



Legislation Text

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Int. No. 582-A

By Council Member McMahon, Fidler, Gennaro, Gentile, Liu, Mealy, Recchia Jr., Weprin, Nelson, Jackson, Lappin, and Felder

A Local Law to amend the administrative code of the city of New York, in relation to interfering with employees of the department of sanitation and the unauthorized collection or removal of solid waste and recyclable materials.

Be it enacted by the Council as follows:

Section 1. Subdivisions 7, 8 and 9 of section 16-118 of the administrative code of the city of New York, subdivision 9 as amended by local law number 1 for the year 2003, are amended to read as follows:

7. [(a) No person shall prevent or interfere with any employee of the department of sanitation in the sweeping or cleaning of any street or in the removal of sweepings, ashes, garbage, rubbish, snow, ice, or other refuse material.

(b) No person, other than an authorized employee or agent of the department shall disturb or remove any ashes, garbage or light refuse or rubbish placed by householders, or their tenants, or by occupants or their servants, within the stoop or area line, or in front of houses or lots, for removal, unless requested by residents of such houses.]

(a) No person shall prevent or interfere with any employee of the department in the sweeping or cleaning of any street, in the removal of snow or ice, or in the collection or removal of any amount of solid waste or recyclable materials.

(b)(1) Except for an authorized employee or agent of the department, it shall be unlawful for any person to disturb, remove or transport by motor vehicle any amount of recyclable materials that have been placed by owners, tenants or occupants of residential premises, premises occupied by city agencies or institutions, or vacant lots, or by their servants, within the stoop area, adjacent to the curb line or otherwise within or adjacent to such premises or lots for collection or removal by the department unless requested by the owner of such residential premises or vacant lot or his or her agent, and such request is evidenced by a notarized written agreement that: (i) has been signed by such person and such owner or agent; (ii) has been filed with the commissioner and bears a file stamp indicating that it has been so filed; and (iii) includes the names of the parties to the agreement, the names and titles of all signatories to the agreement, the taxpayer identification number, including individual taxpayer identification number or employer identification number but not social security number of each such party, the agreed price terms, if any, the estimated quantity of recyclable materials to be removed, the agreed removal days and times, if any, the duration of the agreement, and any other information required by the commissioner by rule. The requirement to enter into and file such written agreement pursuant to this subdivision shall not apply to

one, two or three-family residential premises.

(2) In addition, on or before February first and August first of every year, every person engaged in the removal of recyclable materials from residential premises or vacant lots pursuant to a written agreement shall submit to the commissioner a report identifying the weight of each type of recyclable material removed by such person during the periods of July first to December thirty-first and January first to June thirtieth, respectively. It shall be unlawful for any person to fail to submit a report in accordance with this subparagraph or to submit a report containing false or deceptive information.

(3) Except for an authorized employee or agent of the department, it shall be unlawful for any person to disturb, remove or transport by motor vehicle any amount of solid waste that has been placed by owners, tenants or occupants of residential premises, premises occupied by city agencies or institutions, or vacant lots, or by their servants, within the stoop area, adjacent to the curb line or otherwise within or adjacent to such premises or lots for collection or removal by the department.

(c) Except for an authorized employee of an entity licensed by or registered with the business integrity commission, it shall be unlawful for any person to disturb, remove or transport by motor vehicle any amount of recyclable materials that have been placed by owners, tenants or occupants of commercial premises within the stoop area, adjacent to the curb line or otherwise within or adjacent to such premises for collection or removal by an entity licensed by or registered with the business integrity commission. It shall be presumed that a person operating a motor vehicle without plates issued by the business integrity commission is not an authorized employee of an entity licensed by or registered with the business integrity commission.

(d) No person, other than a not-for-profit corporation, shall receive recyclable materials for storage, collection or processing from any person other than an authorized employee or agent of the department, an authorized employee of an entity licensed by or registered with the business integrity commission, a not-for-profit corporation or a person who has entered into a written agreement pursuant to subparagraph one of paragraph b of this subdivision. It shall be an affirmative defense that all such recyclable materials were generated or collected outside the city of New York. This paragraph shall not apply to a redemption center, dealer or distributor as defined in section 27-1003 of the environmental conservation law.

(e) Any person who violates subparagraph one of paragraph b of this subdivision while using or operating a motor vehicle or paragraph d of this subdivision shall be punished for each violation by a criminal fine of not less than one thousand dollars nor more than two thousand dollars for each such violation or by imprisonment not to exceed ninety days, or both.

