



Legislation Text

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By Council Members Chin, Ayala, Rosenthal, Brannan, Adams, Levine, Powers, Cabrera, Gibson, Salamanca, Dromm, Lander, Rivera, Reynoso, Kallos, Barron, Rose, Ampry-Samuel and Gennaro (by request of the Mayor)

A Local Law to repeal paragraph (11) of subdivision (h) of section 2203 of the New York city charter, in relation to the declaration of deceptive trade practices, to amend the administrative code of the city of New York, in relation to the licensing of industrial laundries and businesses that engage in industrial laundry delivery, the notification of accidents relating to amusement devices, the regulating of retail laundries, the remedying of fraudulent, deceptive and unconscionable business practices, and the imposition of civil penalties for violations of the provisions of title 20 of such code, to repeal section 20-635 of such code, relating to civil penalties applicable to industrial laundries and businesses that engage in industrial laundry delivery, and to amend local law number 80 for the year 2021, in relation to the effective date thereof

Be it enacted by the Council as follows:

Section 1. Paragraph (11) of subdivision (h) of section 2203 of the New York city charter, as amended by chapter 205 of the laws of 2020, is REPEALED and paragraph (12) of such subdivision is renumbered as paragraph (11).

§ 2. Section 20-119 of the administrative code of the city of New York, as added by local law number 80 for the year 2021, is amended to read as follows:

§ 20-119 Penalties. a. Except as otherwise provided in this [chapter] section and this chapter, any person who violates any provision of this chapter or any rules promulgated pursuant to this chapter shall be subject to a civil penalty of: (i) one hundred seventy-five dollars for the first violation; (ii) three hundred dollars for the second violation committed; and (iii) five hundred dollars for the third and any subsequent violation committed [except that a person shall be subject to a civil penalty of zero dollars for a first-time violation of paragraph 2 of subdivision d of section 20-104 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, if accepted by the department as proof that the violation has been cured, 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 paragraph 2 of subdivision d of section 20-104 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 or the tribunal to which the department has delegated its adjudicatory authority, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination].

b. Any person who violates section 1-21 of title 6 of the rules of the city of New York, or any successor to such provision, shall be subject to a civil penalty of five hundred dollars.

§ 3. Subdivision c of section 20-237 of the administrative code of the city of New York, as amended by local law number 65 for the year 1992, is amended to read as follows:

c. It shall be unlawful for any person to lease or permit any other person to use any space on the sidewalk located adjacent to such store for the purpose of selling or displaying any merchandise. Violations of this [section] subdivision shall be punishable by a fine of one hundred dollars per day for each day said space is leased.

§ 4. Subdivision d of section 20-240.1 of the administrative code of the city of New York, as amended by local law number 80 for the year 2021, 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, except as otherwise provided in subdivision c of section 20-237, shall be subject to the penalty and enforcement provisions of either subchapter twenty-seven 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 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, if accepted by the department as proof that the violation has been cured, 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 20-237 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. Subdivisions a and b of section 20-241.2 of the administrative code of the city of New York, as added by local law number 80 for the year 2021, are amended to read as follows:

a. [Any] Except as otherwise provided in this subchapter, any person who violates any provision of this subchapter or any rules promulgated pursuant to this subchapter shall be subject to a civil penalty of: (i) one hundred seventy-five dollars for the first violation; (ii) three hundred dollars for the second violation; and (iii) five hundred dollars for the third and any subsequent violation.

b. Notwithstanding any inconsistent provision of this section, a person shall be subject to a civil penalty of zero dollars for a first violation of: (i) restrictions imposed pursuant to section 20-231 relating to the display or offering for sale of merchandise from any public space adjacent to a newsstand or from any portion of a newsstand exterior, the affixation of materials to a newsstand or the location of sales made at a newsstand; (ii) paragraph 1 of subdivision h of section 20-231 or any rule or regulation promulgated thereunder; (iii)

subdivision i of section 20-231 or any rule or regulation promulgated thereunder; (iv) subdivision b of section 20-233 of this subchapter or any rule or regulation promulgated thereunder, or (v) subdivision (a) of section 2-66 of title 6 of the rules of the city of New York, or any successor to such provision, 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, if accepted by the department as proof that the violation has been cured, 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 for any violation described in clauses (i) through (v) of this subdivision. 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. Subchapter 3-B of chapter 4 of title 20 of the administrative code of the city of New York is renumbered as subchapter 14 of chapter 2 of title 20 of such code, and sections 20-631, 20-632, 20-633, and 20-634 of such code are renumbered as sections 20-297.1, 20-297.5, 20-297.6, and 20-297.7, respectively, and the heading of subchapter 3-B of chapter 4 of title 20 of the administrative code of the city of New York, as amended by local law number 80 for the year 2021 and as renumbered by this section, is amended to read as follows:

SUBCHAPTER [3-B] 14

INDUSTRIAL LAUNDRIES AND INDUSTRIAL LAUNDRY DELIVERY

§ [20-631] 20-297.1 Definitions.

