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Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to requiring written communications regarding the results of inspections from the Departments of Consumer Affairs and Health and Mental Hygiene to be in the receiving business owner’s language of choice

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Int. No. 867

By Council Members Cornegy, Mendez, Constantinides, Dromm, Eugene, Koo, Rose, Chin and Rosenthal (by request of the Manhattan Borough President)

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to requiring written communications regarding the results of inspections from the Departments of Consumer Affairs and Health and Mental Hygiene to be in the receiving business owner’s language of choice

Be it enacted by the Council as follows:

Section 1. Paragraph 3 of subdivision f of section 15 of the New York city charter is amended to read as follows:

3. To the extent practicable, the office of operations shall develop and implement a plan for each business owner to indicate the language in which such owner would prefer that agency inspections of the business be conducted, and in which such owner would prefer that mailed agency communications relating to

the results of such inspections be written. To the extent practicable, the office of operations shall also develop and implement a plan to inform all relevant agencies of such respective language preference.

§ 2. Subdivision b of section 561 of the New York city charter is amended to read as follows:

b. Every application for a permit or a renewal of an existing permit issued by the commissioner pursuant to this section shall provide an opportunity for the applicant to indicate the language in which such applicant would prefer that inspections in connection with such permit be conducted, or alternatively for which language interpretation services be provided, and an opportunity for the applicant to indicate the language in which such applicant would prefer that mailed communications relating to the results of such inspection be written. Nothing in this subdivision nor any failure to comply with such preference shall be construed so as to create a cause of action or constitute a defense in any legal, administrative, or other proceeding.

§ 3. Section 17-301 of the administrative code of the city of New York is amended to read as follows:

§ 17-301. Language preference for inspections. Every application for a license or a permit, or the renewal of an existing license or an existing permit to be issued by the commissioner pursuant to this chapter shall provide an opportunity for the applicant to indicate the language in which such applicant would prefer that inspections in connection with such license or permit be conducted, or alternatively for which language interpretation services be provided, and an opportunity for the applicant to indicate the language in which such applicant would prefer that mailed communications relating to the results of such inspection be written. Nothing in this subdivision nor any failure to comply with such preference shall be construed so as to create a cause of action or constitute a defense in any legal, administrative, or other proceeding.

§ 4. Subdivision b of section 20-107 of the administrative code of the city of New York is amended to read as follows:

b. Every application for a license or the renewal of an existing license shall provide an opportunity for the applicant to indicate the language in which he or she would prefer that inspections in connection with such license be conducted, and in which such applicant would prefer that mailed agency communications relating to

the results of such inspections be written. Nothing in this subdivision nor any failure to comply with such preference shall be construed so as to create a cause of action or constitute a defense in any legal, administrative, or other proceeding.

§ 5. Subdivision b of section 20-275 of the administrative code of the city of New York is amended to read as follows:

b. Any person who violates any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each violation; except that a person shall not be subject to such civil penalty for a first-time violation of section 20-270 or 20-271 of this subchapter or any rule or regulation issued 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 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 section 20-270 or section 20-271 of this subchapter or any rule or regulation issued thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter or subdivision b of section 20-107 of the code. 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.

§ 6. Section 20-332 of the administrative code of the city of New York is amended to read as follows:

§ 20-332. Violation. Any person who violates any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each

violation; except that a person shall not be subject to such civil penalty for a first-time violation of subdivision b of section 20-324 of this subchapter and any rule or regulation issued 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 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 subdivision b of section 20-324 of this subchapter or any rule or regulation issued thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter or subdivision b of section 20-107 of the code. 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.

§ 7. Subdivision d of section 20-240.1 of the administrative code of the city of New York is amended to read as follows:

d. Any person who violates the provisions of this section or section 20-237 shall be considered to be an unlicensed general vendor or an unlicensed food vendor and shall be subject to the penalty and enforcement provisions of either subchapter twenty-five of chapter two of this title or subchapter two of chapter three of title seventeen of the code, whichever is applicable; except that a person shall not be subject to the civil penalty described above for a first-time violation of subdivision b of section 20-237 and any rule or regulation issued 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 he or she has cured the violation. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The

option of presenting proof of compliance 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 subdivision b of section 20-327 or any rule or regulation promulgated thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter or subdivision b of section 20-107 of the code. The department shall permit such proof to be submitted to the department 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.

§ 8. Section 20-728 of the administrative code of the city of New York is amended to read as follows:

§ 20-728. Penalties. Violation of this subchapter or any rule or regulation promulgated thereunder, shall be punishable by payment of a civil penalty in the sum of not less than twenty-five nor more than one hundred dollars for each violation; except that a person shall not be subject to the civil penalty described above for a first-time violation of any provision of this subchapter 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 he or she has cured the violation. The submission of proof of a cure 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 any provision of this subchapter or any rule or regulation promulgated thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter. 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.

§ 9. Section 20-743 of the administrative code of the city of New York, as added by local law number 31 for the year 2003, is amended to read as follows:

§ 20-743. Penalties. 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 or 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 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 issued thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter. 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.

