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Int. No. 1009

By Council Members Marte and Epstein

A Local Law to amend the administrative code of the city of New York, in relation to licensing of businesses that engage individuals to sell tickets in public spaces

Be it enacted by the Council as follows:

Section 1. Section 20-373 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. The commissioner may refuse to renew a sight-seeing bus license if the holder of the sight-seeing bus license commits, or pursuant to subdivision d of section 20-559 causes the commission of, three or more violations of any provision of subchapter 34 of this chapter or any rules promulgated pursuant to such subchapter on different calendar days within a two-year period.

§ 2. Subdivision a of section 20-383 of the administrative code of the city of New York, as amended by local law number 175 for the year 2018, is amended to read as follows:

a. After notice and opportunity to be heard, the commissioner may suspend or revoke any sight-seeing bus license where the holder has failed to comply with any provisions of this subchapter or of the rules promulgated thereunder, or with any other laws or rules governing sight-seeing buses, or which sight-seeing bus is otherwise found to be unfit for operation. Such suspension shall remain in effect until compliance and fitness have been established by the licensee and accepted by the department. Grounds for suspension or revocation shall include, but not be limited to, revocation of one or more bus stop authorizations by the commissioner of transportation pursuant to section 19-175.6 of this code, three or more violations of paragraph 2 of subdivision e of section 20-374 of this subchapter within a two year period, installation of an engine which

does not meet the requirements of subdivision b of section 20-376 of this subchapter, being found to have violated the requirements for diesel fuel-powered sight-seeing buses contained in section 24-163.6 of the administrative code, failure to submit a bus for inspection, installation of an engine not covered by a certificate of conformity in a vehicle which was originally manufactured with such an engine and installation of an engine of any model year preceding the year of manufacture in a vehicle which was originally manufactured with an engine covered by a certificate of conformity, and three or more violations of any provision of subchapter 34 of this chapter or any rules promulgated pursuant to such subchapter on different calendar days within a two-year period committed by, or pursuant to subdivision d of section 20-559 caused by, the holder of the sight-seeing bus license. The commissioner shall, as soon as practicable, notify the commissioner of transportation of each sight-seeing bus license that is suspended or revoked.

§ 3. The heading of subchapter 34 of chapter 2 of title 20 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

SUBCHAPTER 34

[TICKET SELLERS] TICKET-SELLING BUSINESSES

§ 4. Section 20-550 of the administrative code of the city of New York is amended by adding new definitions of “business entity,” “principal,” and “ticket-selling business” in alphabetical order to read as follows:

Business entity. The term “business entity” means a corporation, limited liability company, partnership, sole proprietorship, association, or other legal entity.

Principal. The term “principal” means every natural person who (i) has an ownership interest of more than 10 percent in a business entity; (ii) is a general partner of a partnership; (iii) is an officer, director, or authorized person of a business entity, or (iv) directly or indirectly participates in the control of a business entity. For purposes of this definition, any person who has an ownership interest in a parent entity is deemed to

have an ownership interest in a subsidiary entity equal to the product of the percentage of such person's ownership of the parent entity multiplied by the percentage of the parent entity's ownership of the subsidiary entity.

Ticket-selling business. The term "ticket-selling business" means a person who employs or engages a ticket seller, as an employee or independent contractor, to vend tickets in a public space, excluding a mode of transportation operating pursuant to a contract with the city of New York or an entity authorized to act on the city of New York's behalf.

§ 5. The definitions of "ticket seller" and "ticket seller license" set forth in section 20-550 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, are amended to read as follows:

Ticket seller. The term "ticket seller" means [a person] an individual who[:

(1)] vends tickets in a public space, unless such [person] individual is vending tickets on behalf of a mode of transportation operating pursuant to a contract with the city of New York or an entity authorized to act on the city of New York's behalf[; or

(2) sells, gives, or otherwise transfers, for vending in a public space, any ticket to another person, unless such person is a place of entertainment, mode of transportation, or guided tour].

[Ticket seller] Ticket-selling business license. The term "[ticket seller] ticket-selling business license" means a license issued by the commissioner to a [ticket seller] ticket-selling business.

§ 6. Section 20-551 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-551 [Ticket seller] Ticket-selling business licenses. a. [1.] It shall be unlawful for any person [required to be licensed pursuant to this subchapter] to [act as] operate a [ticket seller] ticket-selling business without having first obtained a [ticket seller] ticket-selling business license in accordance with this subchapter, unless such person is exempt from the requirements of this subchapter or rules promulgated thereunder.