(f)(1)(i) Any person who violates subparagraph one of paragraph b or paragraph c of this subdivision while using or operating a motor vehicle shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars for each subsequent offense within a twelve-month period. In addition, every owner of such motor vehicle shall be liable for a civil

penalty of two thousand dollars for the first offense and five thousand dollars if, within a twelve-month period, a motor vehicle owned by such person was used in violation of subparagraph one of paragraph b or paragraph c of this subdivision. The owner of a motor vehicle used in violation of subparagraph one of paragraph b or paragraph c of this subdivision shall not be liable for any civil penalty if such owner establishes that the motor vehicle was used without such owner's permission. For the purpose of imposing a civil penalty pursuant to this clause, every premises or lot from which recyclable materials have been removed unlawfully shall be deemed to be the subject of a separate violation for which a separate civil penalty may be imposed;

(ii) Any person who violates paragraph d of this subdivision shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars for each subsequent offense within a twelve-month period. For the purpose of imposing a civil penalty pursuant to this clause, every motor vehicle from which recyclable materials have been delivered for receipt unlawfully shall be deemed to be the subject of a separate violation for which a separate civil penalty may be imposed; and

(iii) Any person who violates subparagraph two of paragraph b of this subdivision by failing to submit a report or by submitting a report containing false or deceptive information shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars for each subsequent offense within a twelve-month period.

(2) As used in this subdivision:

(i) the term "motor vehicle" shall mean every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power;

(ii) the term "not-for-profit corporation" shall mean a corporation as defined in subparagraph five or seven of subdivision (a) of section one hundred two of the New York not-for-profit corporation law;

(iii) the term "operator" shall mean any person who operates or drives or is in actual physical control of a motor vehicle;

(iv) the term "owner" shall mean a person, other than a lienholder, having the property in or title to a motor vehicle. The term includes a person entitled to the use and possession of a motor vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days;

(v) the term "person" shall mean any natural person or business entity, but shall not include any authorized employee of a government agency;

(vi) the term "recyclable materials" shall mean recyclable materials designated by the commissioner by rule pursuant to chapter three of title sixteen of this code; and

(vii) the term "solid waste" shall mean solid waste as defined in subdivision n of section 16-303 of this code.

(g)(1) Any motor vehicle that has been used or is being used to commit a violation of subparagraph one of paragraph b or paragraph c of this subdivision shall be impounded by the department and shall not be released until either all storage fees and the applicable fines and penalties have been paid or a bond has been posted in an amount satisfactory to the commissioner. Rules of the department related to the impoundment and release of motor vehicles in chapter five of title sixteen of the rules of the city of New York shall be applicable to the impoundment and release of motor vehicles pursuant to this paragraph. The commissioner shall have the power to promulgate amended rules concerning the impoundment and release of motor vehicles and the payment of storage fees for such motor vehicles, including the amounts and rates thereof. Where it is determined that the motor vehicle was not used to commit a violation of subparagraph one of paragraph b or paragraph c of this subdivision, such fees shall be promptly returned.

(2) In addition to any other penalties provided in this subdivision, the interest of an owner as defined in clause (iv) of subparagraph two of paragraph f of this subdivision in any motor vehicle impounded pursuant to subparagraph one of this paragraph shall be subject to forfeiture upon notice and judicial determination thereof if such owner has been convicted of or found liable for a violation of this subdivision in a criminal or civil proceeding or in a proceeding before the environmental control board three or more times, all of which violations were committed within an eighteen-month period.

(3) Except as otherwise provided in this subparagraph, the city agency having custody of a motor vehicle, after judicial determination of forfeiture, shall no sooner than thirty days after such determination upon a notice of at least five days, sell such forfeited motor vehicle at public sale. Any person, other than an owner whose interest is forfeited pursuant to this section, who establishes a right of ownership in a motor vehicle, including a part ownership or security interest, shall be entitled to delivery of the motor vehicle if such person:

(i) redeems the ownership interest which was subject to forfeiture by payment to the city of the value thereof; and

(ii) pays the reasonable expenses of the safekeeping of the motor vehicle between the time of seizure and such redemption; and

(iii) asserts a claim within thirty days after judicial determination of forfeiture. Notwithstanding the foregoing provisions, establishment of a claim shall not entitle such person to delivery of the vehicle if the city establishes that the violation for which the motor vehicle was seized was expressly or impliedly permitted by such person.

8. [The] Except for any violation of subparagraph one of paragraph b or paragraph c of subdivision seven of this section by a person using or operating a motor vehicle, or any violation of subparagraph two of paragraph b of subdivision seven of this section, or any violation of paragraph d of subdivision seven of this section, the violation of any provision of this section shall constitute an offense punishable by a fine of not less than fifty dollars nor more than two hundred fifty dollars, or by imprisonment

not to exceed ten days or both.

9. [Any] Except for any violation of subparagraph one of paragraph b or paragraph c of subdivision seven of this section by a person using or operating a motor vehicle, or any violation of subparagraph two of paragraph b of subdivision seven of this section, or any violation of paragraph d of subdivision seven of this section, any person violating the provisions of this section shall be liable for a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars, except that for a second violation of subdivision one, three, four, or six of this section within any twelve-month period, such person shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than three hundred fifty dollars and for a third or subsequent violation of subdivision one, three, four or six of this section within any twelve-month period such person shall be liable for a civil penalty of not less than three hundred fifty dollars nor more than four hundred fifty dollars.

§ 2. This local law shall take effect immediately; provided, however, that the notarized written agreement required by subparagraph one of paragraph b of subdivision 7 of section 16-118 of the administrative code of the city of New York, as added by section one of this local law, need not be filed with the commissioner of sanitation until thirty days after such effective date.

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