§ 10. Section 20-748 of the administrative code of the city of New York is amended to read as follows:

§ 20-748. Penalties. Violation of this subchapter, or any regulation promulgated pursuant to it, shall be

punishable by payment of a civil penalty not to exceed two hundred fifty dollars; except that a person shall not be subject to a civil penalty described above for a first-time violation of section 20-746 of this subchapter 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 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 section 20-746 of this subchapter or any rule or regulation promulgated thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter. 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.

§ 11. Section 20-753 of the administrative code of the city of New York is amended to read as follows:

§ 20-753. Penalties. Any person who shall violate the provisions of this subchapter or the regulations promulgated pursuant to this subchapter shall, upon conviction thereof, pay a civil penalty or not less than fifty dollars and not more than two hundred and fifty dollars for the first offense and for each succeeding offense a penalty of not less than one hundred dollars nor more than five hundred dollars for each such violation; except that a person shall not be subject to the civil penalty described above for a first-time violation of subdivision c of section 20-750 of this subchapter 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 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 subdivision c of section 20-750 of this subchapter or any rule or regulation issued thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter. 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. For the purposes of this section, if on any single day the current selling price list is not displayed in accordance with this subchapter or the regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

§ 12. Section 20-810 of the administrative code of the city of New York is amended to read as follows:

§ 20-810. Violations. A person violating sections 20-808 or 20-809 of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation; except that a person shall not be subject to the civil penalty described above for a first-time violation of section 20-809 of this subchapter 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 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 section 20-809 of this subchapter or any rule or regulation promulgated thereunder. Such option shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of such inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter. 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.

§ 13. By May 30, 2016, the department of consumer affairs shall promulgate rules to the effect that the option of presenting proof that the violation has been cured 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 any signage mandate described in this section shall be written in English and in any other language that such person has indicated that they would prefer that mailed agency communications relating to the results of inspections be written pursuant to paragraph 3 of subdivision f of section 15 of the charter or subdivision b of section 20-107 of the code. This section shall apply to the following signage mandates:

- 1) requiring the posting of refund policies;
- 2) requiring the posting of a sign stating that individuals may complain to the department of consumer affairs about a business licensed by such department;
- 3) prohibiting signs stating that a business is not liable for such business's negligence if such a statement is invalid under law;
- 4) requiring that parking lots and garages post a sign stating:
 - a) the business hours of such lot or garage;
 - b) the licensed capacity of such lot or garage;
 - c) such lot or garage is at full capacity for car or bicycle parking; and
 - d) minimum number of bicycle parking spaces;
- 5) requiring that parking lots and garages have separate entrances and exits, with the main entrance and exit clearly designated with illuminated signs marked "entrance" and "exit";
- 6) requiring that all required signage is illuminated, clearly visible, and readable;
- 7) requiring that those lots and garages with waivers under section 20-327.1 of the administrative code post a sign with respect to bike parking;

8) requiring that auxiliary signs of parking lots and garages contain equally sized letters and numbers;

9) requiring that businesses that accept credit cards post a list of limitations that such business put on credit card usage at or near the entrance of each such business, and in all advertising indicating that credit cards are accepted;

10) requiring that electronic or home appliance service dealers include a notice in the department or area where electronic and home appliances are accepted for repair stating that customers are entitled to written estimates for repairs and other customer rights, and that the regulations of the department of consumer affairs relating to television, radio and audio servicing are available for review from the service dealer upon request;

11) requiring a tax preparer to display a sign:

a) identifying him or herself, including his or her address, telephone number, and qualifications;

b) stating that both the preparer and taxpayer must sign every tax return;

c) stating how his or her fees are calculated;

d) stating that he or she or his or her agency will not represent the taxpayer in an audit, if true; and

e) stating that he or she is not licensed by the state board of public accounting or the New York state bar, or both, if true;

12) requiring dealers of products for the disabled to post a sign summarizing any provisions of the New York city products for the disabled law;

13) requiring any bus to include a posted sign on the windshield and near the entrance door of such bus that designates the departure time and destination of such bus;

14) requiring laundries:

a) to distinguish in their advertising between services being offered at different prices;

b) to post an out-of-order sign on non-functioning machines on such laundry's premises;

c) to post a notice that complaints and claims for refunds may be made to a certain person or persons;

and

d) to post any sign in both english and spanish, if applicable;

15) requiring sidewalk cafes to post a sign stating the maximum number of tables and chairs licensed for such sidewalk café, and prohibiting other signage at a sidewalk café except for signage meeting certain specifications;

16) requiring motor vehicle rental businesses to post a notice of the department of consumer protection's consumer protection law;

17) requiring any labeling declaration to be written in the english language;

18) requiring that amusement arcades and gaming cafes post a sign describing age restrictions during certain hours of operation; and

19) requiring signage at businesses that sell beverages for off-premises consumption in beverage containers that are covered by title ten or article twenty-seven of the environmental conservation law of the state of New York to be placed within a certain distance of cash registers or to be visible to consumers from any specific vantage point; and

20) requiring stores with weighing and measuring devices for customer use to post a sign informing customers that they may reweigh products using such weighing or measuring device or devices.

§ 14. This local law takes effect 120 days after it becomes law, provided, however, that the department of consumer affairs shall take such actions, including the promulgation of rules, as are necessary for timely implementation of this local law.

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