



Legislation Text

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Int. No. 231-A

By Council Members Perkins, Baez, Felder, Nelson, Sanders and Weprin (by request of the Mayor); also Council Members Stewart and Gerson.

A Local Law to amend the New York city charter and administrative code, in relation to changing the name of the department of business services to the department of small business services.

Be it enacted by the Council as follows:

Section 1. Paragraph 6 of subdivision b of section 311 of the New York city charter, as amended by local law number 91 for the year 1996, is amended to read as follows:

6. the time schedules within which city officials shall be required to take the actions required by this chapter, sections thirteen hundred four and thirteen hundred five, or by any rule issued pursuant thereto, in order for contracts to be entered into, registered or otherwise approved, and recommended time schedules within which city officials should take action pursuant to any other provision of law or rule regarding individual contracts. The promulgation of rules defining time schedules for actions by the division of economic and financial opportunity of the department of small business services and the division of labor services of such department shall require the approval of each division, as such rules pertain to actions required of such divisions, prior to the adoption of such rules by the procurement policy board;

§ 2. Subdivision c of section 824 of the New York city charter, as added by local law number 59 for the year 1996, is amended to read as follows:

c. to manage all real property of the city not used for public purposes, including real property acquired for a public purpose and not being currently utilized for such purpose, except wharf property or other real property under the jurisdiction of the department of small business services, the department of housing

preservation and development, the New York city transit authority, and the New York city housing authority by virtue of an authorization granted by the mayor pursuant to the provisions of subdivision three of section one hundred twenty-five of the public housing law, or except as otherwise provided by law, real property under the jurisdiction of the triborough bridge and tunnel authority; provided, that the commissioner shall be responsible for the management, leasing or permitting of any parcels of wharf property and water front property as provided in any designation made by the commissioner of small business services pursuant to paragraph b of subdivision two of section thirteen hundred one of this charter[.];

§ 3. The opening paragraph of section 1058 of the New York city charter, as added by local law number 29 for the year 2000, is amended to read as follows:

Each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices are hereby designated as participating voter registration agencies: The administration for children's services, the city clerk, the civilian complaint review board, the commission on human rights, community boards, the department of small business services, the department of citywide administrative services, the department of consumer affairs, the department of correction, the department of employment, the department of environmental protection, the department of finance, the department of health, the department of homeless services, the department of housing preservation and development, the department of mental health, the department of parks and recreation, the department of probation, the taxi and limousine commission, the department of transportation and the department of youth and community development. Participating agencies shall include a mandate in all new or renewed agreements with those subcontractors having regular contact with the public in the daily administration of their business to follow the guidelines of this section. Such participating agencies shall be required to offer voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services; provided however that this section shall not apply to services that must be provided to prevent actual or

potential danger to the life, health, or safety of any individual or of the public. Such agencies may provide assistance to applicants in completing voter registration forms, if so requested. Such agencies may also, in their discretion, receive and transmit the completed application form from any applicants who wish to have such form transmitted to the board of elections for the city of New York.

§ 4. The chapter heading of chapter 56 of the New York city charter and section 1300 of the New York city charter, as added by local law number 61 for the year 1991, are amended to read as follows:

DEPARTMENT OF SMALL BUSINESS SERVICES

§1300. Department; commissioner.

There shall be a department of small business services, the head of which shall be the commissioner of small business services. The commissioner may appoint deputies within available appropriations.

§ 5. Clause (i) of subparagraph (a) of paragraph 2 of subdivision d of section 1404 of the New York city charter, as amended by chapter 593 of the laws of 1999, is amended to read as follows:

(i) service of a notice of violation of any provisions of the charter or administrative code the enforcement of which is the responsibility of the fire commissioner, the commissioner of buildings, the commissioner of environmental protection, the commissioner of transportation, the commissioner of small business services, the landmarks preservation commission or the commissioner of the department of information technology and telecommunications and over which the environmental control board has jurisdiction, may be made by delivering such notice to a person employed by the respondent on or in connection with the premises where the violation occurred, provided however, that the department of buildings and the fire department may not utilize the procedures set forth in this item to serve a notice of violation relating to commercial premises or residential premises with a legal occupancy of four or more dwelling units; and

§ 6. Paragraph (k) of subdivision 6 of section 1802 of the New York city charter is amended to read as

follows:

(k) manage and superintend all residential real property of the city not used for public purposes, including real property acquired for a public purpose and not being currently utilized for such purpose, but not wharf property or other real property under the jurisdiction of the New York city transit authority, real property under the jurisdiction of the department of small business services, or real property under the jurisdiction of the New York city housing authority by virtue of an authorization granted by the mayor pursuant to the provisions of subdivision three of section one hundred twenty-five of the public housing law, or real property under the jurisdiction of the triborough bridge and tunnel authority;

§ 7. Subdivision a of section 2100 of the New York city charter, as amended by local law number 21 for the year 2002, is amended to read as follows:

a. There shall be a business integrity commission, which shall consist of a full-time chairperson appointed by the mayor and of the commissioners of the department of small business services, the department of consumer affairs, the department of investigation, the police department and the department of sanitation, or their designees.

§ 8. Section 16-517 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, is amended to read as follows:

§ 16-517 Enforcement. Notices of violation for violations of any provision of this chapter or any rule promulgated hereunder may be issued by authorized employees or agents of the commission. In addition, such notices of violation may be issued by the police department, and, at the request of the commission and the consent of the appropriate commissioner, by authorized employees and agents of the department of consumer affairs, the department of small business services, the department of transportation, and the department of sanitation.

§ 9. Paragraph 2 of subdivision d of section 17-314.1 of the administrative code of the city of New York, as amended by local law number 27 for the year 1997, is amended to read as follows:

2. an exclusive distributor or a manufacturer who has been issued more than one temporary permit pursuant to item (B) of clause (ii) of subparagraph (a) of paragraph three of subdivision f of section 17-307 of this subchapter may lease a vehicle or pushcart owned by such exclusive distributor or manufacturer with such exclusive distributor's or manufacturer's temporary permit attached thereto to a person licensed as a food vendor pursuant to this subchapter if (a) such exclusive distributor or manufacturer files with the department the bill of sale or other proof of ownership for such vehicle or pushcart with a duly issued sales tax receipt attached thereto; (b) such lease agreement sets forth the food product which may be primarily sold using such vehicle or pushcart; and (c) such lease agreement is approved by the department, provided, however, that if such lease agreement is not approved or disapproved within thirty calendar days after such lease agreement is filed with the department, such lease agreement shall be deemed to be approved by the department. The commissioner shall promulgate rules establishing the standards by which the department shall evaluate such lease agreements and such standards shall include, but not be limited to, requirements that such lease agreements contain fair and reasonable terms based upon such factors as the cost of purchasing and maintaining such pushcart or vehicle and that the terms of such lease agreement are the result of an arm's length negotiation between the parties thereto. Subleasing of any such vehicle or pushcart owned by such exclusive distributor or manufacturer with such exclusive distributor's or manufacturer's temporary permit attached thereto is strictly prohibited. Authorized officers and employees of the department of small business services and the department of investigation may assist the commissioner and the department in effectuating the provisions of this paragraph. Any violation or violations of the provisions of this paragraph or any rules promulgated hereunder by an exclusive distributor or a manufacturer who has been issued more than one temporary permit pursuant to item (B) of clause (ii) of subparagraph (a) of paragraph three of subdivision f of section 17-307 of this subchapter may be the basis for suspension or revocation of all of the permits issued to such exclusive distributor or manufacturer pursuant to this subchapter.

§ 10. Paragraph 1 of subdivision a of section 19-136 of the administrative code of the city of New York,

as renumbered and amended by local law number 104 for the year 1993, is amended to read as follows:

1. Such an obstruction is hereby forbidden in front of a house, store or other building facing any street market, except upon a permit from the commissioner of small business services.

§ 11. Paragraph 2 of subdivision c of section 19-136 of the administrative code of the city of New York, as amended by local law number 14 for the year 1995, is amended to read as follows:

2. As chairperson of the street vendor review panel established pursuant to section 20-465.1 of this code, the commissioner of the department of small business services or his or her designee may recommend that in specified areas of the city the provisions of subdivision a of this section or paragraph one of this subdivision which prohibit such obstructions shall not apply. In making such a recommendation, such commissioner or his or her designee shall consider (a) whether such obstructions are intrinsic to the operation of businesses within such areas and such businesses constitute an essential part of the unique historical and commercial nature of such area and (b) the measures which shall be taken to ameliorate the danger to the public health, safety and welfare in such areas which may be caused, in whole or in part, by the maintenance of such obstructions. Such commissioner may from time to time review, modify or revoke such recommendations. A recommendation by the commissioner or his or her designee pursuant to this paragraph shall be effective upon the report of such recommendation to the council and the approval of such recommendation by the council pursuant to local law. Notice of any recommendation made by the commissioner or his or her designee shall be published in the City Record and mailed to each community board not less than thirty days prior to such commissioner's report to the council.

