



Legislation Text

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Int. No. 472-C

Introduced by Council Members Dear, Carrion, Cruz, Eisland, Espada, Freed, Leffler, McCaffrey, O'Donovan, Reed, Rodriguez, Warden, Koslowitz, Fisher, Lopez and Perkins; also Council Members Harrison, Michels and Robinson.

A Local Law to amend the administrative code of the city of New York, in relation to standards of conduct for drivers of taxicabs and for-hire vehicles.

Be it enacted by the Council as follows:

Section 1. Legislative Intent and Findings. The Council has, from the time it first established the Taxi and Limousine Commission, understood the strong need for aggressive regulation of the taxicab and for-hire vehicle industry and those directly responsible for the safety of the riding public. However, the Council finds that certain of the rules promulgated within the past several months by the New York City Taxi and Limousine Commission, such as those that modify the disciplinary measures that may be imposed against taxicab and for-hire vehicle drivers, taxicab and for-hire vehicle owners and taxicab medallion owners are onerous.

The Taxi and Limousine Commission was established in 1971 when the Council enacted Local Law 12 to add Chapter 65 to the New York City Charter and a companion Chapter 65 (now portions of Title 19) to the Administrative Code of the City of New York. Chapter 65 of the New York City Charter sets forth the jurisdiction, powers and duties of the Taxi and Limousine Commission. Therein, the Council conferred upon the Taxi and Limousine Commission authority with respect to ". . . the regulation and supervision of the business and industry of transportation of persons by licensed vehicles for hire in the city pursuant to the provisions of this chapter[.]". The Taxi and Limousine Commission's authority included, inter alia, the licensing of taxicab and for-hire vehicle drivers and owners and the setting of standards for their conduct. Former Chapter 65 of the Administrative Code established discrete policies with regard to the regulation of taxicabs

and for-hire vehicles and set forth in considerable detail the manner in which the newly-created Commission was to implement its new powers. Local Law 12 of 1971 also amended the New York City Charter to divest the Police Commissioner of the long-held authority to oversee the licensing and regulation of taxicabs, for-hire vehicles and taxicab and for-hire vehicle drivers.

In the nearly thirty years since the Taxi and Limousine Commission was created, the Council has enacted local laws relating to many of those subject areas where authority to regulate was conferred upon the Taxi and Limousine Commission by Local Law 12. These include creating a licensing program for agents (Local Law 83 of 1995), restructuring the manner in which base stations and their affiliated vehicles operate (Local Law 51 of 1996) and modifying the liability of rental car companies for violations of Taxi and Limousine Commission rules by their customers (Local Law 35 of 1998).

It is the Council's view that Int. No. 472-C establishes a superior balancing of the concern for safe and high quality service with the need for fair treatment of an industry important to New York City. Accordingly, it is the Council's determination that any rules of the Taxi and Limousine Commission that are inconsistent with any provision of the New York City Charter and Administrative Code of the City of New York as enacted by the City Council are superseded and thereby void and of no legal force and effect.

§ 2. Section 19-503 of the administrative code of the city of New York is amended to read as follows:

§ 19-503 Rules and regulations. *a.* The commission shall promulgate such rules and regulations as are necessary to exercise the authority conferred upon it by the charter and to implement the provisions of this chapter.

b. No rule or regulation promulgated subsequent to the effective date of this local law may be inconsistent with or supersede any provision of this local law and any rule or regulation in effect on the effective date of this local law that is inconsistent with any provision of this local law shall be of no further force and effect.

§ 3. Chapter 5 of title 19 of the administrative code of the city of New York is hereby amended by

adding thereto new sections 19-507.1, 19-507.2 and 19-507.3, to read as follows:

§ 19-507.1 Persistent Violators of Rules Relating to Drivers of Taxicabs and For-Hire Vehicles. a. (1) On or after September 1, 1999, any taxicab or for-hire vehicle driver may attend a remedial or refresher course approved by the commission. Upon satisfactory completion of a commission-approved course by such driver, two points shall be deducted from the number of points assessed under the persistent violators program against his or her taxicab or for-hire vehicle driver's license. A taxicab or for-hire vehicle driver shall be eligible for a point reduction pursuant to this subdivision only once within the five-year period commencing on or after September 1, 1999.

(2) Notwithstanding the provisions of paragraph one of this subdivision, any taxicab or for-hire vehicle driver may attend one remedial or refresher course approved by the commission between the effective date of this local law and August 31, 1999. Upon satisfactory completion of a commission -approved course by such driver two points shall be deducted from the number of points assessed under the persistent violators program against his or her taxicab or for-hire vehicle driver's license.