§ 20-297.2 License required.

§ 20-297.3 Application.

§ 20-297.4 Fee; bond.

§ [20-632] 20-297.5 General provisions.

§ [20-633] 20-297.6 Additional provisions [for industrial laundries and industrial laundry delivery].

§ [20-634] 20-297.7 Advisory task force.

§ 7. Section 20-297.1 of the administrative code of the city of New York, as renumbered and amended by local law number 80 for the year 2021 and as renumbered by section six of this local law, is amended to read as follows:

§ 20-297.1 Definitions. For the purposes of this subchapter, the following terms have the following meanings:

Industrial laundry. The term “industrial laundry” means (i) a facility used to provide laundry services to commercial clients, including but not limited to hotels, hospitals, restaurants, gyms and retail laundries, or (ii) a facility used to provide laundry services maintained or operated in connection with any commercial institution, including but not limited to any hotel, restaurant or gym. The term “industrial laundry” does not include the laundry facilities of any hospital or the laundry facilities of any residential dwelling intended for use exclusively by the owners, tenants or occupants of such dwelling.

Industrial laundry delivery. The term “industrial laundry delivery” means:

1. To transport laundry from a commercial client within the city to an industrial laundry within or outside the city for laundry services;
2. To transport laundry from a commercial client outside the city to an industrial laundry within the city for laundry services;
3. To transport laundry from an industrial laundry within the city to a commercial client within or outside the city after laundry services have been performed; or
4. To transport laundry from an industrial laundry outside the city to a commercial client within the city

after laundry services have been performed.

Laundry. The term “laundry” means clothing, apparel, sheets, towels, linens and other fabrics that are intended for laundry services.

[Laundry operator. The term “laundry operator” means any person who operates an industrial laundry, a retail laundry or a business that engages in industrial laundry delivery.]

Laundry service. The term “laundry service” means washing, drying, starching or ironing laundry for a fee, and includes such services when they are provided along with or as an incident to the rental of clothing, apparel or other fabrics. The term “laundry service” does not include dry cleaning.

Retail laundry. The term “retail laundry” means (i) a business that provides laundry services to the general public; (ii) a business that stores or collects laundry for laundry services or delivery for the general public; or (iii) a business that offers self-service laundry machinery for direct use by the general public. The term “retail laundry” does not include the laundry facilities of any hospital or the laundry facilities of any residential dwelling intended for use exclusively by the owners, tenants or occupants of such dwelling.

Successor. The term “successor” means any applicant for a license to operate an industrial laundry that satisfies two or more of the following criteria:

1. The applicant uses the same facility or workforce to offer substantially the same services as the predecessor industrial laundry.

2. The applicant shared in the ownership or otherwise exercised control over the management of the predecessor industrial laundry.

3. The industrial laundry employs in a managerial capacity any person who controlled the wages, hours or working conditions of the employees of the predecessor industrial laundry.

4. At least one of the principals of the applicant is a spouse, domestic partner, parent, stepparent, foster parent, adoptive parent, sibling, stepsibling, foster sibling, adoptive sibling, child, stepchild, foster child or adopted child of any owner, partner, officer or director of the predecessor industrial laundry, or of any person

who had a financial interest in the predecessor industrial laundry.

§ 8. Subchapter 14 of chapter 2 of title 20 of the administrative code of the city of New York, as renumbered by section six of this local law, is amended by adding new sections 20-297.2, 20-297.3 and 20-297.4 to read as follows:

§ 20-297.2 License required. a. No person may establish, maintain or operate an industrial laundry without obtaining an industrial laundry license pursuant to this subchapter.

b. No person may establish, maintain or operate a business that engages in industrial laundry delivery without obtaining an industrial laundry delivery license pursuant to this subchapter, except that any person who has obtained an industrial laundry license pursuant to this subchapter shall not be required to obtain an industrial laundry delivery license.

c. A license issued pursuant to subdivision a or b of this section is valid only for the licensee and location specified on the license.

