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Int. No. 1209

By Council Members Rodriguez, Kallos and Rosenthal

A Local Law to amend the administrative code of the city of New York, in relation to newsrack registration

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision c of section 19-128.1 of the administrative code of the city of New York is amended to read as follows:

c. [Notification to city of location of newsrack] Newsrack registration. 1. (a) Where a newsrack has been placed or installed on a sidewalk before the effective date of this section, the owner [or person in control of such newsrack] shall, within sixty days after such effective date, [submit to the commissioner a form identifying] register such newsrack with the department by submitting the following on a form or in a manner prescribed by the commissioner: (i) the address of such newsrack; (ii) the name, address, telephone number, and email address of the [newspaper(s) or written matter] publication(s) to be offered for distribution in such

newsrack; [and] (iii) the name, address, telephone number, and email address of the owner [or person in control of such newsracks]; (iv) the delivery schedule for the publication(s) to be offered for distribution in such newsrack; (v) an insurance certificate demonstrating compliance with the requirements of subdivision d of this section; and [representing] a certification that such [newsracks comply] newsrack complies with the provisions of this section.

(b) Any other owner [or person in control of a newsrack] shall, prior to placing or installing such newsrack on a sidewalk, submit to the commissioner a form providing the information in [clauses (ii) and (iii) of] subparagraph (a) of this paragraph.

(c) Within five business days of receipt of the information required pursuant to subparagraphs (a) and (b) of this paragraph, the department shall provide the owner of a newsrack with a decal listing a unique identification number for each newsrack. Such owner shall affix such decal in a readily visible location on the front or sides of the newsrack within five days of receipt of such decal from the department.

(d) The owner of a newrack shall resubmit the information required pursuant to subparagraphs (a) and (b) of this paragraph annually to the commissioner, in accordance with a notification schedule to be established by the commissioner.

§ 2. Paragraph 2 of subdivision d of section 19-128.1 of the administrative code of the city of New York is amended to read as follows:

2. Each [person who owns or controls] owner of a newsrack placed or installed on any sidewalk shall maintain a general liability insurance policy naming the city of New York, and its departments, boards, officers, employees and agents as additional insureds for the specific purpose of indemnifying and holding harmless those additional insureds from and against any and all losses, costs, damages, expenses, claims, judgments or liabilities that result from or arise out of the placement, installation and/or the maintenance of any newsrack. The minimum limits of such insurance coverage shall be no less than three hundred thousand dollars combined single limit for bodily injury, including death, and property damage, except that any [person] owner who

maintains an average of one hundred or more newsracks at any one time shall maintain such minimum insurance coverage of one million dollars. [An insurance certificate demonstrating compliance with the requirements of this subdivision shall be submitted annually by December 31st to the commissioner by the person who owns or controls such insured newsracks.] Should said policy be called upon to satisfy any liability for damages covered by said policy, the policy must be of such a nature that the original amount of coverage is restored after any payment of damages under the policy. [Failure to maintain a satisfactory insurance policy pursuant to this subdivision or failure to submit an annual insurance certificate to the commissioner pursuant to this subdivision, shall be deemed a violation of this section subject to subparagraph b-1 of paragraph one of subdivision f of this section.]

§ 3. Paragraph 1 of subdivision f of section 19-128.1 of the administrative code of the city of New York is amended to read as follows:

1. (a) Whenever any newsrack is found to be in violation of any provision of subdivision b of this section or paragraphs two, three, four or five of subdivision e of this section, the commissioner shall issue a notice of correction specifying the date and nature of the violation and shall send written notification, by regular mail, to the owner or person in control of the newsrack. In addition, the commissioner may send a copy of such notice of correction to a person designated by such owner or person to receive such notice, and/or the commissioner may send such notice by electronic mail to such owner or such person specifying the date and nature of the violation. However, failure to send a copy by regular or electronic mail will not extend the time period within which such owner or other person is required by any provision of this section to take action, nor will such failure result in the dismissal of a notice of violation issued pursuant to any provision of this section. The commissioner shall cause photographic evidence of such violation to be taken. Such evidence shall be sent by regular mail together with the notice of correction. Except as otherwise provided for the removal of refuse in paragraph two of subdivision e of this section, such person shall within seven business days from the date of receipt of notification via regular mail cause the violation to be corrected. For the purposes of this section, a

notice of correction shall be deemed to have been received five days from the date on which it was mailed by the commissioner.

(b) If an owner or other person in control of a newsrack fails to comply with a notice of correction issued pursuant to subparagraph a of this paragraph or an order by the commissioner to remove served pursuant to paragraph three of this subdivision, a notice of violation returnable to the board shall be served on such owner or person in control of such newsrack. No notice of violation shall be issued for the failure to comply with a notice of correction issued pursuant to subparagraph a of paragraph one of this subdivision unless the commissioner has caused a second inspection of the violation to take place within a period of time that commences on the day after the applicable period for correcting such violation expires and ends fourteen days after such day. In addition, the commissioner may send to such owner or other person in control of such newsrack, by electronic mail, photographic evidence of such violation taken at such second inspection. Failure to send such photographic evidence by electronic mail will not result in the dismissal of a notice of violation issued pursuant to any provision of this section.

(b-1) Failure by an owner [or a person in control of a newsrack] to comply with [subdivision c or d of this section, failure by such owner or person to certify or failure to accurately demonstrate that such owner or person has repainted or used best efforts to remove graffiti and other unauthorized writing, painting, drawing, or other markings or inscriptions, as required by paragraph one of subdivision e of this section,] paragraphs two or three of subdivision c, paragraph one of subdivision e, paragraph three of subdivision e, or failure to remove any newsrack as ordered pursuant to paragraph three of this subdivision shall be a violation and shall be subject to the applicable penalties provided in paragraph six of this subdivision. A proceeding to recover any civil penalty authorized by this subparagraph shall be commenced with service on such owner [or person] of a notice of violation returnable to the board. The commissioner shall not be required to issue a notice of correction before issuing or serving a notice of violation pursuant to this subparagraph.

(c) If the return date of a notice of violation issued pursuant to subparagraph b or b-1 of this paragraph

is more than five business days after the service of such notice, the board shall, upon the request of the respondent, in person at the office of the board, provide a hearing on such violation prior to such return date and no later than five business days after the date of such request. At the time set for such hearing, or at the date to which such hearing is continued, the board shall receive all evidence relevant to the occurrence or non-occurrence of the specified violation(s), the compliance or noncompliance with any of the provisions of this section, and any other relevant information. Such hearing need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation. Within five business days after the conclusion of the hearing, the board shall render a decision, based upon the facts adduced at said hearing, whether any violations of this section have occurred. The decision shall be in writing and shall contain findings of fact and a determination of the issues presented. The board shall send to the owner or person in control of the newsrack by regular mail, a copy of its decision and order.

(d) Failure by an owner to comply with of subdivision c of this section shall result in such newsrack being deemed abandoned and the provisions of paragraph four of this subdivision shall apply.

§ 4. This local law takes effect 120 days after it becomes law and the commissioner of transportation shall take all actions necessary for its implementation, including to the promulgation of rules, prior to such effective date.

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