(3) Notwithstanding the provisions of paragraphs one or two of this subdivision, no point reduction shall affect any suspension or revocation action which may be taken by the commission pursuant to this program prior to the completion of the course and no taxicab or for-hire vehicle driver shall receive a point reduction unless attendance at the course is voluntary on the part of the driver. If the commission has no approved remedial or refresher course on the effective date of this subdivision, then a department of motor vehicles-approved course shall be deemed acceptable until such time as the commission approves a course.

b. Any taxicab or for-hire vehicle driver who has been found guilty of violations of the commission's rules such that six or more points have been assessed against his or her taxicab or for-hire vehicle driver's license within any fifteen-month period and whose license has not been revoked shall have his or her taxicab or for-hire vehicle driver's license suspended for thirty days. The provisions of this subdivision shall apply only to violations issued on or after July 26, 1998.

c. Any taxicab or for-hire vehicle driver who has been found guilty of violations of the commission's rules such that ten or more points have been assessed against his or her taxicab or for-hire vehicle driver's license within any fifteen-month period shall have his or her taxicab or for-hire vehicle driver's license revoked. The provisions of this subdivision shall apply only to violations issued on or after July 26, 1998.

d. For the purposes of assessing points against the license of a taxicab or for-hire vehicle driver, where a taxicab or for-hire vehicle driver has been found guilty of multiple violations arising from a single enforcement action by an authorized enforcement agent, such driver shall be deemed guilty of the single violation having the highest point assessment.

e. A taxicab or for-hire vehicle driver shall not be subject to an assessment of points against his or her taxicab or for-hire vehicle driver's license or the imposition of duplicate penalties where the same act is a violation under provisions of law other than commission rules and where such violations duplicate each other or are substantively the same and any such driver may be issued only one summons or notice of violation for such violation. Points assessed by the department of motor vehicles by reason of violations under the vehicle and traffic law may not be added to points assessed by the commission under this section for violations of commission rules.

f. It shall be an affirmative defense that the act which formed the basis for the violation was beyond the control and influence of the taxicab or for-hire vehicle driver.

g. Any violation issued to a taxicab driver or owner for meter-tampering shall be served on the licensee by personal delivery or by certified and regular mail within five calendar days of its issuance. The licensee shall have an opportunity to request a hearing before the commission or other administrative tribunal of competent jurisdiction within ten calendar days after receipt of any such notification. Upon request such hearing shall be scheduled within ten calendar days. If the tenth day falls on a Saturday, Sunday or holiday, the hearing may be held on the next business day. A decision shall be made with respect to any such proceeding within sixty calendar days after the close of the hearing. In the event such decision is not made within that time

period, the license or medallion which is the subject of the proceeding shall be returned by the commission to the licensee and deemed to be in full force and effect until such determination is made. It shall be an affirmative defense to any violation for meter-tampering issued to a taxicab driver or owner that such person (i) did not know of or participate in the alleged meter-tampering and (ii) exercised due diligence to ensure that meter-tampering does not occur.

h. For Purposes of subdivision g of this section, examples of an owner's due diligence shall include, but are not limited to (1) giving to their drivers a clear warning that violations of the meter tampering rules will result in the immediate termination of any lease agreement, the reporting to the commission of driver tampering and the commission's probable revocation of the driver's taxicab driver's license, (2) including in any written lease agreement provisions containing the warnings against violation of meter tampering rules, (3) stamping warnings about the illegality of meter tampering on the trip cards issued to all drivers of an owner's taxicabs, (4) having management personnel or mechanics periodically check for proper odometer and meter mileage comparisons in order to determine if there are inappropriate disparities between the two sets of figures, (5) conducting periodic random inspections of the taxicab meter and its wiring for all of its taxicabs to detect any evidence of violation of the meter tampering rules and (6) having all of such owner's taxicabs inspected by a licensed meter shop once every commission inspection cycle.