§ 20-297.3 Application. a. An application for a license, or for any renewal thereof, to establish, maintain or operate an industrial laundry or a business that engages in industrial laundry delivery shall be made in writing in such form and manner as the commissioner shall prescribe and shall state each of the following:

1. The name and business address of the applicant;
2. The addresses of all locations at which laundry services will be performed;
3. Whether the application is made for an industrial laundry or a business that engages in industrial laundry delivery; and
4. The number of persons employed by the applicant at the time of the application.

b. In addition to the requirements of subdivision a of this section, an application for a license to establish, maintain or operate an industrial laundry shall include the following:

1. A description of the ownership and business structure of the applicant;

2. A written statement listing the categories of commercial clients for which the applicant will perform laundry services, including but not limited to hotels, hospitals, restaurants, gyms and retail laundries;

3. A written statement signed by the applicant certifying compliance with all applicable laws, regulations and rules, including section 20-297.6;

4. A written statement signed by the applicant certifying that there are no outstanding final judgments or warrants against the applicant in any action arising out of a violation of this subchapter or any rules promulgated thereunder;

5. A written statement signed by the applicant certifying that there are no outstanding final judgments against the applicant in any civil, criminal or administrative action involving nonpayment or underpayment of wages;

6. Certificates of insurance evidencing workers' compensation insurance and disability benefits insurance coverage in a form acceptable to the commissioner;

7. A certificate of insurance evidencing commercial general liability insurance, listing the city of New York as an additional insured, that provides coverage for property damage and bodily injury and death in an amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

8. A written statement detailing the applicant's procedures for complying with the minimum standards of cleanliness and hygiene set forth in subdivision a of section 20-297.6;

9. A written statement detailing the applicant's procedures for maintaining functional separation of laundered and unlaundered laundry, as required by subdivision b of section 20-297.6;

10. If the applicant is a nonresident of the city, the name and address of a registered agent within the city upon whom legal process or other notification of a judicial or administrative proceeding may be served or a designation of the commissioner for such purpose; and

11. If the applicant engages in or intends to engage in industrial laundry delivery, such applicant shall submit any information required to be submitted pursuant to subdivision c of this section that has not already

been submitted to the department pursuant to this subdivision. If an industrial laundry licensee intends to engage in industrial laundry delivery during the term of a license, such licensee shall submit any information required to be submitted pursuant to subdivision c of this section before engaging in industrial laundry delivery if such licensee did not submit such information when applying for the industrial laundry license.

c. In addition to the requirements of subdivision a of this section, an application for a license to establish, maintain or operate a business that engages in industrial laundry delivery shall include the following:

1. A description of the ownership and business structure of the applicant;

2. The name, business address and business telephone number of all industrial laundries to which the applicant delivers laundry for laundry services;

3. A written statement listing the categories of commercial clients to which the applicant delivers laundry, including but not limited to hotels, hospitals, restaurants, gyms and retail laundries;

4. The make, model and license plate number of each vehicle used by the applicant for delivering laundry;

5. A written statement signed by the applicant certifying compliance with all applicable laws, regulations and rules, including section 20-297.6;

6. A written statement detailing the applicant's procedures for maintaining functional separation of laundered and unlaundered laundry, as required by subdivision b of section 20-297.6; and

7. If the applicant is a nonresident of the city, the name and address of a registered agent within the city upon whom legal process or other notification of a judicial or administrative proceeding may be served or a designation of the commissioner for such purpose.

d. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter 1 of this title, the commissioner may deny an application for a license or renewal under this subchapter after finding that:

1. The applicant has failed to pay in full any civil penalty imposed in a judicial or administrative

proceeding arising out of a violation of this subchapter or any rule promulgated thereunder;

2. An entity to which the applicant is a successor has failed to pay in full any civil penalty imposed in a judicial or administrative proceeding arising out of a violation of this subchapter or any rule promulgated thereunder; or

3. The applicant lacks good moral character. In making a finding that an applicant lacks good moral character, the commissioner may consider, but is not limited to, any of the following factors:

(a) Any failure by such applicant to provide truthful and complete information or documentation in connection with the application or other request for information;

(b) Any final determination of liability in a civil, criminal or administrative action involving egregious or repeated nonpayment or underpayment of wages or any other illegal act or omission bearing a direct relationship to the fitness of the applicant to conduct the business for which the license or renewal is sought; except that the commissioner shall consider mitigating factors, including (i) the passage of time since such determination of liability or the underlying illegal act or omission, (ii) the severity of the illegal act or omission underlying such final determination of liability, (iii) whether any such determination of liability or other illegal act or omission has been appealed and whether the appeal is pending and (iv) any change in circumstance that might reduce the likelihood of the illegal act or omission underlying any such determinations recurring during the period of licensure;

(c) Any prior refusal by the commissioner to issue a license to the applicant to establish, maintain or operate a retail laundry, an industrial laundry, or a business that engages in industrial laundry delivery pursuant to this chapter or to renew any such license held by the applicant; or

(d) Any finding that, within the 10 years prior to the submission of the application, a person to which the applicant is a successor has been denied the issuance or renewal of any license pursuant to this subchapter or has had any such license revoked.