[2. It shall be unlawful for any person to knowingly sell, give, or otherwise transfer, for vending in a public space, any tickets, to an unlicensed ticket seller.]

b. [All ticket seller licenses shall be valid for no more than one year and expire on July 31 each year unless suspended or revoked.] The [annual] biennial fee for [such] a ticket-selling business license or renewal thereof shall be [$45] $90 [or shall be a portion of $45 prorated to the effective period of the license,] and shall be paid unless the applicant is exempted by article [four] 4 of the general business law.

c. [1.] Each person applying for a [ticket seller] ticket-selling business license or renewal thereof shall file an application in such form and detail as the commissioner may prescribe and shall pay the fee required by this subchapter.

[2.] An application for a [ticket seller] ticket-selling business license shall include, but need not be limited to, the following information:

[(i) the name of the applicant and at least one piece of current valid photo identification issued by a government agency of any jurisdiction that may be used to establish proof of identity;

(ii) the name and address of each person on whose behalf the applicant vends, or intends to vend, or if the applicant is not vending on behalf of another person, the home address of the applicant;

(iii) one print of a full-face photograph of the applicant taken not more than 30 days prior to the date of the application; and

(iv) if an applicant is a non-resident of the city, the name and address of a registered agent within the city or designation of the commissioner as their agent upon whom process or other notification may be served.]

1. The applicant's name, address, telephone number, and email address;

2. If the applicant does not have a physical address in the city, the name and address of a registered agent within the city upon whom process or other notifications may be served; and

3. If the applicant is a business entity, the application shall include the name and address of such business entity together with the names and business addresses of the applicant's principals.

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d. Upon the approval of an application, the commissioner shall issue a [ticket seller] ticket-selling business license to the applicant. Such licenses shall not be transferrable.

e. A [ticket seller] ticket-selling business license shall contain the licensee's name [,] and license number[, and a non-removable photograph of the licensee].

f. Whenever any information provided on the application for a [ticket seller] ticket-selling business license or renewal thereof has changed, such licensee shall notify the commissioner within 10 days of such change.

g. The commissioner may promulgate rules exempting any non-profit association including, but not limited to, a government agency, charitable, educational, religious, or other such organization from compliance with this subchapter.

§ 7. Section 20-552 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-552 Denial of license or renewal. a. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter [one] 1 of this title, or any rules promulgated pursuant to such subchapter or chapter, the commissioner may refuse to issue or renew a ticket seller license:

1. [if] If an applicant has pending any unanswered summons, unsatisfied fines, or penalties for violation of this subchapter or chapter [one] 1 of this title, or any rules promulgated pursuant to such subchapter or chapter; [or]

2. [for] For any cause set forth in chapter [one] 1 of this title or elsewhere in this subchapter as a ground for suspension, or revocation, or non-renewal; or

3. If a principal of the applicant is or has been a principal of a business entity whose ticket-selling business license was revoked pursuant to this subchapter.

b. Notwithstanding subdivision a of this section, the commissioner shall refuse to renew a [ticket seller] ticket-selling business license if the commissioner becomes aware of any of the following:

1. [an applicant has been convicted of a misdemeanor pursuant to subdivision a of section 20-556] A ticket seller has been convicted of a crime in connection with the vending of tickets on behalf of the applicant on 2 or more occasions within a 1-year period;

2. [an] An applicant has failed to answer a summons or notice of violation, appear for a civil or criminal summons, or pay a fine or civil penalty imposed pursuant to the provisions of this subchapter or chapter [one] 1 of this title, or any rules promulgated pursuant to such subchapter or chapter, [two] 2 or more times within any [one] 1 year period; or

3. [an] An applicant or a principal of the applicant has been convicted of a crime [while acting as a ticket seller] in connection with the vending of tickets.

§ 8. Section 20-553 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-553 Hearings. Unless otherwise specifically provided, notice and hearings upon the denial, suspension, or revocation of a [ticket seller] ticket-selling business license or the imposition of penalties provided in this subchapter shall be in accordance with chapter [one] 1 of this title and any rules promulgated pursuant to such chapter.

