



Legislation Text

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Int. No. 1149-A

By Council Members Garodnick, Chin, Cohen, Kallos and Menchaca

A Local Law to amend the administrative code of the city of New York, in relation to licensing ticket sellers

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 34 to read as follows:

Subchapter 34
Ticket Sellers

§ 20-550 Definitions. For purposes of this subchapter, the following terms have the following meanings:

Guide. The term “guide” has the same meaning as in section 20-242 of the code.

Mode of transportation. The term “mode of transportation” means every device in, upon, or by which any person or property is or may be transported or drawn upon a street, highway, body of water, or through the air, including motorized and non-motorized devices.

Place of entertainment. The term “place of entertainment” means any privately or publicly owned and operated entertainment facility, such as a theater, stadium, arena, racetrack, museum, amusement park, observatory, or other place where attractions, performances, concerts, exhibits, athletic games, or contests are held for which an entry fee is charged.

Public space. The term “public space” means all publicly owned property between the property lines on a street as such property lines are shown on the City Record, including, but not limited to, a park, plaza, pedestrian plaza, roadway, shoulder, tree space, sidewalk, or parking space between such property lines. It shall also include, but not be limited to, publicly owned or leased land, buildings, piers, wharfs, stadiums, and

terminals.

Guided tour. The term “guided tour” means any event during which a person acts as a guide.

Ticket. The term “ticket” means any evidence of, or anything purported to be evidence of, the right to enter or participate in any place of entertainment, mode of transportation, or guided tour.

Ticket seller. The term “ticket seller” means a person who:

(1) vends tickets in a public space, unless such person is vending tickets on behalf of a mode of transportation operating pursuant to a contract with the city of New York or an entity authorized to act on the city of New York’s behalf; or

(2) sells, gives, or otherwise transfers, for vending in a public space, any ticket to another person, unless such person is a place of entertainment, mode of transportation, or guided tour.

Ticket seller license. The term “ticket seller license” means a license issued by the commissioner to a ticket seller.

Vend. The term “vend” means to hawk, peddle, sell, lease, offer to sell or lease, at retail, tickets.

Vend in an aggressive manner. The term “vend in an aggressive manner” means:

(1) approaching or speaking to a person, or following a person before, during, or after vending, if that conduct is intended or is likely to cause a reasonable person to (i) fear bodily harm to oneself or to another, damage to or loss of property, or the commission of any offense as defined in section ten of the penal law upon oneself or another; (ii) otherwise be intimidated into giving money or other thing of value; or (iii) suffer unreasonable inconvenience, annoyance, or alarm;

(2) intentionally touching or causing physical contact with another person, or an occupied vehicle without such person’s or vehicle occupant’s consent in the course of vending, or intentionally touching or causing physical contact with another person in the company of the person being vended to without such person’s consent in the course of vending;

(3) intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle in the

course of vending by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; or

(4) using violent or threatening gestures in the course of vending.

§ 20-551 Ticket seller licenses. a. 1. It shall be unlawful for any person required to be licensed pursuant to this subchapter to act as a ticket seller without having first obtained a ticket seller license in accordance with this subchapter.

2. It shall be unlawful for any person to knowingly sell, give, or otherwise transfer, for vending in a public space, any tickets, to an unlicensed ticket seller.

b. All ticket seller licenses shall be valid for no more than one year and expire on July 31 each year unless suspended or revoked. The annual fee for such license or renewal thereof shall be \$45 or shall be a portion of \$45 prorated to the effective period of the license, and shall be paid unless the applicant is exempted by article four of the general business law.

c. 1. Each person applying for a ticket seller license or renewal thereof shall file an application in such form and detail as the commissioner may prescribe and shall pay the fee required by this subchapter.

2. An application for a ticket seller license shall include, but need not be limited to, the following information:

(i) the name of the applicant and at least one piece of current valid photo identification issued by a government agency of any jurisdiction that may be used to establish proof of identity;

(ii) the name and address of each person on whose behalf the applicant vends, or intends to vend, or if the applicant is not vending on behalf of another person, the home address of the applicant;

(iii) one print of a full-face photograph of the applicant taken not more than 30 days prior to the date of the application; and

(iv) if an applicant is a non-resident of the city, the name and address of a registered agent within the city or designation of the commissioner as their agent upon whom process or other notification may be served.

d. Upon the approval of an application, the commissioner shall issue a ticket seller license to the applicant. Such licenses shall not be transferrable.

e. A ticket seller license shall contain the licensee's name, license number, and a non-removable photograph of the licensee.

f. Whenever any information provided on the application for a ticket seller license or renewal thereof has changed, such licensee shall notify the commissioner within 10 days of such change.

g. The commissioner may promulgate rules exempting any non-profit association including, but not limited to, a government agency, charitable, educational, religious, or other such organization from compliance with this subchapter.

