



Legislation Text

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File #: Int 0810-2015, Version: A

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Int. No. 810-A

By Council Members Kallos and Gentile

A Local Law to amend the New York city charter, in relation to providing for the denial of an application for, or the suspension, termination or revocation of, a license, permit or registration based on unpaid civil penalties imposed by the environmental control board or a tribunal of the office of administrative trials and hearings

Be it enacted by the Council as follows:

Section 1. Subparagraph (b) of paragraph (1) of subdivision d of section 1049-a of the New York city charter is amended by adding a new clause (iv) to read as follows:

(iv) A notice of violation shall include a written warning that states: "If the Environmental Control Board or the Office of Administrative Trials and Hearings orders you to pay a civil penalty, failure to pay that penalty in a timely manner could lead to the denial of an application for a license, permit or registration, or to the suspension, termination or revocation of a license, permit or registration issued to you by a city agency."

§ 2. Chapter 45-A of the New York city charter is amended by adding a new section 1049-b to read as follows:

§ 1049-b. Effect of non-payment of civil penalties imposed by the environmental control board or a tribunal of the office of administrative trials and hearings.

a. To the extent an agency issues licenses, permits or registrations, and such agency issues notices of violation returnable to the environmental control board or to a tribunal of the office of administrative trials and hearings, such agency may deny an application for any license, permit or registration, or an application for renewal of any license, permit or registration, and may suspend, terminate or revoke any license, permit or registration, based on the failure to timely pay civil penalties imposed by the environmental control board or a tribunal of the office of administrative trials and hearings by such applicant, licensee, permittee or registrant.

b. Any agency that issues notices of violation returnable to the environmental control board or to a tribunal of the office of administrative trials and hearings shall promulgate rules to implement the authority

granted by subdivision a of this section, except that any such agency that, as of the effective date of the local law that added this section, has adopted a rule or policy that substantially meets the requirements of this section shall not be required to promulgate such rules. Such rules shall include, but need not be limited to, factors to be considered in an agency's determination whether to deny, suspend, terminate or revoke, including:

1. whether such applicant, licensee, permittee or registrant has other unpaid penalties, taxes or other debt owed to the city;

2. the amount of the unpaid civil penalties imposed by the environmental control board or a tribunal of the office of administrative trials and hearings;

3. where the violation underlying the unpaid penalties imposed by the environmental control board or a tribunal of the office of administrative trials and hearings was issued by such agency, whether such violation is one of a series of violations returnable to such board or tribunal and the nature of the underlying violation; and

4. whether the unpaid civil penalties imposed by the environmental control board or a tribunal of the office of administrative trials and hearings were imposed pursuant to a finding of default that was subsequently vacated or whether the applicant, licensee, permittee or registrant has made a request to vacate such default and obtain a new hearing pursuant to the rules of such board or tribunal.

c. An agency's decision whether to exercise the authority granted by this section shall consider the risk that a denial of an application for a license, permit or registration, or an application for renewal of any license, permit or registration or a suspension, termination or revocation of a license, permit or registration issued by such agency could create an incentive for applicants, licensees, permittees or registrants to engage in unlicensed, unpermitted or unregistered activity.

d. Nothing in this section shall impair, diminish or otherwise affect any other authority granted to any agency by any general, special or local law or any rule promulgated pursuant thereto to deny an application for a license, permit or registration, or suspend, terminate or revoke a license, permit or registration.

e. No later than September 1, 2017, and every year thereafter, an agency that exercises the authority granted by subdivision a of this section shall submit to the city council, and post on its website in a non-proprietary format that permits automated processing, a report based on data from the preceding fiscal year that includes:

1. the total number of applications for licenses, permits or registrations received by such agency;
2. the total number of applications for licenses, permits or registrations that were denied pursuant to subdivision a of this section;
3. the total number of licenses, permits or registrations that were suspended, terminated or revoked pursuant to subdivision a of this section; and
4. a list of the types of licenses, permits and registrations issued by such agency and the time period for which such licenses, permits and registrations are issued.

§ 3. This local law takes effect 180 days after it becomes law, except that any agency granted authority pursuant to section 1049-b of the New York city charter, as added by section two of this local law, may take any actions necessary for the implementation of this local law, including the promulgation of rules, before it takes effect.

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LS #2488  
3/30/16