File #: Int 0110-2026, **Version:** *

Int. No. 110

By Council Members Brooks-Powers, Louis, Brewer, Zhuang, Schulman, Feliz, Morano, Ariola, Paladino and the Public Advocate (Mr. Williams)

A Local Law to amend the administrative code of the city of New York, in relation to delivery devices used for commercial purposes, and to repeal section 10-157.1 of such code, relating to signs with bicycle safety procedures

Be it enacted by the Council as follows:

Section 1. Section 10-157 of the administrative code of the city of New York, as amended by, and paragraphs 1, 2, and 3 of subdivision b as added by, local law number 91 for the year 2017, subdivisions g and h as amended by local law number 151 for the year 2023, and subdivision 1 as added by local law number 41 for the year 2023, is amended to read as follows:

§ 10-157 [Bicycles] Delivery devices used for commercial purposes.

a. Definitions. For purposes of this section [and section 10-157.1], the following terms have the following meanings:

[Bicycle. The term "bicycle" has the same meaning as in section 19-176, and also means any wheeled device propelled exclusively by human power as well as any motor-assisted device that is not capable of being registered by the New York state department of motor vehicles.

Bicycle operator. The term "bicycle operator" means a person who delivers packages, parcels, papers, or articles of any type by bicycle on behalf of a business using a bicycle for commercial purposes and who is paid by such business.]

Business using a [bicycle] delivery device for commercial purposes. The term "business using a [bicycle] delivery device for commercial purposes" means a person[, firm, partnership, joint venture,

association, corporation,] or [other] entity that, either on behalf of itself or others, [delivers packages, parcels, papers, or articles of any type by bicycle] facilitates, offers or arranges for the delivery of goods by a delivery device. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle only to deliver daily newspapers or circulars.

Compliant battery. The term "compliant battery" means a battery for a delivery device that is in compliance with applicable laws, rules and regulations, including a storage battery that meet the standards for distribution, sale, lease or rental pursuant to subdivision c of section 20-610.

Compliant delivery device. The term "compliant delivery device" means a delivery device that is in compliance with applicable law, rules and regulations, including a powered mobility device that meets the standards for distribution, sale, lease or rental pursuant to section 20-610.

Delivery device. The term "delivery device" means a bicycle as defined in section 102 of the vehicle and traffic law, a bicycle with electric assist as defined in section 102-c of the vehicle and traffic law, an electric scooter as defined in section 114-e of the vehicle and traffic law, a limited-use motorcycle as defined in section 121-b of the vehicle and traffic law, a motorcycle as defined in section 123 of the vehicle and traffic law, a pedal-assist commercial bicycle as defined in section 4-01 of title 34 of the rules of the city of New York, a personal mobility device powered by a lithium-ion or other battery, or a personal mobility device propelled exclusively by human power, provided that the term "delivery device" does not include wheelchairs or other mobility devices designed for use by persons with disabilities.

Delivery device operator. The term "delivery device operator" means a natural person or any organization composed of no more than 1 natural person, whether incorporated or employing a trade name, who is employed or retained by a business using a delivery device for commercial purposes to deliver goods by delivery device in exchange for compensation.

Goods. The term "goods" means 1 or more items, parcels, packages, products, or articles of any type, including but not limited to food, beverages, groceries, or papers.

Motorized scooter. The term "motorized scooter" means a "motorized scooter" as the term is defined in section 19-176.2.

Non-compliant delivery device. The term "non-compliant delivery device" means a delivery device other than a compliant delivery device.

Retained. The term "retained" means hired, or retained or engaged, as an independent contractor.

b. Contact information for businesses without a site in the city. A business using a [bicycle] delivery device for commercial purposes that does not have a site within the city that is open and available to the public must provide to the department of transportation, upon a form prescribed by the department, the following information:

(1) the name under which such business is authorized to do business in the state, pursuant to the business corporation law,

(2) the registered agent upon whom process against such business may be served and the address of such agent, or, if the business has designated the secretary of state as its agent for receiving such process, the post office address to which the secretary of state may mail a copy of such process, and

(3) any other information requested by the department.

c. (1) A business using a [bicycle] delivery device for commercial purposes must assign to each of its [bicycle] delivery device operators a unique identification number[, except that the department of transportation may promulgate a rule to require an identification number with four or more digits]. The department of transportation may promulgate rules to ensure each identification number is unique. Such business must issue to each of its [bicycle] delivery device operators an identification card that contains the name, identification number and photo of the [bicycle] delivery device operator and the name, address and telephone number of such business.

