



Legislation Text

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Int. No. 845

By Council Members Menin, Louis, Marte, Yeger, Hanks, Avilés, Powers, Hudson and the Public Advocate (Mr. Williams) (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to reducing penalties, allowing opportunities to cure for certain violations, and eliminating certain requirements for commercial establishments; to repeal subchapters 6, 9, 12, and 15 of chapter 5 of title 20 of such code, relating to availability for sale of advertised merchandise, sale of travel tickets, delayed payment transactions billing practices, and disclosure of information by child care facilities, respectively; to repeal section 24-218.1 of such code, relating to the restriction of the use of mobile telephones in a place of public performance; to repeal the rows that begin 24-218.1, 24-233(b)(1) and 24-237(c) in table I in paragraph 5 of subdivision (b) of section 24-257 of such code, relating to penalties for such restriction of the use of mobile telephones, the use of personal audio devices on a public right-of-way, and the operation of a steam whistle, respectively; and to make other technical changes in relation thereto

Be it enacted by the Council as follows:

Section 1. Subdivisions g and h of section 10-157 of the administrative code of the city of New York, as amended by local law number 91 for the year 2017, are amended to read as follows:

g. A business using a bicycle for commercial purposes shall be responsible for the compliance with the provisions of this section of its bicycle operators.

(1) Violation of any of the provisions of this section by any such business, or of any of the rules or regulations that may be promulgated pursuant hereto, shall be a violation triable by a judge of the criminal court of the city of New York and upon conviction thereof shall be punishable by a fine of not less than [one hundred dollars] \$100 nor more than [two hundred fifty dollars] \$250 or imprisonment for not more than [fifteen] 15 days or both such fine and imprisonment. [In addition any]

(2) Any such business that violates any of the provisions of this section or any of the rules promulgated pursuant hereto, except subdivision d of this section and any of the rules promulgated pursuant to

such subdivision, shall be subject to a civil penalty of [one hundred dollars] \$100. Any such business that violates a provision of this section or rule promulgated pursuant hereto more than [thirty] 30 days after such business has already violated the same provision or rule shall be subject to an additional civil penalty of [two hundred fifty dollars. Such civil penalties] \$250. Any such business that violates subdivision d of this section or any of the rules promulgated pursuant hereto shall be subject to a civil penalty of \$0 for the first violation, and a civil penalty of \$100 for the second or any subsequent violation that occurs more than 30 days after such business has already violated the same provision or rule. Civil penalties issued pursuant to this paragraph may be in addition to any criminal penalty imposed, and shall be recoverable against such business in an action or proceeding in any court or tribunal of competent jurisdiction or the environmental control board.

h. Any bicycle operator who makes deliveries or otherwise operates a bicycle on behalf of a business using a bicycle for commercial purposes without carrying the identification card required by subdivision c of this section, or who fails to produce such identification card upon demand pursuant to such subdivision, or who fails to wear protective headgear required by subdivision e of this section or the retro-reflective apparel required by subdivision i of this section, shall be guilty of a traffic infraction and upon conviction thereof shall be liable for a fine of not less than [twenty-five dollars] \$25 nor more than [fifty dollars] \$50. It shall be an affirmative defense to such traffic infraction that such business did not provide the protective headgear, the identification card or the retro-reflective apparel required by subdivisions c, e or i of this section. Such traffic infraction may be adjudicated by an administrative tribunal authorized under article [two-A] 2-A of the vehicle and traffic law.

§ 2. Subdivision d of section 10-157.1 of the administrative code of the city of New York, as amended by local law number 56 for the year 2012, is amended to read as follows:

d. (1) The violation of any provision of subdivision a or b of this section, or of any of the rules or regulations that may be promulgated pursuant hereto, shall be a violation triable by a judge of the criminal court of the city of New York and upon conviction thereof shall be punishable by a fine of not less than [one

hundred dollars] \$100 nor more than [two hundred fifty dollars] \$250 or imprisonment for not more than [fifteen] 15 days or both such fine and imprisonment. [In addition, any]

(2) Any business using a bicycle for commercial purposes, as defined in subdivision a of section 10-157 of this chapter who violates any provision of subdivision a or b of this section or any of the rules or regulations promulgated pursuant hereto shall be subject to a civil penalty of [one hundred dollars] \$0 for the first violation. Any such business that violates a provision of this section or rule promulgated pursuant hereto more than [thirty] 30 days after such business has already violated the same provision or rule shall be subject to [an additional] a civil penalty of [two hundred fifty dollars] \$100. Such civil penalties may be in addition to any criminal penalty imposed, and shall be recoverable against such business in an action or proceeding in any court or tribunal of competent jurisdiction or the environmental control board.