§ 12. Section 20-234 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:

§ 20-234 Stoop line stands on market streets. All such licenses shall be issued by the commissioner, in his or her discretion, with the consent of the owner of the abutting premises, provided however, that where any such stand is to be located in front of any premises facing on a market street, the license shall be issued by the

commissioner of small business services, in his or her discretion.

§ 13. Subsection g of section 20-465 of the administrative code of the city of New York, as amended by local law number 14 for the year 1995, is amended to read as follows:

g. No general vendor shall vend on any street which is in a C4, C5, or C6 zoning district, or in the area bounded on the east by Second Avenue, on the south by Thirtieth Street, on the west by Ninth Avenue and Columbus Avenue and on the north by Sixty-fifth Street, except that as chairperson of the street vendor review panel established pursuant to section 20-465.1 of this subchapter, the commissioner of the department of small business services or his or her designee may receive applications from any person, group, organization or other entity to permit general vendors on any street within said area or said zones, or to prohibit general vendors on any other street. Such applications shall be considered by the street vendor review panel in accordance with the procedures enumerated in section 20-465.1 of this subchapter.

§ 14. Subdivisions a and b of section 20-465.1 of the administrative code of the city of New York, as added by local law number 14 for the year 1995, are amended to read as follows:

a. There is hereby established a street vendor review panel consisting of four members. Such panel shall include the commissioner of the department of small business services, the director of the department of city planning and the commissioner of the department of transportation, or their respective designees. Such panel shall also include a member appointed by the mayor upon nomination by the speaker of the council. The commissioner of the department of small business services or his or her designee shall serve as chairperson. The departments of small business services, city planning and transportation shall provide such assistance as the street vendor review panel deems necessary and appropriate to enable such panel to carry out its responsibilities. In the same manner as provided in section 1043 of the city charter, the street vendor review panel shall promulgate, and may from time to time amend, rules prohibiting the operation of any general vending business or food vending business, as defined in chapter three of title seventeen of this code, or both, on any street, at any time, after making a determination that such vending business would constitute a serious

and immediate threat to the health, safety and well-being of the public on the ground that such street at such time is regularly too congested by pedestrian or vehicular traffic to permit the operation of such business. No general vendor or food vendor, as defined in chapter three of title seventeen of the code, shall vend on any such streets at any such times.

b. Requests for the adoption or amendment of rules prohibiting the operation of any general vending business or food vending business, as defined in chapter three of title seventeen of this code, or both, on any street, at any time, may be submitted to the commissioner of the department of small business services or his or her designee. Within sixty days after the submission of such request, the street vendor review panel shall convene to determine either to deny such request in writing, stating the reasons for denial, or to state its intention to initiate rulemaking, by a specified date, concerning the subject of such request. In initiating a rulemaking, the panel shall not be bound by the streets or times requested, and may modify such streets and such times at its discretion. If the panel has stated the intention to initiate rulemaking, it shall publish such proposed rule for comment and public hearing in the same manner as provided in subdivisions b and d of section 1043 of the city charter. After consideration of the relevant comments presented, the panel may adopt a final rule relating to such streets and such times pursuant to subdivisions d and e of section 1043 of the city charter.