§ 9. Section 20-554 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-554 Display of license and required apparel. a. [Each ticket seller shall wear their ticket seller license conspicuously at all times while engaged in vending and shall exhibit such license upon demand to any police officer, peace officer, or other authorized officer or employee of the department or other city agency.] A ticket-selling business shall display its license in a conspicuous place in its principal place of business. A ticket-selling business shall also display its license number on its website, if any.

b. [In any civil or criminal action or proceeding for any violation of this subchapter or any rules promulgated pursuant to such subchapter, failure by a ticket seller required to be licensed pursuant to this

subchapter to exhibit upon demand a ticket seller license in accordance with this subchapter to any police officer, peace officer, or other authorized officer or employee of the department or other city agency shall be presumptive evidence that such person is not duly licensed.

c.] Each ticket seller shall wear a jacket, vest, or other [wearing] apparel on the upper part of their body as the outermost garment at all times while engaged in vending. Such apparel shall indicate [that the ticket seller is licensed under this subchapter; the ticket seller's] the license number [; and, if the ticket seller is employed by or vends on behalf of a place of entertainment, mode of transportation, or guided tour, the name of such place of entertainment, mode of transportation, or guided tour] and the name of the ticket-selling business employing or engaging such ticket seller. Such information shall be in lettering and numerals at least [one] 1 inch in height so as to be plainly readable at a distance of at least [ten] 10 feet. The commissioner may establish by rule additional means of identifying ticket sellers or ticket-selling businesses.

§ 10. Section 20-555 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-555 Duties of [ticket sellers] ticket-selling businesses. a. Each [ticket seller] ticket-selling business shall keep such written records as the commissioner may prescribe by rule and shall make such records available for inspection by an authorized officer or employee of any city agency in accordance with applicable law and rules and with appropriate notice. Such written records shall include, but need not be limited to, a roster of all ticket sellers employed or engaged by such ticket-selling business, and a roster of all modes of transportation, places of entertainment, or guided tours that have engaged the ticket-selling business within the previous 3 years.

b. [Each ticket seller] Any ticket-selling business and any ticket seller shall permit inspections by the department or any authorized city agency of any tickets intended for vending in a public space [by such licensee] and shall provide information regarding such tickets, including the address and name of each person whose tickets are being vended, in accordance with applicable law and rules and with appropriate notice.

§ 11. Section 20-557 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-557 Suspension and revocation of license. a. Any [ticket seller] ticket-selling business license may be suspended or revoked upon notice and an opportunity to be heard for any of the following causes:

1. [fraud] Fraud, misrepresentation, or false statements contained in the application for such license or any renewal application;

2. [fraud] Fraud, misrepresentation, or false statements made in connection with the vending of tickets by the licensee or by a ticket seller employed or engaged by the licensee;

3. A violation of chapter [one] 1 or subchapter [one] 1 of chapter [five] 5 of this title, or any rules promulgated pursuant to such chapter or subchapter committed by the licensee or any ticket seller employed or engaged by such licensee; provided, however, that in the event of a conflict between such chapter and subchapter and this subchapter, this subchapter shall prevail;

4. [four] Three or more violations of any provision of this subchapter or any rules promulgated pursuant to such subchapter that are issued on different calendar days and within a [two] 2-year period committed by the licensee or any ticket seller employed or engaged by such licensee.

b. Notwithstanding subdivision a of this section, the commissioner shall revoke a [ticket seller] ticket-selling business license if the commissioner becomes aware of any of the following:

1. [a licensee has been convicted of a misdemeanor pursuant to subdivision a of section 20-566 of this subchapter] A ticket seller has been convicted of a crime in connection with the vending of tickets on behalf of the licensee on 2 or more occasions within a 1-year period;

2. [a] A licensee has failed to answer a summons or notice of violation, appear for a civil or criminal summons, or pay a fine or civil penalty imposed pursuant to the provisions of this subchapter or chapter [one] 1 of this title, or any rules promulgated pursuant to such subchapter or chapter, [two] 2 or more times within a [one] 1-year period; or

3. [a] A licensee or a principal of the licensee has been convicted of a crime [while acting as a ticket seller] in connection with the vending of tickets.

c. Notwithstanding subdivisions a and b of this section, upon the occurrence of any of the conditions set forth in subdivision a or b of this section, if the commissioner determines that the continued possession by the [ticket seller] ticket-selling business of a [ticket seller] ticket-selling business license would pose an exigent danger to the public, the commissioner may immediately suspend such [ticket seller] ticket-selling business license, subject to a prompt post-suspension hearing.

§ 12. Section 20-558 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

§ 20-558 Enforcement and rules. a. Authorized officers and employees of the department, and any department designated by the commissioner, as well as any police or peace officer, shall have the power to enforce any provision of this subchapter or any rule promulgated pursuant to this subchapter. This provision shall in no way restrict any other power granted by law to an officer or employee of any city agency.

b. Any police officer may seize [from an unlicensed ticket seller] tickets to be vended and devices used to vend [by an unlicensed ticket seller] from an unlicensed ticket-selling business or a ticket seller who is not employed or engaged by a licensed ticket-selling business.

c. A ticket-selling business shall be jointly and severally liable for any violation of this subchapter committed by a ticket seller employed or engaged by such ticket-selling business at the time of such violation.

d. When a notice of violation is issued pursuant to this subchapter, or any rules promulgated thereunder, in connection with the vending of a ticket for a boat, the commissioner shall provide notification of the notice of violation to any entity that contracts with the city to manage berthing space for boats.