(2) A [bicycle] delivery device operator shall carry such identification card while making deliveries or otherwise operating a [bicycle] delivery device on behalf of any such business. A bicycle operator shall be

required to produce such identification card upon the demand of an authorized employee of the police department or department of transportation or any other person authorized by law.

d. Roster. A business using a [bicycle] delivery device for commercial purposes shall maintain a roster of [its bicycle operators] each delivery device operator that has completed a delivery on behalf of such business in accordance with this subdivision for a period of at least 1 year. Such roster shall include for each such [bicycle] delivery device operator: name; [home address; start date; discharge date, if applicable;] identification number; and date of completion of the [bicycle] delivery device safety course required by [paragraph 3 of] subdivision [e] f of this section. Such roster shall be made available for inspection upon request of an authorized employee of the [police department or] department of transportation [or any other person authorized by law].

e. Safety equipment. (1) A business using a [bicycle] delivery device for commercial purposes shall provide at its own expense or ensure the availability of [protective headgear suitable for each of its bicycle operators] safety equipment in accordance with this subdivision and rules promulgated by department of transportation. Such business may not require any [of its bicycle operators] delivery device operator to provide such [headgear] safety equipment at such operator's expense. Such [headgear] safety equipment shall include, but need not be limited to:

(i) [meet] protective headgear that meets the standards set forth by the consumer product safety commission in title 16, part 1203 of the code of federal regulations; and

(ii) [be replaced if such headgear is no longer in good condition. Headgear is no longer in good condition if it is missing any of its component parts or is otherwise damaged so as to impair its functionality] retro-reflective apparel.

(2) Each [bicycle] delivery device operator shall [wear protective headgear] use safety equipment that meets the requirements of paragraph 1 of this subdivision while making deliveries or otherwise operating a [bicycle] delivery device on behalf of a business using a [bicycle] delivery device for commercial purposes.

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[The term "wear protective headgear" means having the headgear fastened securely upon the head with the headgear straps.]

(3) [Each bicycle operator shall complete a bicycle safety course prior to making deliveries or otherwise operating a bicycle on behalf of a business using a bicycle for commercial purposes. For purposes of this section, "bicycle safety course" shall mean information provided by the department of transportation regarding safe bicycling and adherence to traffic and commercial bicycle laws.

(4) The commissioner of transportation shall post on the department of transportation's website the content of the bicycle safety course required by this section.] A business using a delivery device for commercial purposes shall require that each delivery device operator that delivers goods on behalf of such business uses the safety equipment such delivery device operator is required to use pursuant to paragraph (2) of this subdivision.

f. Safety course. (1) A business using a delivery device for commercial purposes shall provide each delivery device operator that delivers goods on behalf of such business a course on the safe operation of such delivery device and on applicable laws and rules relating to operating such device. Such service shall provide such course to such a delivery device operator prior to such operator delivering goods on behalf of such business. The department of transportation shall prescribe by rule the content and information required to be included in such course.

(2) The department of transportation shall post on its website a course of the safe operation of a delivery device and applicable laws and rules relating to operating such a device. Such course and any accompanying materials shall be made available in English, the designated citywide languages as defined in section 23-1101, and any other languages as determined relevant by the department of transportation. A business using a delivery device for commercial purposes may use such course to comply with paragraph (1) of this subdivision.

[A business using a bicycle for commercial purposes, notwithstanding that a bicycle may be provided by any of its bicycle operators, shall provide at its own expense or ensure that each bicycle is equipped with: a lamp; a bell or other device capable of giving an audible signal from a distance of at least one hundred feet,

provided however that a siren or whistle shall not be used; brakes; reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel; as well as other devices or material in accordance with section 1236 of the vehicle and traffic law. Such business may not require any of its bicycle operators to provide such equipment at such operator's expense.]

g. Violations. (1) A business using a [bicycle] delivery device for commercial purposes shall be responsible, in accordance with rules of the department of transportation, 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 $100 nor more than $250 or imprisonment for not more than 15 days or both such fine and imprisonment.