§ 20-552 Denial of license or renewal. a. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter one of this title, or any rules promulgated pursuant to such subchapter or chapter, the commissioner may refuse to issue or renew a ticket seller license:

1. if an applicant has pending any unanswered summons, unsatisfied fines, or penalties for violation of this subchapter or chapter one of this title, or any rules promulgated pursuant to such subchapter or chapter; or

2. for any cause set forth in chapter one of this title or elsewhere in this subchapter as a ground for suspension, or revocation, or non-renewal.

b. Notwithstanding subdivision a of this section, the commissioner shall refuse to renew a ticket seller license if the commissioner becomes aware of any of the following:

1. an applicant has been convicted of a misdemeanor pursuant to subdivision a of section 20-556;

2. an applicant has failed to answer a summons or notice of violation, appear for a civil or criminal summons, or pay a fine or civil penalty imposed pursuant to the provisions of this subchapter or chapter one of this title, or any rules promulgated pursuant to such subchapter or chapter, two or more times within any one year period; or

3. an applicant has been convicted of a crime while acting as a ticket seller.

§ 20-553 Hearings. Unless otherwise specifically provided, notice and hearings upon the denial, suspension, or revocation of a ticket seller license or the imposition of penalties provided in this subchapter shall be in accordance with chapter one of this title and any rules promulgated pursuant to such chapter.

§ 20-554 Display of license and required apparel. a. Each ticket seller shall wear their ticket seller license conspicuously at all times while engaged in vending and shall exhibit such license upon demand to any police officer, peace officer, or other authorized officer or employee of the department or other city agency.

b. In any civil or criminal action or proceeding for any violation of this subchapter or any rules promulgated pursuant to such subchapter, failure by a ticket seller required to be licensed pursuant to this subchapter to exhibit upon demand a ticket seller license in accordance with this subchapter to any police officer, peace officer, or other authorized officer or employee of the department or other city agency shall be presumptive evidence that such person is not duly licensed.

c. Each ticket seller shall wear a jacket, vest, or other wearing apparel on the upper part of their body as the outermost garment at all times while engaged in vending. Such apparel shall indicate that the ticket seller is licensed under this subchapter; the ticket seller's license number; and, if the ticket seller is employed by or vends on behalf of a place of entertainment, mode of transportation, or guided tour, the name of such place of entertainment, mode of transportation, or guided tour. Such information shall be in lettering and numerals at least one inch in height so as to be plainly readable at a distance of at least ten feet.

§ 20-555 Duties of ticket sellers. a. Each ticket seller shall keep such written records as the commissioner may prescribe by rule and shall make such records available for inspection by an authorized officer or employee of any city agency.

b. Each ticket seller shall permit inspections by the department or any authorized city agency of any tickets intended for vending in a public space by such licensee and shall provide information regarding such tickets, including the address and name of each person whose tickets are being vended.

§ 20-556 Restrictions on ticket sellers. a. No ticket seller shall vend in an aggressive manner.

b. No ticket seller shall vend within any bus stop, except that a ticket seller employed by or authorized to act on behalf of a mode of transportation or guided tour may vend such person's tickets at a bus stop designated for the use of such mode of transportation or, guided tour by the commissioner of the department of transportation where such bus stop is not within a geographical area under the control of the department of parks and recreation, unless written authorization therefor has been obtained from the commissioner of the department of parks and recreation pursuant to subdivision g of this section.

c. No ticket seller shall vend within any taxi stand, within the portion of the sidewalk abutting any no standing zone adjacent to a hospital as defined in subdivision one of section 2801 of the public health law, within 10 feet of any driveway, within 20 feet of subway entrance or exit, or within 10 feet of any corner. For purposes of this subdivision, 10 feet from any corner shall be measured from a point where the property line on the nearest intersecting block face, when extended, meets the curb.

d. No ticket seller shall vend in the bed of a road and in no case shall such licensee vend so as to restrict the continued maintenance of a clear passageway for pedestrians or vehicles.

e. A ticket seller may vend in a pedestrian plaza pursuant to rules of the department of transportation.

f. No ticket seller shall vend on the median strip of a divided roadway unless such strip is intended for use as a pedestrian mall.

g. No ticket seller shall vend within the geographical areas under the jurisdiction or control of the department of parks and recreation unless written authorization therefor has been obtained from the commissioner of parks and recreation.

h. No ticket seller shall vend on any street which is in the area including and bounded on the east by the easterly side of Broadway, on the south by the southerly side of Liberty Street, on the west by the westerly side of West Street, and on the north by the northerly side of Vesey Street, except as otherwise authorized pursuant to this section.

i. Where exigent circumstances exist and a police officer or other authorized officer, or employee of any

city agency, gives notice to a ticket seller to temporarily move from any location such ticket seller shall not vend from such location. For purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic; the existence of any obstructions in the public space; an accident, fire, or other emergency situation; a parade; demonstration; or other such event or occurrence at or near such location.

j. No ticket seller shall use equipment, stands, vehicles, racks, or displays in connection with vending in a public space except: (1) as necessary to accommodate a disability, as that term is defined by subdivision 16 of section 8-102; or (2) equipment that is at all times carried on the person of the ticket seller.

k. No ticket seller shall make fraudulent, misrepresentative, or false statements in connection with vending.