§ 13. Section 20-559 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, and subdivisions d and e of such section as amended by local law number 93 for the year

2016, is amended to read as follows:

§ 20-559 Penalties. a. Any person who violates, or causes another person to violate, any provision of subdivision a of section 20-551 or subdivision a of section 20-556, or any rules promulgated pursuant to such subdivisions, shall be guilty of a misdemeanor punishable by a fine of not less than $250 nor more than $1,000, or by imprisonment for not more than 90 days or by both such fine and imprisonment.

b. Except as provided in subdivision a of this section, any person who violates, or causes another person to violate, a provision of this subchapter or any rule promulgated pursuant to such subchapter, shall be guilty of an offense punishable as follows:

1. [for] For the first violation, a fine of not [less than $25 nor] more than:

(a) $50 for a ticket seller; and

(b) $500 for (i) a ticket-selling business or (ii) a place of entertainment, mode of transportation, or guided tour found to have caused a violation pursuant to subdivision d of this section;

2. [for] For the second violation issued for the same offense within a period of [two] 2 years of the date of the first violation, a fine of not [less than $50 nor] more than:

(a) $100 for a ticket seller; and

(b) $1,000 for (i) a ticket-selling business or (ii) a place of entertainment, mode of transportation, or guided tour found to have caused a violation pursuant to subdivision d of this section; and

3. [for] For the third and any subsequent violation within a period of [two] 2 years of the date of the first violation, a fine of not [less than $100 nor] more than:

(a) $250 for a ticket seller; and

(b) $1,500 for (i) a ticket-selling business or (ii) a place of entertainment, mode of transportation, or guided tour found to have caused a violation pursuant to subdivision d of this section[; and

4. for the fourth and any subsequent violations within a period of two years of the date of the first violation, a fine of not more than $500].

c. In addition to the fines set forth in subdivisions a and b of this section, any person who violates, or causes another person to violate, any provision of this subchapter or any rules promulgated pursuant to such subchapter shall be subject to a civil penalty as follows:

1. [for] For the first violation, a civil penalty of not [less than $25 nor] more than:

(a) $50 for a ticket seller; and

(b) $500 for (i) a ticket-selling business or (ii) a place of entertainment, mode of transportation, or guided tour found to have caused a violation pursuant to subdivision d of this section;

2. [for] For the second violation issued for the same offense within a period of [two] 2 years of the date of the first violation, a civil penalty of not [less than $50 nor] more than:

(a) $100 for a ticket seller; and

(b) $1,000 for (i) a ticket-selling business or (ii) a place of entertainment, mode of transportation, or guided tour found to have caused a violation pursuant to subdivision d of this section; and

3. [for] For the third violation and any subsequent violation within a period of [two] 2 years of the date of the first violation, a civil penalty of not [less than $100 nor] more than:

(a) $250 for a ticket seller; and

(b) $1,500 for (i) a ticket-selling business or (ii) a place of entertainment, mode of transportation, or guided tour found to have caused a violation pursuant to subdivision d of this section[; and

4. for the fourth and any subsequent violations within a period of two years of the date of the first violation, a civil penalty of not more than $500].

d. For the purposes of this subchapter, there shall be a rebuttable presumption that any violation of any provision of this subchapter or any rules promulgated pursuant to such subchapter by a ticket seller was caused by[:

1.] the place of entertainment, mode of transportation, or guided tour whose ticket is vended[; and/or

2. the person on whose behalf the ticket is vended].

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Such presumption shall not apply: (i) where the ticket vended is counterfeit and was not issued by the place of entertainment, mode of transportation, or guided tour; or (ii) where the circumstances of the vending were not authorized [or subject to the control of] by the place of entertainment, mode of transportation, or guided tour; or (iii) where the place of entertainment, mode of transportation, or guided tour is jointly and severally liable for the violation pursuant to subdivision c of section 20-558.

e. A proceeding to recover any civil penalty pursuant to this section shall be commenced by the service of a summons or notice of violation which shall be returnable to the office of administrative trials and hearings.

§ 14. This local law takes effect 30 days after it becomes law.

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