(2)] by any delivery device operator that performs a delivery on behalf of such business. 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 [$100] $500. Any such business that violates a provision of this section or rule promulgated pursuant hereto more than 30 days and less than 2 years after such business has already violated the same provision or rule shall be subject to an additional civil penalty of [$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 $100, except that with respect to first time violations of such subdivision, the commissioner of transportation shall notify such business of such violation and request that action be taken to correct such violation in such a manner within 30 days and shall afford such business an opportunity to contest the commissioner’s finding in a manner set forth in the rules of the department of transportation. 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] $1,000. Any penalty pursuant to this paragraph shall be imposed per delivery device operator and per instance for each violation and shall be recoverable against such business in an action or proceeding in any court or tribunal of competent jurisdiction or the office of administrative trials and hearings.

(2) Notwithstanding paragraph (1) of this subdivision, for each violation of subdivision e or f of this section or any rule promulgated pursuant thereto, a business using a delivery device for commercial purposes shall be liable for a civil penalty of $1,000. Any such business that violates a provision of any such subdivision or rule promulgated pursuant thereto more than 30 days and less than 2 years after such business has violated the same provision or rule shall be subject to an additional civil penalty of $2,000. Any penalty pursuant to this paragraph shall be imposed per delivery device operator and per instance for each violation.

h. Requirement to wear or utilize safety equipment. Any [bicycle] delivery device operator who makes deliveries or otherwise operates a [bicycle] delivery device on behalf of a business using a [bicycle] delivery device 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] or utilize the safety equipment 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 $25 nor more than $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] safety equipment required by subdivision e of this section. Such traffic infraction may be adjudicated by an administrative tribunal authorized under article 2-A of the vehicle and traffic law.

i. [A business using a bicycle for commercial purposes shall provide for and require each of its bicycle operators to wear, and each such bicycle operator shall wear, a retro-reflective jacket, vest, or other wearing apparel on the upper part of such operator's body as the outermost garment while making deliveries or

otherwise operating a bicycle on behalf of such business, the back of which shall indicate such business's name and such bicycle operator's individual identification number as assigned pursuant to subdivision c of this section in lettering and numerals not less than one inch in height so as to be plainly readable at a distance of not less than ten feet.

j.] The provisions of this section shall be enforceable by an authorized employee of the police department, [or] department of transportation, or any other person authorized by law.

[k] j. A business using a [bicycle] delivery device for commercial purposes shall not possess any motorized scooter and shall not permit any person to operate a motorized scooter on behalf of such business. A business using a [bicycle] delivery device for commercial purposes shall be liable for any violation of subdivision b of section [19-176.2(b)] 19-176.2 committed by any [person] delivery device operator operating a motorized scooter on behalf of such business. [For purposes of this section, "motorized scooter" shall be as defined in section 19-176.2.]

k. A business using a delivery device for commercial purposes shall not require a delivery device operator to indemnify or hold harmless such business for any claims, demands, damages, suits, losses, liabilities and causes of action arising directly or indirectly from, as a result of or in connection with the actions of such delivery device operator performing deliveries on behalf of such business.

l. A business using a [bicycle] delivery device for commercial purposes shall provide to [its bicycle operators] any delivery device operator that delivers goods on behalf of such business the materials identified by the department of consumer and worker protection pursuant to subdivision a of section 20-1525. [Unless such business has already provided such materials pursuant to subdivision b of section 20-1525, such business shall provide such materials to its bicycle operators no later than sixty days after such department publishes such materials pursuant to subdivision a of section 20-1525.] Such materials shall be provided in English, the designated citywide languages as defined in section 23-1101, and any additional languages in which such materials have been published by the department of consumer and worker protection.

§ 2. Section 10-157.1 of the administrative code of the city of New York is REPEALED.

§ 3. This local law takes effect on the same date that a local law for the year 2025 amending the administrative code of the city of New York, relating to licensing delivery services, as proposed in introduction number 1448, takes effect.

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