§ 3. Subparagraph ii of paragraph 1 of subdivision c of section 16-306.1 of the administrative code of the city of New York, as added by local law number 146 for the year 2013, is amended to read as follows:

ii. post a sign, which shall be in addition to any other sign required to be posted pursuant to this code, that states clearly and legibly the trade or business name, address, and telephone number of, and the day and time of pickup by, the private carter that collects the covered establishment's organic waste, [that such covered establishment transports its own organic waste, or that such covered establishment provides for on-site processing for all of the organic waste it generates on its premises,] provided that:

(A) such sign shall be prominently displayed by affixing it to a window near the principal entrance to the covered establishment so as to be easily visible from outside the building or, if this is not possible, prominently displayed inside the covered establishment near the principal entrance;

(B) catering establishments shall not be required to display on such sign the day and time of the pickup by the private carter that collects the establishment's organic waste; and

(C) this paragraph shall not apply to sponsors of temporary public events;

§ 4. Paragraphs 3, 4, and 5 of subdivision a of section 16-324 of the administrative code of the city of New York are renumbered paragraphs 4, 5, and 6, respectively.

§ 5. Paragraph 2 of subdivision a of section 16-324 of the administrative code of the city of New York, as added by local law number 34 for the year 2010, is amended, and subdivision a of section 16-324 of such code is amended to add a new paragraph 3, to read as follows:

2. For residential buildings containing nine or more dwelling units [and commercial, manufacturing or industrial buildings,] the civil penalty shall be in an amount of one hundred dollars for the first violation, two hundred dollars for the second violation committed on a different day within a period of twelve months, and four hundred dollars for the third and each subsequent violation committed on a different day within a period of twelve months, provided that the court before which such civil action is brought or such board may waive the penalty for the first violation upon a showing of good cause. The owner, net lessee or person in charge of any residential building of nine or more dwelling units [or a commercial, manufacturing or industrial building] with respect to which four or more violations were committed on different days within a period of six months shall be classified as a persistent violator.

3. (a) For commercial, manufacturing or industrial buildings, the civil penalty shall be in an amount of one hundred dollars for the first violation, two hundred dollars for the second violation committed on a different day within a period of twelve months, and four hundred dollars for the third and each subsequent violation committed on a different day within a period of twelve months, provided that the court before which such civil action is brought or such board may waive the penalty for the first violation upon a showing of good cause. The owner, net lessee or person in charge of any commercial, manufacturing or industrial building with respect to which four or more violations were committed on different days within a period of six months shall be classified as a persistent violator.

(b) Notwithstanding subparagraph (a) of this paragraph, a civil penalty of zero dollars shall be imposed for a first violation relating to any labelling or signage requirement set forth in section 1-10 of title 16

of the rules of the city of New York, except the requirements of paragraph (2) of subdivision (d) of such section. The notice of violation for such first-time 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 a requirement relating to labeling or signage set forth in section 1-10 of title 16 of the rules of the city of New York, except requirements of paragraph (2) of subdivision (d) of such section, shall be subject to a civil penalty of two hundred dollars for the second violation committed on a different day within a period of twelve months, and four hundred dollars for the third and subsequent violation committed on a different day within a period of twelve months. The owner, net lessee or person in charge of any commercial, manufacturing or industrial building with respect to which four or more violations were committed on different days within a period of six months shall be classified as a persistent violator.