§ 20-297.4 Fee; bond. a. Before the commissioner may issue a license to establish, maintain or operate

an industrial laundry, an applicant shall pay a biennial fee and furnish a bond to the commissioner in the amount indicated in the following schedule, depending on the number of persons employed by such applicant:

<u>Number of employees</u>	<u>Biennial license fee</u>	<u>Amount of bond</u>
Five or fewer	\$340	\$500
Between six and 10	\$490	\$500
Between 11 and 25	\$740	\$500
Between 26 and 50	\$1,240	\$1,500
Between 51 and 75	\$1,740	\$2,500
Between 76 and 100	\$1,990	\$3,000
Between 101 and 125	\$2,240	\$3,000
126 or more	\$2,740	\$5,000

b. Before the commissioner may issue a license to establish, maintain or operate a business that engages in industrial laundry delivery, an applicant shall pay a biennial fee of \$340 and furnish a bond of \$500.

c. An applicant furnishing a bond under this section shall execute such bond with two or more sureties or a duly authorized surety company approved by the commissioner and shall make such bond payable to the people of the city. Such bond shall be conditioned on the following:

1. That such applicant will comply with the provisions of this subchapter; and

2. That such applicant will pay to the city any fine, penalty or other obligation within 30 days of its imposition, or any final judgment recovered by any person dealing or trading with such licensee for the loss or conversion of laundry within 30 days from the entry and filing of such judgment.

§ 9. Section 20-297.5 of the administrative code of the city of New York, as renumbered and amended by local law number 80 for the year 2021 and as renumbered by section six of this local law, is amended to read as follows:

§ 20-297.5 General provisions. a. Each licensee shall attach to all handcarts and pushcarts a label or tag that displays, in letters not less than two inches in height, such licensee's name, address and license number.

b. Bills, tickets, cards, advertising or stationery issued or distributed by any [laundry operator] licensee

shall contain such [laundry operator's] licensee's name [and], address and license number.

[b.] c. Charges to laundry consumers shall state accurately and clearly the name and address of the consumer and computation of the laundry charge.

d. Each licensee shall notify the commissioner within 30 days of any sale, assignment or change in ownership of the industrial laundry or the business that engages in industrial laundry delivery.

[c. Each retail laundry where the general public may use self-service laundry machinery shall have on premises an attendant from 8:00 P.M. until closing or 6:00 A.M. the following day, whichever is earlier.

d.] e. Each vehicle used for [retail or] industrial laundry delivery shall display, in letters no less than two inches in height, the [laundry operator's] licensee's name, business address and business telephone number and the license number assigned by the commissioner.

§ 10. Section 20-297.6 of the administrative code of the city of New York, as renumbered and amended by local law number 80 for the year 2021 and as renumbered by section six of this local law, is amended to read as follows:

§ 20-297.6 Additional provisions [for industrial laundries and industrial laundry delivery].

a. Minimum standards of cleanliness and hygiene.

1. In addition to complying with section [20-632] 20-297.5, each [operator of an] industrial laundry licensee shall:

(a) Launder all laundry using a detergent that is appropriate for each type of fabric;

(b) Handle, store and process laundered and unlaundered laundry in a manner that minimizes the spread of contaminants and keeps laundered articles clean; and

(c) Clean all work surfaces at regular intervals. Work surfaces include all surfaces in rooms where laundry is exposed to open air, including but not limited to laundry equipment, work stations, and floors, whether or not it is expected that laundry will come into direct contact with such surfaces.

2. No [operator of an] industrial laundry licensee may represent that laundry services have been provided when such laundry services in fact have not been provided.

3. Each [operator of an] industrial laundry licensee shall develop procedures for complying with the minimum standards of cleanliness and hygiene set forth in paragraph 1 of this subdivision and shall post such procedures in a conspicuous manner in all places where laundry services are processed.

b. Functional separation of laundered and unlaundered laundry. 1. In addition to complying with section [20-632] 20-297.5, each [operator of an] industrial laundry licensee and [each laundry operator engaged in] industrial laundry delivery licensee shall maintain functional separation of laundered and unlaundered laundry in accordance with the following requirements:

(a) Each [operator of an] industrial laundry licensee and [each laundry operator engaged in] industrial laundry delivery licensee shall enclose laundry in suitable containers before and after laundering and shall not allow containers that hold unlaundered laundry to be subsequently used for laundered laundry without first having been thoroughly cleaned and sanitized; and

(b) Each [operator of an] industrial laundry licensee shall store laundered laundry and unlaundered laundry in separate, clearly marked areas of the facility when such laundry is not actively being processed.