§ 20-557 Suspension and revocation of license. a. Any ticket seller license may be suspended or revoked upon notice and an opportunity to be heard for any of the following causes:

1. fraud, misrepresentation, or false statements contained in the application for such license or any renewal application;

2. fraud, misrepresentation, or false statements made in connection with the vending of tickets;

3. violation of chapter one or subchapter one of chapter five of this title, or any rules promulgated pursuant to such chapter or subchapter; provided, however, that in the event of a conflict between such chapter and subchapter and this subchapter, this subchapter shall prevail;

4. four or more violations of any provision of this subchapter or any rules promulgated pursuant to such subchapter that are issued on different calendar days and within a two-year period.

b. Notwithstanding subdivision a of this section, the commissioner shall revoke a ticket seller license if the commissioner becomes aware of any of the following:

1. a licensee has been convicted of a misdemeanor pursuant to subdivision a of section 20-566 of this subchapter;

2. a licensee has failed to answer a summons or notice of violation, appear for a civil or criminal summons, or pay a fine or civil penalty imposed pursuant to the provisions of this subchapter or chapter one of this title, or any rules promulgated pursuant to such subchapter or chapter, two or more times within a one year period; or

3. a licensee has been convicted of a crime while acting as a ticket seller.

c. Notwithstanding subdivisions a and b of this section, upon the occurrence of any of the conditions set forth in subdivision a or b of this section, if the commissioner determines that the continued possession by the ticket seller of a ticket seller license would pose an exigent danger to the public, the commissioner may immediately suspend such ticket seller license, subject to a prompt post-suspension hearing.

§ 20-558 Enforcement and rules. a. Authorized officers and employees of the department, and any department designated by the commissioner, as well as any police or peace officer, shall have the power to enforce any provision of this subchapter or any rule promulgated pursuant to this subchapter. This provision shall in no way restrict any other power granted by law to an officer or employee of any city agency.

b. Any police officer may seize from an unlicensed ticket seller tickets to be vended and devices used to vend by an unlicensed ticket seller.

§ 20-559 Penalties. a. Any person who violates, or causes another person to violate, any provision of subdivision a of section 20-551 or subdivision a of section 20-556, or any rules promulgated pursuant to such subdivisions, shall be guilty of a misdemeanor punishable by a fine of not less than \$250 nor more than \$1,000, or by imprisonment for not more than 90 days or by both such fine and imprisonment.

b. Except as provided in subdivision a of this section, any person who violates, or causes another person to violate, a provision of this subchapter or any rule promulgated pursuant to such subchapter, shall be guilty of an offense punishable as follows:

1. for the first violation, a fine of not less than \$25 nor more than \$50;

2. for the second violation issued for the same offense within a period of two years of the date of the

first violation, a fine of not less than \$50 nor more than \$100;

3. for the third violation within a period of two years of the date of the first violation, a fine of not less than \$100 nor more than \$250; and

4. for the fourth and any subsequent violations within a period of two years of the date of the first violation, a fine of not more than \$500.

c. In addition to the fines set forth in subdivisions a and b of this section, any person who violates, or causes another person to violate, any provision of this subchapter or any rules promulgated pursuant to such subchapter shall be subject to a civil penalty as follows:

1. for the first violation, a civil penalty of not less than \$25 nor more than \$50;

2. for the second violation issued for the same offense within a period of two years of the date of the first violation, a civil penalty of not less than \$50 nor more than \$100;

3. for the third violation within a period of two years of the date of the first violation, a civil penalty of not less than \$100 nor more than \$250; and

4. for the fourth and any subsequent violations within a period of two years of the date of the first violation, a civil penalty of not more than \$500.

d. For the purposes of this subchapter, there shall be a rebuttable presumption that any violation of any provision of this subchapter or any rules promulgated pursuant to such subchapter by a ticket seller was caused by:

1. the place of entertainment, mode of transportation, or guided tour whose ticket is vended; and/or

2. the person on whose behalf the ticket is vended.

A proceeding to recover any civil penalty pursuant to this section shall be commenced by the service of a summons or notice of violation which shall be returnable to the office of administrative trials and hearings.

§ 2. Pedestrian mobility and safety; study and regulations. No later than September 1, 2016, the department shall begin a study of pedestrian mobility and safety in locations where ticket sellers vend. No later

than February 1, 2017, the commissioner, in consultation with the commissioners of the department of transportation and the police department, shall issue to the mayor and to the council recommendations regarding whether it is advisable to restrict the portions of the sidewalk where ticket sellers may vend, limit such vending to the portion of the sidewalk that is at or near the curb, limit the number of ticket seller licenses, and/or limit the locations in which ticket sellers may vend in order to improve pedestrian mobility and public safety.

§ 3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or clause, sentence, paragraph, section or part other portion of this local law is, for any reason, declared invalid, in whole or in part, shall be adjudged by any court of competent jurisdiction to be invalid, such portion shall be deemed severable, and such invalidity shall not affect, impair or invalidate the validity of the remaining portions of this local law, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law that was adjudged to be invalid, which remaining portions shall continue to be in full force and effect.

§ 4. This local law takes effect August 1, 2016; except that the commissioner shall take all actions necessary for its implementation, including the promulgation of rules and the processing of applications pursuant to section 20-551, as added by section one of this local law, prior to such effective date.

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