§ 6. Paragraph 1 of subdivision e of section 16-324 of the administrative code of the city of New York, as amended by local law number 80 for the year 2020, is amended to read as follows:

(1) Any covered establishment that violates section 16-306.1 of this chapter or rules of the department, the department of health and mental hygiene, or the department of consumer and worker protection promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or the commissioner of health and mental hygiene, or the commissioner of consumer and worker protection, or in a proceeding returnable before any tribunal established within the office of administrative trials and hearings, in the amount of [two hundred fifty] zero dollars for the first violation, five hundred dollars for the second violation committed on a different day within a period of twelve months, and one thousand dollars for the third and each subsequent violation committed on different days within a period of twelve months, except that the department, the department of health and mental hygiene, and the department of consumer and worker protection shall not issue a notice of violation, but shall issue a warning, for any violation

by a designated covered establishment that occurs during the first twelve months after the commissioner designates such covered establishment pursuant to subdivision b of section 16-306.1. The notice of violation for such first-time violation shall inform the respondent of the provision of law or rule that the department, the department of health and mental hygiene, or the department of consumer and worker protection 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.

§ 7. Paragraph 2 of subdivision c section 16-401 of the administrative code of the city of New York, as added by local law number 64 for the year 2021, is amended to read as follows:

2. All food service establishments shall maintain a sufficient supply of single-use plastic beverage straws that are not compostable. If a person specifically requests a plastic beverage straw, such food service establishment shall provide a single-use plastic beverage straw that is not compostable free of charge [and shall make no inquiry into the reason for such request]. A violation of this paragraph may also violate the reasonable accommodation provisions of title 8 of this code and be subject to enforcement by the city commission on human rights.

§ 8. Subdivision d of section 16-401 of the administrative code of the city of New York, as added by local law number 64 for the year 2021, is amended to read as follows:

d. Notwithstanding subdivision c of this section, food service establishments may provide compostable beverage straws that are made from plastic [upon request only if such straws are used by persons on such food service establishments' premises and] only if such food service establishments dispose of all such straws that are discarded on the premises through a commercial composting provider or in accordance with paragraph 1 of subdivision c of section 16-306.1 if such establishments are covered establishments pursuant to such section. [Food service establishments that are not covered under section 16-306.1 that provide compostable beverage straws that are made of plastic pursuant to this subdivision shall maintain distinct and

clearly labeled bins indicating where such compostable beverage straws that are made from plastic are to be separated for purposes of disposal.]

§ 9. Subdivision c of section 17-172 of the administrative code of the city of New York is amended to read as follows:

c. Fees. The department shall make signs available[, and may charge a fee to cover printing, postage and handling expenses] at no cost to such an establishment.

§ 10. Sections 17-199.3.2, 17-199.5, and 17-199.6 of the administrative code of the city of New York, such section 17-199.3.2 as added by local law number 89 for the year 2022, such section 17-199.5 as added by local law number 118 for the year 2017, and such section 17-199.6 as added by local law number 182 for the year 2017, are renumbered as sections 17-199.3.3, 17-197.1, and 17-199.12.1, respectively.

§ 11. Subdivision d of section 17-199.11 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 food service establishment that violates any of the provisions of this section or any rule promulgated thereunder by the department shall be liable for a civil penalty of [\$100] \$50. Where a person is found to have violated this section or any rule promulgated thereunder by the department, the department shall commence a proceeding to recover any civil penalty authorized by this section by the service of a summons returnable to the office of administrative trials and hearings.

§ 12. Subdivision c of section 17-1507 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:

c. Any food service establishment that violates subdivision a of this section, or any rules promulgated pursuant to this section, shall be liable for a civil penalty of not more than [\$500] \$200, recoverable in a proceeding before any tribunal established within the office of administrative trials and hearings or within any agency of the city of New York designated to conduct such proceedings.

§ 13. Subdivision a of section 17-1702 of the administrative code of the city of New York, as

amended by local law number 53 for the year 2015, is amended to read as follows:

a. Any pet shop that displays, offers for sale, delivers, barter, auctions, gives away, transfers or sells any dog or cat shall obtain such dog or cat from a source that, as of the date such pet shop receives such animal, shall attest in a sworn affidavit that such source:

1. holds a valid and active class A license that has not been suspended at any time during the prior five years[, as such information is available from the United States department of agriculture]; and

2. has not received any of the following in connection with such license[, as such information is available from the United States department of agriculture]:

(a) a finally determined “direct” non-compliant item citation pursuant to 7 U.S.C. § 2131, et seq., and regulations promulgated thereunder[, as indicated on any United States department of agriculture inspection report] at any time during the prior three years; or

(b) a finally determined citation for failure to provide inspectors access to property or records as required pursuant to 9 C.F.R. § 2.126, or successor regulations[, as indicated on] in either of the two most recent United States department of agriculture inspection reports; or

(c) three or more distinct finally determined non-compliant item citations pursuant to 7 U.S.C. § 2131, et seq., and regulations promulgated thereunder, other than citations for failure to provide inspectors access to property or records as required pursuant to 9 C.F.R. § 2.126, or successor regulations, [as indicated on] in the most recent United States department of agriculture inspection report; or

(d) one or more finally determined repeat non-compliant item citations pursuant to 7 U.S.C. § 2131, et seq., and regulations promulgated thereunder, [as indicated on] in the most recent United States department of agriculture inspection report; or

(e) a finally determined order to cease and desist, issued by an administrative law judge, at any time during the prior five years; or

(f) a finally determined order to pay a civil penalty, issued by an administrative law judge, at any

time during the prior five years; and

3. [provides to such pet shop a sworn affidavit attesting that such source] has not been convicted of a violation of the minimum standards of animal care provided for in section four hundred one of the agriculture and markets law at any time during the prior five years; and

4. [provides to such pet shop a sworn affidavit attesting that] has never been convicted of an animal abuse crime prior to delivering such animal or animals into the custody of such pet shop [such source has never been convicted of an animal abuse crime].

§ 14. Subdivision a of section 17-1903 of the administrative code of the city of New York, as added by local law number 202 for the year 2019, is amended to read as follows:

a. Any person who is found to violate any provision of this chapter shall be subject to a civil penalty of not less than [\$500] \$400 and not more than \$2,000 for each violation. Each such violation may be treated as a separate and distinct offense, and in the case of a continuing violation, each day's continuance thereof may be treated as a separate and distinct offense.

§ 15. Section 20-241.1 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Notwithstanding any inconsistent provision of this section, a person who violates subdivisions (e) or (f) of section 2-70.2 of title 6 of the rules of the city of New York, or any successor to such provisions, shall be liable for a civil penalty of: (i) zero dollars for a first violation; (ii) not more than one hundred seventy-five dollars for a second violation; and (iii) not more than three hundred dollars for a third or subsequent violation.

§ 16. Section 20-545 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Notwithstanding any other section of this title, a person shall be subject to a civil penalty of zero dollars for a first violation of section 20-544 of this subchapter or any rule 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 other than being the basis for the suspension or revocation of a license pursuant to subdivision a of this section. 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 20-544 of this subchapter or any rule 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 fifteen days of receiving written notification of such determination.

§ 17. Section 20-688 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:

§ 20-688 Penalties. Any person, firm, corporation or association or agent or employee thereof, who shall violate any of the provisions of this subchapter or of the regulations promulgated pursuant to section 20-686 shall pay a civil penalty of [one hundred] zero dollars for the first violation, not more than one hundred seventy-five dollars for the second violation and not more than two hundred twenty-five dollars for the third and any subsequent violation; and shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than two hundred fifty dollars for each such violation.

§ 18. Subchapters 6, 9, 12, and 15 of chapter 5 of title 20 of the administrative code of the city of New York, such subchapter 15 as added by local law number 23 for the year 2005, are REPEALED.

§ 19. Section 20-743 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:

§ 20-743 Penalties. (a) Any person, partnership, corporation or other business entity who violates any provision of this subchapter or any of the regulations promulgated hereunder shall be liable for a

civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than seven hundred fifty dollars; except that a person, partnership, corporation or other business entity shall not be subject to the civil penalty described above for a first-time violation of subdivision a of section 20-740 of this subchapter or any rule or regulation promulgated thereunder, if such person, partnership, corporation or other business entity 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, partnership, corporation or other business entity who has received, for the first time, a notice of violation of subdivision a of section 20-740 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, partnership, corporation or other business entity may seek review, in the department's administrative tribunal, of the determination that the person or entity has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

(b) Notwithstanding subdivision a of this section, any person, partnership, corporation or other business entity who violates subdivision b of section 20-740 of this subchapter or any rule promulgated thereunder shall be liable for a civil penalty of: (i) zero dollars for the first violation; (ii) not less than two hundred fifty dollars nor more than five hundred dollars for a second violation; and (iii) not less than five hundred dollars nor more than seven hundred fifty dollars for each succeeding violation.