2. Each [operator of an] industrial laundry licensee and [each laundry operator engaged in] industrial laundry delivery licensee shall develop procedures for maintaining functional separation of laundered and unlaundered laundry as required by this subdivision and shall post such procedures in a conspicuous manner in all places where laundry services and industrial laundry delivery are provided.

§ 11. Section 20-297.7 of the administrative code of the city of New York, as renumbered by section six of this local law, is amended by adding a new subdivision e to read as follows:

e. The commissioner shall collect the written statements submitted by applicants in accordance with paragraphs 8 and 9 of subdivision b and paragraph 6 of subdivision c of section 20-297.3 solely for the purpose of providing such statements to the task force. Such statements, in addition to information about the number

and type of complaints regarding alleged violations of this subchapter received by the commissioner, shall be submitted to the task force by the commissioner on or before June 15 of every fifth year after 2018.

§ 12. Subdivision a of section 20-627 of the administrative code of the city of New York is amended by adding a new paragraph (4) to read as follows:

(4) Notification of accidents. Every amusement operator shall provide notice to the department of any accident relating to an amusement device within twenty-four hours after the occurrence of such accident, or immediately after such accident if any person sustains an injury requiring medical treatment or dies as a result of such accident. The commissioner shall set by rule the form and content of such notice and the manner in which such notice shall be transmitted to the department.

§ 13. Chapter 4 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 3-B to read as follows:

SUBCHAPTER 3-B

RETAIL LAUNDRIES

§ 20-631 Definitions. For purposes of this subchapter, the following terms have the following meanings:

Laundry. The term “laundry” means clothing, apparel, sheets, towels, linens and other fabrics that are intended for laundry services.

Laundry operator. The term “laundry operator” means any person who operates a retail laundry.

Laundry service. The term “laundry service” means washing, drying, starching or ironing laundry for a fee, and includes such services when they are provided along with or as an incident to the rental of clothing, apparel or other fabrics. The term “laundry service” does not include dry cleaning.

Retail laundry. The term “retail laundry” means (i) a business that provides laundry services to the general public; (ii) a business that stores or collects laundry for laundry services or delivery for the general public; or (iii) a business that offers self-service laundry machinery for direct use by the general public. The

term “retail laundry” does not include the laundry facilities of any hospital or the laundry facilities of any residential dwelling intended for use exclusively by the owners, tenants or occupants of such dwelling.

§ 20-632 General provisions. a. Bills, tickets, cards, advertising or stationery issued or distributed by any laundry operator shall contain such laundry operator’s name and address.

b. Charges to laundry consumers shall state accurately and clearly the computation of the laundry charge.

c. Each retail laundry where the general public may use self-service laundry machinery shall have on premises an attendant from 8:00 P.M. until closing or 6:00 A.M. the following day, whichever is earlier.

d. Each vehicle used for retail laundry delivery shall display, in letters no less than two inches in height, the laundry operator’s name, business address and business telephone number.

§ 20-633 Penalties. a. Any person who violates any provision of this subchapter or any rules promulgated pursuant to this subchapter shall be subject to a civil penalty of: (i) \$175 for the first violation; (ii) \$300 for the second violation; and (iii) \$500 for the third and any subsequent violation committed; except that a person shall be subject to a civil penalty of zero dollars for a first violation of subdivision a or d of section 20-632 of this subchapter, or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within 30 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, if accepted by the department as proof that the violation has been cured, 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 a or d of section 20-632 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 15 days of receiving written notification of such determination.

b. Notwithstanding any inconsistent provision of this section, there shall be a civil penalty of zero dollars imposed for a first violation of subdivision b of section 20-632 of this subchapter or any rule or regulation promulgated thereunder. The notice of violation for such first violation shall inform the respondent of the provision of law or rule that the department believes the respondent has violated, describe the condition or activity that is the basis for the notice of violation, and advise the respondent that the law authorizes civil penalties for such violation and that subsequent violations may result in the imposition of such civil penalties. Any person who violates subdivision b of section 20-632 of this subchapter or any rule or regulation promulgated thereunder shall be subject to a civil penalty of \$175 for a second violation and a civil penalty of \$300 for a third or subsequent violation.

§ 14. Section 20-635 of the administrative code of the city of New York is REPEALED.

