



Legislation Text

---

File #: Int 0778-2022, Version: A

---

Int. No. 778-A

By Council Members Powers, Yeger, Holden, Restler, Menin, Joseph, Schulman, Brewer, Hudson, Bottcher, Hanks, Abreu, Ung, Dinowitz, Louis, Marte, Lee, Rivera, Hanif, Gennaro, Narcisse and Vernikov

A Local Law to amend the administrative code of the city of New York, in relation to establishing a photo noise violation monitoring device program for motor vehicles

Be it enacted by the Council as follows:

Section 1. Subchapter 6 of chapter 2 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-236.1 to read as follows:

§ 24-236.1 Owner liability for failure to comply with motor vehicle sound limits. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Owner. The term "owner" has the meaning provided in section 239 of the vehicle and traffic law.

Photo noise violation monitoring device. The term "photo noise violation monitoring device" means 1 or more mobile or fixed vehicle sensors installed to work in conjunction with 1 or more noise measuring apparatuses, such as a decibel reader, which automatically produces 2 or more photographs, 2 or more microphotographs, a videotape, or other recorded images of each motor vehicle at the time it is used or operated in violation of the motor vehicle noise limits prescribed in section 24-236.

b. Photo noise violation monitoring device program established. 1. The department, in consultation with the police department and the department of transportation, shall establish a program of photo noise violation monitoring devices to monitor compliance with the limitations on sound set forth in section 24-236. Any motor vehicle found to be violating such provisions shall be issued a notice of violation and shall be subject to the civil penalty prescribed in table I of paragraph (5) of subdivision (b) of section 24-257.

2. No photo noise violation monitoring device shall be used unless it has undergone an annual calibration check performed pursuant to paragraph 3 of this subdivision.

3. Each photo noise violation monitoring device shall undergo an annual calibration check by the manufacturer of such device or by the department. Such manufacturer or the department shall provide a certification of such calibration. The department shall maintain each such certificate of calibration for each photo noise violation monitoring device in operation until the final resolution of all cases involving a notice of violation issued during such year that utilized photographs, microphotographs, videotape, or other recorded images produced by such device.

4. It shall be a defense to any prosecution for a violation issued pursuant to this section that the photo noise violation monitoring device that produced the photographs, microphotographs, videotape, or other recorded images was malfunctioning at the time of the alleged violation.

5. The department shall utilize necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape, or other recorded images produced by the photo noise violation monitoring devices do not include images that identify the driver, the passengers, or the contents of the motor vehicle, provided, however, that where the department shows that it made reasonable efforts to comply with the provisions of this paragraph a notice of violation issued pursuant to this section shall not be dismissed solely because the photograph, microphotograph, videotape, or other recorded image allows for the identification of the driver, the passengers, or the contents of motor vehicles.

6. Any photograph, microphotograph, videotape, or other recorded image from a photo noise violation monitoring device shall be for the exclusive use of the city for the purpose of the adjudication of liability imposed pursuant to subchapter 8 of this chapter and for the motor vehicle owner receiving a notice of violation. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, a photograph, microphotograph, videotape, or other recorded image from a photo noise violation monitoring device shall not be available to the public, nor subject to civil or criminal process or discovery, nor used by any court or

administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of a notice of violation of section 24-236, and no public entity or employee, officer, or agent thereof shall disclose such information, except that a photograph, microphotograph, videotape, or other recorded image from such devices:

(a) Shall be available for inspection, copying, and use by the motor vehicle owner for so long as such photograph, microphotograph, videotape, or other recorded image is required to be maintained or is maintained by such public entity, employee, officer, or agent;

(b) Shall be furnished for use in a criminal action or proceeding when described in a search warrant issued by a court authorized to issue such a search warrant pursuant to article 690 of the criminal procedure law or a federal court authorized to issue such a search warrant under federal law, where such search warrant states that there is reasonable cause to believe such information constitutes evidence of, or tends to demonstrate that, a misdemeanor or felony offense was committed in this state or another state, or that a particular person participated in the commission of a misdemeanor or felony offense in this state or another state; and

(c) Shall be furnished for use in a criminal action or proceeding in response to a subpoena duces tecum signed by a judge of competent jurisdiction and issued pursuant to article 610 of the criminal procedure law or a judge or magistrate of a federal court authorized to issue such a subpoena duces tecum under federal law, where the judge finds and the subpoena states that there is reasonable cause to believe such information is relevant and material to the prosecution, or the defense, or the investigation by an authorized law enforcement official, of the alleged commission of a misdemeanor or felony in this state or another state.

7. Any photographs, microphotographs, videotapes, or other recorded images evidences of a violation shall include at least 1 date and time stamped image showing the license plate number of the vehicle and shall be available for inspection reasonably in advance of and during any hearing to adjudicate the liability for such violation pursuant to subchapter 8 of this chapter.

c. Placement of devices. To the extent practicable, the department shall select the locations for each

photo noise violation monitoring device based on motor vehicle noise complaint data reported by the 311 customer service center and shall consider requests for placement of such devices made by persons including but not limited to, the mayor, comptroller, public advocate, borough presidents, council members, and community boards. Subject to appropriations, the department shall ensure that there are no less than 5 photo noise monitoring devices in each borough by and after September 30, 2025. Upon receipt of a request by the mayor, comptroller, public advocate, a borough president, a council member, or a community board for installation of a photo noise violation monitoring device at a particular location, the department shall assess the request and respond within 30 days with a determination as to whether the location requested is appropriate for inclusion in the program.

d. Multiple technologies. The department may deploy multiple sound detection technologies within the photo noise violation monitoring devices as part of this program, including but not limited to:

1. Acoustic monitoring;
2. Beamforming devices; and
3. Artificial intelligence.

e. Reporting. No later than January 31, 2025, and on January 31 thereafter in each succeeding year in which the program is in operation, the commissioner shall submit to the mayor and the speaker of the council, and post on the department's website, a report on the use of photo noise violation monitoring devices for the previous calendar year. Such report shall include:

1. The locations of any such photo noise violation monitoring devices and time periods during which such devices were used;
2. The total number of violations recorded by photo noise violation monitoring devices on a daily, weekly, and monthly basis;
3. The total number of notices of violation issued for violations recorded by such devices;
4. The total number of violations adjudicated in accordance with subchapter 8 of this chapter and the

results of such adjudications, disaggregated by dispositions made for violations recorded by such devices; and

5. Any expenses incurred by the city in connection with the program.

§ 2. This local law takes effect 60 days after it becomes law.

Session 12

XC/CCM

LS #8469

11/28/2023 11:08 PM

Session 11

NAW

LS #9201

8/5/2021 9:44 AM