§ 19-507.2 Critical driver program. a. Any taxicab or for-hire vehicle driver who has been found guilty of violations such that six or more points have been assessed by the department of motor vehicles or an equivalent licensing agency of the driver's state of residence against the driver license issued to such taxicab or for-hire vehicle driver within any fifteen-month period and whose taxicab or for-hire vehicle driver's license has not been revoked shall have his or her taxicab or for-hire vehicle driver's license suspended for thirty days. The provisions of this subdivision shall apply only to violations issued on or after February 15, 1999.

b. Any taxicab or for-hire vehicle driver who has been found guilty of violations such that ten or more points have been assessed by the department of motor vehicles or an equivalent licensing agency of the driver's

state of residence against the driver license issued to such taxicab or for-hire vehicle driver within any fifteen-month period shall have his or her taxicab or for-hire vehicle driver's license revoked. The provisions of this subdivision shall apply only to violations issued on or after February 15, 1999.

c. (1) On or after September 1, 1999, a taxicab or for-hire vehicle driver shall be eligible to receive a two point reduction in the number of points assessed pursuant to the critical driver program upon the submission to the commission of proof of the satisfactory completion of a motor vehicle accident prevention course approved by the department of motor vehicles. Such point reduction shall be considered in computing the total number of points accumulated by such driver as a result of violations which occurred within fifteen months prior to the date of the completion of the course.

(2) Notwithstanding the provisions of paragraph one of this subdivision no point reduction shall affect any suspension or revocation action which may be taken by the commission pursuant to this program prior to the completion of the course. No person shall receive a point reduction more than once in any eighteen month period and no person shall receive a point reduction unless attendance at the course is voluntary on the part of the driver.

(3) Notwithstanding the provisions of paragraphs one and two of this subdivision, any taxicab or for-hire vehicle driver who voluntarily attends and satisfactorily completes one motor vehicle accident prevention course approved by the department of motor vehicles between the effective date of this local law and August 31, 1999, shall have two points deducted from the total number of points assessed pursuant to the critical driver program against his or her taxicab or for-hire vehicle driver's license. No point reduction shall affect any suspension or revocation action which may be taken by the commission pursuant to this program prior to the completion of the course.

§ 19-507.3 Reporting requirements. a. An owner shall maintain on file with the commission a current telephone number serviced by an answering machine or recording device, a pager number, telephone answering service number or other information by which telephone contact with the owner or a designated

representative may reasonably be expected to be made at all times. An owner or designated representative must respond to any telephone or pager contact from the commission within forty-eight hours.

§ 4. Chapter 5 of title 19 of the administrative code of the city of New York is amended by adding a newsection 19-512.1 to read as follows:

§ 19-512.1 Revocation of taxicab licenses. a. The commission may, for good cause shown relating to a threat to the public health, or safety and prior to giving notice and an opportunity for a hearing, suspend a taxicab or for-hire vehicle license issued pursuant to this chapter and, after notice and an opportunity for a hearing, suspend or revoke such license. The commission may also, without having suspended a taxicab or for-hire vehicle license, issue a determination to seek suspension or revocation of that taxicab or for-hire vehicle license and after notice and an opportunity for a hearing suspend or revoke such license. Notice of such suspension or of a determination by the commission to seek suspension or revocation of a taxicab or for-hire vehicle license shall be served on the licensee by personal delivery or by certified and regular mail within five calendar days of the pre-hearing suspension or of such determination. The licensee shall have an opportunity to request a hearing before the commission or other administrative tribunal of competent jurisdiction within ten calendar days after receipt of any such notification. Upon request such hearing shall be scheduled within ten calendar days, unless the commission or other administrative tribunal of competent jurisdiction determines that such hearing would be prejudicial to an ongoing criminal or civil investigation. If the tenth day falls on a Saturday, Sunday or holiday, the hearing may be held on the next business day. A decision shall be made with respect to any such proceeding within sixty calendar days after the close of the hearing. In the event such decision is not made within that time period, the license or medallion which is the subject of the proceeding shall be returned by the commission to the licensee and deemed to be in full force and effect until such determination is made, unless the commission or other administrative tribunal of competent jurisdiction determines that the issuance of such determination would be prejudicial to an ongoing criminal or civil investigation.

b. It shall be an affirmative defense that the holder of the taxicab or for-hire vehicle license or the owner of the taxicab or for-hire vehicle has (1) exercised due diligence in the inspection, management and/or operation of the taxicab or for-hire vehicle and (2) did not know or have reason to know of the acts of any other person with respect to that taxicab or for-hire vehicle license or taxicab or for-hire vehicle upon which a suspension, proposed suspension or proposed revocation is based. With respect to any violation arising from taximeter tampering, an owner's due diligence shall include, but not be limited to, those actions set forth in subdivision h of section 19-507.1 of this chapter. Any pre-hearing suspension period shall be counted towards any suspension period made in any final determination.

§ 5. If any clause, sentence, item, paragraph or section added by this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, item, paragraph or section thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 6. This local law shall take effect immediately.

Note: Matter in *italics* is new; matter in brackets [] to be omitted.