§ 15. Subdivision a of section 20-701 of the administrative code of the city of New York is amended to read as follows:

a. Deceptive trade practice. Any false, falsely disparaging, or misleading oral [or], written, digital, or electronic statement, visual description or other representation or omission of any kind made in connection with the sale, lease, rental, or loan or in connection with the offering for sale, lease, rental, or loan of consumer goods or services, or in the extension of consumer credit or in the collection of consumer debts, which has the capacity, tendency or effect of directly or indirectly deceiving or misleading consumers. Deceptive trade practices include but are not limited to: (1) representations that goods or services have sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have; the supplier has a sponsorship, approval, status, affiliation, or connection that he or she does not have; goods are original or new if they are deteriorated, altered, damaged, refurbished, reconditioned, reclaimed, or secondhand; or, goods or services are of a particular standard, quality, grade, style, or model, if they are of another; (2) the use, in any [oral or written] representation, of exaggeration, innuendo, or ambiguity as to a

material fact, or the failure to state a material fact, if such use of, or failure to state, a material fact deceives or tends to deceive; (3) disparaging the goods, services, or business of another by false or misleading representations or omissions of material facts; (4) offering goods or services with intent not to sell them as offered, including by failing to disclose clearly and conspicuously all material exclusions, reservations, limitations, modifications, or conditions on such offer; (5) offering goods or services with intent not to supply reasonable expectable public demand, unless the offer discloses [to] a limitation of quantity; [and] (6) making false or misleading representations of fact, or omitting material facts, concerning the reasons for, existence of, or amounts of price reductions, or price in comparison to prices of competitors or one's own price at a past or future time; (7) stating that a consumer transaction involves consumer rights, remedies, or obligations that it does not involve; (8) falsely stating that services, replacements or repairs are or are not needed [if they are not]; [and] (9) falsely stating the reasons for offering or supplying goods or services at scale discount prices; and (10) failing to provide a complete and accurate translation of all documents, other than receipts, related to a consumer transaction conducted in a designated citywide language other than English, as defined in section 23-1101, provided that such transaction was predominantly negotiated in such language, and provided further that, for purposes of this subdivision, the term "predominantly negotiated" means the negotiation of material terms of a consumer transaction, including price, quantity, the description of goods or services, exclusions and conditions; and the term "receipt" means a document that provides only the amount paid by the consumer for each item, the total amount paid by such consumer, the date of the purchase and the legal name and address of the seller.

§ 16. Section 20-703 of the administrative code of the city of New York is amended to read as follows:

§ 20-703 Enforcement. a. The violation of any provision of this subchapter or of any rule [or regulation] promulgated thereunder[,] shall be punishable [upon proof thereof,] by [the payment of] a civil penalty [in the sum] of [fifty dollars to three hundred and fifty dollars, to be recovered in a civil action] not less than \$350 nor

more than \$2,500. Notwithstanding any other provision of this subchapter, a person shall be subject to a civil penalty of \$150, \$250, and \$350 for a first, second and third or any subsequent violation, respectively, of the same rule for: (1) failing to display a sign in the required form or location or with the content required by rule, including but not limited to any such violation of section 24, 37, or 66 of chapter 5 of title 6 of the rules of the city of New York, or any successor to such provisions; (2) failing to provide a consumer with a required receipt for a retail purchase below \$250, including but not limited to any such violation of section 32 of chapter 5 of such title, or any successor to such provision; (3) charging sales tax on the sale of any good or service not subject to such tax, including but not limited to any such violation of section 41 of chapter 5 of such title, or any successor to such provision; or (4) imposing a restaurant surcharge, including but not limited to any such violation of section 59 of chapter 5 of such title, or any successor to such provision.

b. Each individual statement, description or other representation or omission that constitutes a deceptive trade practice shall give rise to a distinct and independent violation.

c. Each day on which an individual statement, description or other representation or omission that constitutes a deceptive trade practice is distributed, broadcast, posted, published, or otherwise exposed to the public shall give rise to a single separate violation; provided, however, that if the department produces evidence sufficient to show that such statement, description or other representation or omission was distributed, broadcast, posted, published, or otherwise exposed to the public on more than one occasion in a single day, each such exposure shall constitute a separate violation, or, alternatively, if the department produces sufficient evidence to show the number of consumers reached by such statement, description or other representation or omission, and that the person making such statement, description or other representation or omission knew, or should have known, that such statement, description or other representation or omission was a deceptive trade practice, a penalty for such violation shall be based instead on each individual consumer reached by such statement, description or other representation or omission.

[b.] d. 1. The knowing violation or the third violation of any provision of this subchapter or of any rule [or regulation] promulgated thereunder[,], shall be punishable [upon conviction thereof, by]:

i. [the payment of] by a civil penalty [in the sum] of [five hundred dollars, or as a violation for which a fine in the sum of five hundred dollars shall be imposed, or both] \$3,500; or

ii. as a violation for which a fine of \$3,500 shall be imposed; or

iii. both by a civil penalty and as a violation with a fine as provided in paragraphs i and ii of this subdivision.