§ 20. Subdivision b of section 20-822 of the administrative code of the city of New York, as added by local law number 53 for the year 2011, is amended to read as follows:

b. Violations. A person violating section 20-822 of this subchapter shall be guilty of a violation

punishable by a fine not to exceed two hundred and fifty dollars for the first violation and a fine not to exceed five hundred dollars for any subsequent violation. In addition to such penalties, any person who violates this section shall be liable for a civil penalty of [not less than one hundred dollars nor more than two hundred and fifty] zero dollars for the first violation and of not less than two hundred and fifty dollars nor more than five hundred dollars for each subsequent violation. For purposes of this subdivision, each group of identical over-the-counter medication subject to this subchapter marked with the same date shall constitute a single violation. However, where the expired over-the-counter medication is sold to a person, each sale shall constitute a separate violation under this section. [Penalties shall be enforced in accordance with subdivision g of section twenty-two hundred and three of the charter of the city of New York.]

§ 21. Subdivisions e and f of section 20-910 of the administrative code of the city of New York, subdivision e as amended by local law number 92 for the year 2015 and subdivision f as added by such local law, are amended to read as follows:

e. [(i) Prior to July 1, 2016, any person who violates this section shall receive a written warning for the first violation, and shall be liable for a civil penalty in the amount of two hundred fifty dollars for each open door or window for a second violation within an eighteen month period and five hundred dollars for each open door or window for any third and subsequent violation within an eighteen month period, except that such person shall be liable for a civil penalty in the amount of five hundred dollars for each open door or window for a second violation within an eighteen month period and one thousand dollars for each open door or window for any third and subsequent violation within an eighteen month period if the violation occurs at a store that is part of a chain of stores.

(ii) On and after July 1, 2016, any] Any person who violates this section shall be liable for a civil penalty in the amount of [two hundred fifty] zero dollars for each open door or window for the first violation and not more than five hundred dollars for each open door or window for any second and subsequent violation within an eighteen month period, except that such person shall be liable for a civil penalty in the

amount of not more than five hundred dollars for each open door or window for the first violation and not more than one thousand dollars for each open door or window for any second and subsequent violation within an eighteen month period if the violation occurs at a store that is part of a chain of stores.

[(iii) All violations issued prior to July 1, 2016, shall continue to count toward the cumulative total of violations issued to a person for the purpose of assessing the amount of a civil penalty under paragraph (i) or (ii) of this subdivision.]

f. Every store that is part of a chain of stores shall conspicuously post on each door a notice that states that violations of this section may be reported to 311. Such notice must be in the form and must contain the content as provided by the commissioner on the department's website. Notwithstanding subdivision e of this section, any person who violates this subdivision or any rule promulgated thereunder shall be liable for a civil penalty not to exceed five hundred dollars, except that a person shall be subject to a civil penalty of zero dollars for the first violation of this subdivision 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 this subdivision or any rule 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 fifteen days of receiving written notification of such determination.

§ 22. Section 24-218.1 of the administrative code of the city of New York is REPEALED.

§ 23. Subdivision (b) of section 24-233 of the administrative code of the city of New York, as added by local law number 113 for the year 2005, is amended to read as follows:

(b) For the purposes of this section unreasonable noise shall include but shall not be limited to [:

(1) the operation or use of a personal audio device on or in any public right-of-way so that sound emanating from such device is plainly audible to another individual at a distance of 25 feet or more from the source.

(2)] the operation or use of a personal audio device from on or inside a motor vehicle, whether moving, parked, stopped or standing, on or in any public right-of-way so that sound emanating from such device is plainly audible to another individual outside of such motor vehicle at a distance of 25 feet or more from the source.

