for the first-time violation of any signage mandate described in this section if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of any signage mandate described in this section. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 17. This local law shall take effect one hundred eighty days following the date of its enactment.

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