2. For the purposes of this subdivision, the term “third violation” means a third violation of the same section of this subchapter or rule in a three-year period, provided that each such violation was set forth in a separate guilty plea, decision or settlement agreement.

e. Whenever any person has engaged in any act or practice which constitutes a violation of any provision of this subchapter or of any rule promulgated thereunder, the city may make application to the supreme court by action or proceeding or the commissioner may commence a proceeding by service of a notice of violation returnable to any tribunal established within the office of administrative trials and hearings or within any agency of the city designated to conduct such proceedings.

f. In addition to the authority granted to the department under section 2203 of the charter, the corporation counsel may initiate any investigation to ascertain such facts as may be necessary for the commencement of an action or proceeding pursuant to this section, and in connection therewith shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths and to examine such persons as are deemed necessary.

g. An application to the supreme court made pursuant to subdivision e may seek an order:

1. enjoining such acts or practices, including by granting a temporary or permanent injunction or a restraining order;

2. imposing civil penalties pursuant to this section;

[c. Upon a finding by the commissioner of repeated, multiple or persistent violation of any provision of this subchapter or of any rule or regulation promulgated thereunder, the city may, except as hereinafter provided, bring an action to compel the]

3. compelling a defendant [or defendants in such action to pay in court] to make restitution of all monies, property, or other things of value, or proceeds thereof, received directly or indirectly as a result of any such [violations] violation;

[to direct] 4. directing that the amount of money or the property or other things of value recovered be paid into an account established pursuant to section [two thousand six hundred one] 2601 of the civil practice law and rules from which shall be paid over to any and all persons who purchased the goods or services during the period of violation such sum as was paid by them in a transaction involving the prohibited acts or practices, plus any costs incurred by such claimants in making and pursuing their complaints; provided that if such claims exceed the sum recovered into the account, the awards to consumers shall be prorated according to the value of each claim proved;

[to direct the] 5. directing a defendant [or defendants, upon conviction,] to pay to the city the costs[,] and disbursements of the action or proceeding and [pay to the city for the use of the commissioner] the costs of [his or her] the city's investigation leading to the judgment; or if not recovered from [defendants] a defendant, such costs are to be deducted by the city from the grand recovery before distribution to the consumers;

[and to direct] 6. directing that any money, property, or other things of value in the account described in this subdivision and unclaimed by any persons with such claims within [one year] six years from creation of the account, be paid to the city[, to be used by the commissioner for further consumer law enforcement activities]; and

7. granting all other appropriate relief.

h. Consumers making claims against an account established pursuant to [this] subdivision g shall prove their claims to the commissioner in a manner and subject to procedures established by the commissioner [for that purpose]. The procedures established in each case for proving claims shall not be employed until approved by the court, which shall also establish by order the minimum means by which the commissioner shall notify potential claimants of the creation of the account. Restitution pursuant to a judgment in an action or proceeding under this subdivision shall bar, [pro tanto] to the extent permitted by law, the recovery of any damages in any other action or proceeding against the same defendant [or defendants] on account of the same acts or practices which were the basis for such judgment, up to the time of the judgment, by any person to whom such restitution is made. Restitution under this subdivision shall not apply to transactions entered into more than five years prior to commencement of an action by the [commissioner] city. Before instituting an action or proceeding under [this] paragraphs 3 through 6 of subdivision g, the commissioner shall give the prospective defendant written notice of the possible action[, and an opportunity to demonstrate in writing within five days, that no repeated, multiple, or persistent violations have occurred] or proceeding at least five days prior to such action or proceeding.

[d. Whenever any person has engaged in any acts or practices which constitute violations of any provision of this subchapter or of any rule or regulation promulgated thereunder, the city may make application to the supreme court for an order enjoining such acts or practices and for an order granting a temporary or permanent injunction, restraining order, or other order enjoining such acts or practices.]

i. A proceeding by service of a notice of violation returnable to any tribunal established within the office of administrative trials and hearings or within any agency of the city designated to conduct such proceedings, made pursuant to subdivision e, may seek an order:

1. granting all applicable civil penalties pursuant to this section;
2. compelling a defendant to make restitution of all monies, property, or other things of value, or

proceeds thereof, received directly or indirectly as a result of any such violations, to all affected consumers whether named or unnamed; and

3. granting all other appropriate relief.

[e.] j. To establish a cause of action under this section it need not be shown that consumers are being or were actually injured.