§ 24. Subdivisions (c) and (d) of section 24-237 of the administrative code of the city of New York, as added by local law number 113 for the year 2005, are amended to read as follows:

(c) [No person shall operate or use or cause to be operated or used any steam whistle attached to any stationary boiler, except to give notice of the time to start and stop work or as a sound signal of imminent danger.

(d)] No person shall operate or use or cause to be operated or used on any public right-of-way any electrically operated or electronic sound signal device (other than a safety device, such as but not limited to a car horn or back up signal, that is actually used for its intended purpose) attached to, on or in a motor vehicle, wagon or manually propelled cart from which food or any other items are sold or offered for sale when the vehicle is stopped, standing or parked. For the purposes of this subdivision the term "stopped" means the halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a police officer or other authorized enforcement officer or a traffic control sign or signal. The terms "standing" and "parked" shall be as defined in the vehicle and traffic law.

§ 25. The rows in table I in paragraph 5 of subdivision (b) of section 24-257 of the administrative code of the city of New York that begin 24-218.1, 24-233(b)(1), and 24-237(c) are REPEALED, and the rows in such table beginning 24-233(b)(2) and 24-237(d), as amended by local number 80 for the year

2021, are amended to read as follows:

TABLE I						
Civil Penalties						
Violations related to section and subdivision	First Violation		Second Violation*		Third and Subsequent Violations*	
	Maximum	Minimum	Maximum	Minimum	Maximum	Minimum
[24-233(b)(2)] 24-233(b)	350	100	700	200	1,050	300
[24-237(d)] 24-237(c)	350	350	700	700	1,050	1,050

§ 26. Subdivision (h) of section 24-257 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:

(h) [(1)] Notwithstanding table I in paragraph 5 of subdivision (b) of this section, a cure period is available for a first violation of subdivision (e) of section 24-218 as set forth in such subdivision, a first violation of section 24-227 as set forth in subdivision (d) of such section, a first violation of section 24-231 as set forth in paragraph (1) of subdivision (b) of such section and a first violation of section 24-232 as set forth in subdivision (g) of such section.

[(2)] Notwithstanding table I in paragraph 5 of subdivision (b) of this section, an owner, operator, manager or other person having control of any place of public performance shall be subject to a civil penalty of \$0 for a first violation of subdivision d of section 24-218.1. The notice of violation for such first violation shall inform such owner, operator, manager or other person of the provision of law or rule that the department believes such owner, operator, manager or other person has violated, describe the condition or activity that is the basis for the notice of violation, advise such owner, operator, manager or other person that the law authorizes civil penalties for such violation and that subsequent violations may result in the imposition of such

civil penalties. For a second, third or subsequent violation of subdivision d of section 24-218.1 or any rules promulgated pursuant thereto, such owner, operator, manager or other person shall be liable for a civil penalty in the amount prescribed for such violation in table I of paragraph 5 of subdivision (b) of this section.]

§ 27. Subdivision (b) of section 24-713 of the administrative code of the city of New York, as amended by local law number 82 for the year 2003, is amended to read as follows:

(b) Any person who violates the requirements of sections 24-706, 24-711 or 24-718 of this chapter shall be liable for a civil penalty, as follows: (1) for a first violation, in an amount of not less than [five] one hundred nor more than five thousand dollars; (2) for a second violation, in an amount of not less than three thousand five hundred nor more than ten thousand dollars; and (3) for each subsequent violation, in an amount of not less than seven thousand five hundred nor more than twenty thousand dollars. For purposes of this section, the second and any subsequent violation shall only occur after notice of the first violation has been properly served and an opportunity to cure said violation has been provided to the violator, provided that such opportunity to cure shall not exceed thirty days. For purposes of this section, a second or subsequent violation shall occur where a person violates section 24-706, 24-711 or 24-718 of this chapter within five years of having been found to have violated this chapter. Such penalties may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board. In determining the civil penalty, the hearing officer or judge shall consider any evidence presented by the defendant showing a good faith effort to comply with relevant requirements of this chapter, the nature and seriousness of the defendant's violation of the chapter, whether the violation was voluntarily disclosed, previous violations, if any, of this chapter and any other evidence found to be relevant.

§ 28. This local law takes effect immediately, except that sections fifteen through twenty-one of this local law take effect 180 days after they become law.