§ 15. Section 22-201 of the administrative code of the city of New York, as added by local law number 50 for the year 1995, is amended to read as follows:

§ 22-201 Legislative findings. The council hereby finds that the fulton fish market, the center of New York's wholesale seafood industry located in lower Manhattan, has for decades been corruptly influenced by organized crime; that organized crime's corrupting influence over certain functions in the market, including the unloading and loading functions, has resulted in the commission of numerous crimes and wrongful acts there, including but not limited to physical violence or threats of violence, property damage, and thefts; that organized crime's corrupting influence over the market has fostered and sustained a cartel that has forced seafood

suppliers and truckers to use particular unloading crews at fixed prices in an anticompetitive scheme that has been censured by a federal judge; that organized crime's corrupting influence has resulted in retailers parking on city streets and city property nevertheless having to pay high fees to private loading crews whose principal function has been to provide "security" for those vehicles and their contents while retailers have purchased fish in the crime-ridden market area; and that these corrupting influences have further resulted in higher prices for wholesale seafood than would otherwise have to be paid in the absence of this activity. The council further finds that despite the repeated efforts of law enforcement to prosecute crimes there and the presence of a court-appointed administrator for the market, the problem of organized crime corruption in the market has persisted. The council further finds that the market's businesses, including wholesalers, seafood deliverers, unloaders and loaders, have not been effectively regulated by the city in the past under existing laws and regulations governing public markets, even though they often operate on city property, albeit without leases, licenses and registration. The council further finds that, in the absence of an effective regulatory scheme, wholesalers have established a "gray market" in tenancies at rates in excess of those being paid to the city and have thus deprived the public of its rightful return on city property, and further, that unscrupulous businesses have taken advantage of this absence of regulation to engage in fraudulent practices, such as the creation of "phantom wholesalers" whose businesses disappear from the market before payment can be obtained from them for seafood they have received from suppliers, and that such practices have discouraged suppliers from utilizing the market area.

The council therefore finds and declares that in order to provide for the more efficient and orderly conduct of business in the market area, to ensure that any such activities are lawfully conducted, to promote the economic vitality of the market and to protect the public interest, it is necessary for the commissioner of small business services to have expanded authority to license and/or register businesses in the market area and to regulate the conduct of such businesses. In particular, the council finds that, in order to achieve these objectives, the commissioner of small business services should be authorized to issue requests for licensing proposals to provide unloading and loading services in the market area and, at his or her discretion, issue one or

more unloading and loading licenses based on the review and evaluation of responses received pursuant to such requests. In the event that no appropriate responses are received to such requests, the commissioner should be authorized to arrange for the department of small business services itself to perform unloading or loading services or to arrange that they be performed by a contractor or a designee of the department.

The council recognizes that complaints have been made about the conduct of seafood distribution activities outside the market area and finds further that the conditions which have given rise to corruption in the market area can exist in other areas where there are wholesale seafood businesses or concentrations of such businesses. The council also recognizes that representatives of such businesses have threatened to move their operations elsewhere and that some may relocate to other parts of the city. The council thus finds and declares that it is also necessary for the commissioner of small business services to have authority to regulate seafood distribution in areas of the city outside the market area in which such seafood businesses may concentrate.

Application of this chapter will enhance the city's ability to address organized crime corruption and to protect consumers and the many honest business persons who do business in or with the market or at other seafood distribution areas. It is thus the council's intent to empower the city to have greater regulatory authority over the conduct of business in the market and in other seafood distribution areas.

§ 16. Subdivisions c and d of section 22-202 of the administrative code of the city of New York, as added by local law number 50 for the year 1995, are amended to read as follows:

- c. "Commissioner" shall mean the commissioner of small business services.
- d. "Department" shall mean the New York city department of small business services.

§ 17. Subdivisions b and c of section 22-251 of the administrative code of the city of New York, as added by local law number 28 for the year 1997, are amended to read as follows:

- b. "Commissioner" shall mean the commissioner of the New York city department of small business services.
- c. "Department" shall mean the New York city department of small business services.

§ 18. Paragraph 1 of subdivision c and subdivisions j and t of section 22-601 of the administrative code of the city of New York, paragraph 1 of subdivision c and subdivision j as amended and subdivision t as added by chapter 472 of the laws of 2000, are amended to read as follows:

(1)(i) Eligible charges are charges for energy services purchased from a utility or from a vendor of energy services at a rate or rates established pursuant to an order or rule of the New York state public service commission or the federal energy regulatory commission, other than charges for the purchase of the commodity of gas or electricity, and shall include applicable rate reductions for economic development or similar purposes, and all taxes payable thereon and shall exclude charges in accordance with paragraph two of this subdivision.