§ 17. Subdivision a of section 20-704 of the administrative code of the city of New York is amended to read as follows:

a. In lieu of instituting or continuing an action or proceeding pursuant to this subchapter, the commissioner may accept written assurance of discontinuance of any act or practice in violation of this subchapter from [the] a person [or persons] who [have] has engaged in such acts or practices. Such assurance may include a stipulation for voluntary payment by the violator of the costs of investigation by the commissioner and may also include a stipulation for the restitution by the violator to consumers, of money, property, or other things of value received from them directly or indirectly in connection with a violation of this subchapter, including money necessarily expended in the course of making and pursuing a complaint to the commissioner. All settlements shall be made a matter of public record. If [such] a stipulation applies to [consumers who have been affected by the violator's practices but have not yet complained to the commissioner] potential claimants, the assurance [must be approved by the court, which shall direct] may specify the minimum means by which [potential] such claimants shall be notified of the stipulation. A consumer need not accept restitution pursuant to such a stipulation; his or her acceptance shall bar, to the extent permitted by law, recovery of any other damages in any action or proceeding by him or her against [the] a defendant [or defendants] on account of the same acts or practices.

§ 18. Section 20-715 of the administrative code of the city of New York, as amended by local law number 80 for the year 2021, is amended to read as follows:

§ 20-715 Penalties. Any person who [shall violate] violates the provisions of section 20-713.1 or regulations promulgated pursuant to this subchapter shall pay a civil penalty of one hundred seventy-five dollars for the first offense, five hundred dollars for the second offense and seven hundred and fifty dollars for the third offense and each succeeding offense and shall, upon conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than five hundred dollars for the first offense and for each succeeding offense a fine of not less than five hundred dollars nor more than seven hundred fifty dollars for each such violation. For the purposes of this section, if on any single day the required signage is not displayed in accordance with section 20-713.1 or regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

§ 19. Section 20-753 of the administrative code of the city of New York, as amended by local law number 80 for the year 2021, is amended to read as follows:

§ 20-753 Penalties. Any person who [shall violate] violates the provisions of this subchapter or the regulations promulgated pursuant to this subchapter shall, upon conviction thereof, pay a civil penalty of fifty dollars for the first offense; one hundred dollars for the second offense; and two hundred fifty dollars for the third offense and any subsequent offense; except that a person shall not be subject to the civil penalty described above for a first-time violation of section 20-750 or 20-751 of this subchapter or any rule or regulation promulgated thereunder or pursuant to section 20-753, 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, if accepted by the department as [satisfactory] proof that the violation has been cured, 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 20-750 or 20-751 of this subchapter or any rule or regulation promulgated thereunder or

pursuant to section 20-753. 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.

§ 20. Section 20-862 of the administrative code of the city of New York, as added by local law number 80 for the year 2021, is amended to read as follows:

§ 20-862 Penalties. Any person who violates any provision of this subchapter or any rules promulgated pursuant to this subchapter shall be subject to a civil penalty of: (i) \$150 for the first violation; (ii) \$250 for the second violation; and (iii) \$350 for the third and any subsequent violation; except that a person shall [not] be subject to [such] a civil penalty of [\$0] zero dollars for a first-time violation of section 20-861 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within 30 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, if accepted by the department as proof that the violation has been cured, shall be deemed an admission of liability [only if the department is satisfied by such proof that the violation has been cured] 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 20-861 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 15 days of receiving written notification of such determination.

§ 21. Section 109 of local law number 80 for the year 2021 is amended to read as follows:

§ 109. Section thirty-six through forty-one of this local law take effect on March 15, 2022, provided that no license shall be required to operate an amusement arcade or a gaming café after January 15, 2022, and except that the commissioner of consumer and worker protection [a shall] and the chief administrative law judge of the office of administrative trials and hearings may take such measures as are necessary for their implementation, including the promulgation of rules, before such date.

§ 22. This local law takes effect 120 days after it becomes law, except that:

a. Sections two, four, five and eighteen through twenty of this local law take effect on the same date sections 35, 45, 46, 89, 94 and 96 of local law number 80 for the year 2021 take effect, and the commissioner of consumer and worker protection and the chief administrative law judge of the office of administrative trials and hearings may take such measures as are necessary for their implementation, including the promulgation of rules, before such date;

b. Sections three and twenty-one of this local law take effect immediately;

c. Sections six through eleven, thirteen and fourteen of this local law take effect on the same date sections 53 through 59 of local law number 80 for the year 2021 take effect, and the commissioner of consumer and worker protection and the chief administrative law judge of the office of administrative trials and hearings may take such measures as are necessary for their implementation, including the promulgation of rules, before such date; and

d. Section twelve of this local law takes effect on the same date section 39 of local law number 80 for the year 2021 takes effect, and the commissioner of consumer and worker protection and the chief administrative law judge of the office of administrative trials and hearings may take such measures as are necessary for its implementation, including the promulgation of rules, before such date.

CJA/SJ/JJ/MC
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