(ii) Eligible public utility service charges are actual charges for energy services made by a public utility service, and shall include all taxes payable thereon, and shall exclude charges in accordance with paragraph two of this subdivision, provided, however, that the commissioner of small business services may by rule adjust eligible public utility charges for purposes of adjusting the special rebate based thereon to an amount that would be comparable to the special rebate available to a comparable customer of a utility as determined by such commissioner.

(j) "Special rebate." The amount of a reduction in a bill rendered by a utility, a public utility service or a vendor of energy services for energy services to an eligible energy user or a qualified eligible energy user, or an agent of either, or an on-site cogenerator and calculated in accordance with the applicable provisions of section 22-602 of this chapter and the rules of the department of small business services.

(t) "Energy services". The transmission and distribution of electricity or gas, and such other services that are associated with such transmission and distribution as shall be designated as energy services by rule of the commissioner of small business services as such commissioner deems necessary to promote economic development, provided that energy services shall not include the commodity of gas or electricity.

§ 19. Paragraph 4 of subdivision (a) of section 22-602 of the administrative code of the city of New York, as added by chapter 472 of the laws of 2000, is amended to read as follows:

(4) For purposes of determining special rebates for energy services relating to electricity and gas under the provisions of this subdivision, the applicable percentages are as follows:

Months Following Certification	Applicable % for Natural Gas	Applicable % for Electricity
first through ninety-sixth	35%	45%
ninety-seventh through one hundred eighth	28%	36%
one hundred ninth through one hundred twentieth	21%	27%
one hundred twenty-first through one hundred thirty-second	14%	18%
one hundred thirty-third through one hundred forty-fourth	7%	9%

; provided, however, that the commissioner of the department of small business services may increase such percentages at the commissioner's discretion in order to maintain the special rebate at levels comparable to those historically provided under the program, pursuant to rules that are generally applicable to distinct classes of energy users; and

§ 20. Paragraphs 1 and 2 of subdivision c of section 22-602 of the administrative code of the city of New York, paragraph 1 as amended by chapter 114 of the laws of 2002 and paragraph 2 as added by chapter 472 of the laws of 2000, are amended to read as follows:

(1) No eligible energy user, qualified eligible energy user or on-site cogenerator shall receive a rebate pursuant to this chapter until it has obtained a certification as an eligible energy user or qualified eligible energy user, respectively, from the commissioner of small business services. Applicants shall be required to pay an application fee of two hundred fifty dollars, and, if a survey is found to be necessary by the mayor to ascertain eligible charges or eligible public utility service charges, such application fee may be increased by the actual cost of such survey. No such certification for a qualified eligible energy user shall be issued on or after July first, two thousand three. No such certification of any other eligible energy user or on-site cogenerator shall be

issued on or after July first, two thousand three. The commissioner of small business services, after notice and hearing, may revoke a certification issued pursuant to this subdivision where it is found that eligibility criteria have not been met or that compliance with conditions for continued eligibility has not been maintained. The corporation counsel may maintain a civil action to recover an amount equal to any benefits improperly obtained.

(2) A utility and a vendor of energy services shall keep records of all transactions subject to this article and make such records available to the department of small business services.

§ 21. Subdivision (e) of section 22-602 of the administrative code of the city of New York, as amended by chapter 472 of the laws of 2000, is amended to read as follows:

(e) The commissioner of small business services shall, for the purpose of calculating eligible charges, eligible public utility service charges and eligible on-site cogenerator charges, promulgate rules to determine that portion of such charges that shall be deemed attributable to energy services or natural gas used for heating the premises. He or she shall, in addition, promulgate any other rules and regulations necessary to effectuate the purposes of this chapter, including rules to determine the extent to which charges are eligible charges, eligible public utility service charges or eligible on-site cogenerator charges.

§22. Section 22-708 of the administrative code of the city of New York, as amended by section 15 of part 66 of chapter 63 of the laws of 2000, is amended to read as follows:

§ 22-708 Empire zone plans and applications. The department of small business services shall prepare empire zone plans in accordance with the requirement of article 18-B of the general municipal law and the rules and regulations promulgated pursuant thereto. Such plans shall be presented to the speaker of the city council, who shall certify that such plans are accurate and complete. Upon certification of a plan, the department of small business services shall be authorized to apply to the state commissioner of economic development for designation of the area described therein as an empire zone.

§ 23. This local law shall take effect immediately.

