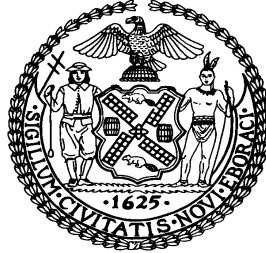


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**THE COUNCIL OF THE CITY OF NEW YORK
COMMITTEE REPORT OF THE INFRASTRUCTURE DIVISION**

Jeffrey Baker, Legislative Director
Terzah Nasser, Deputy Director

COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT

Hon. Antonio Reynoso, Chair

January 29, 2019

INT. NO. 1329:

By Council Members Reynoso, Lancman,
Menchaca and Rosenthal

TITLE:

A Local Law to amend the administrative code of
the city of New York, in relation to trade waste
industry labor unions

ADMINISTRATIVE CODE:

Amends sections 16-503, 16-504, 16-505, 16-506,
and 16-509

INT. NO. 1373:

By Council Members Reynoso, Lander, Richards
and Rosenthal

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to referral of labor and wage violations

ADMINISTRATIVE CODE: Amends title 16-A by adding a new section 16-527

INT. NO. 1368: By Council Members Moya and Rosenthal

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to providing information to private sanitation employees

ADMINISTRATIVE CODE: Amends title 16-A by adding a new section 16-527

I. Introduction

On January 29, 2019, the Committee on Sanitation and Solid Waste Management (the “Committee”), chaired by Council Member Antonio Reynoso, will hold a hearing on Int. No. 1329, a local law to amend the administrative code of the city of New York, in relation to trade waste industry labor unions, Int. No 1373, a local law to amend the administrative code of the city of New York, in relation to referral of labor and wage violations, and Int. No. 1368, a local law to amend the administrative code of the city of New York, in relation to providing information to private sanitation employees. The Committee expects to hear testimony from the Business Integrity Commission (BIC), private carters, union representatives, and interested members of the public.

II. Background

The basic rights of private sector employees to organize into trade unions are guaranteed and regulated by the National Labor Relations Act (NLRA) passed in 1935.¹ Federal law protects the rights of workers to choose their own union and prohibits employers from interfering with that choice.² Workers do not always understand that these rights are protected by federal law.³

There have been reports in the private carting industry of “independent,” “sham,” or “company” unions.⁴ These unions work with employers instead of employees, securing low wages, low safety standards and poor benefits for the union members.⁵ Workers at some of these companies report never having heard of their so-called union or rarely interacting with union representatives.⁶

III. Legislation

Below is a brief summary of the legislation being heard by the Committee at this hearing. This summary is intended for informational purposes only and does not substitute for legal counsel. For more detailed information, you should review the full text of the bill, which is attached below.

¹ National Labor Relations Act 29 USCA Ch. 7, Subchapter. II

² National Labor Relations Board “Employer/Union Rights and Obligations” <https://www.nlr.gov/rights-we-protect/rights/employer-union-rights-and-obligations>

³ Feldman, Kiera ProPublica “Hell on Wheels” June 4, 2018 <https://features.propublica.org/sanitation-salvage/sanitation-salvage-accidents-new-york-city-commercial-carting-garbage/>

⁴ Feldman, Kiera ProPublica “Trashed: Inside the Deadly World of Private Garbage Collection” Jan 4 2018 <https://www.propublica.org/article/trashed-inside-the-deadly-world-of-private-garbage-collection>

⁵ *Id.*

⁶ *Id.* See also: Feldman, Kiera ProPublica “Hell on Wheels” June 4, 2018 <https://features.propublica.org/sanitation-salvage/sanitation-salvage-accidents-new-york-city-commercial-carting-garbage/>

Int. No. 1329

Int. No. 1329 would give BIC authority to regulate labor unions that seek to represent employees directly involved in the collection, removal, transportation or disposal of trade waste. This bill would also give BIC authority to issue and establish standards for the registration of these labor unions.

This bill would also mandate that labor unions regulated by BIC register and disclose information to BIC, including the names of all officers and agents of the unions. The registration requirement would not apply to labor unions for clerical or other office workers, or affiliated national or international labor unions of local labor unions. The registration would be valid for a period of five years.

Int. No. 1329 would mandate that an officer of a labor union or labor organization inform BIC of all criminal convictions, pending civil or criminal actions to which the officer is a party, and any criminal or civil investigation in the five year period preceding the date of registration wherein the officer has been the subject of the investigation or received a subpoena to produce documents or information in connection with the investigation. This bill would also allow BIC to fingerprint the officer if they have reasonable cause to believe the officer lacks good character, honesty and integrity.

This bill would also give BIC the authority to disqualify an officer of a labor union or labor organization from holding office when such person has failed to be fingerprinted or provide truthful information, is subject of a pending indictment or criminal action if the crime is directly related to the trade waste industry, has been convicted of a crime which is directly related to the trade waste industry, has been convicted of racketeering activity or is associated with someone who has been convicted of racketeering activity, or has associated with any member or associate of an organized crime group. Int. No. 1329 would take effect 120 days after it becomes law.

Int. No. 1373

Int. No. 1373 would mandate that the Commissioner of BIC inform the appropriate state and federal agencies if there is reason to believe that a licensee or registrant of BIC is currently or has violated state or federal labor or employment law. Int. No. 1373 would take effect immediately after it becomes law.

Int. No. 1368

Int. No. 1368 would mandate that the Commissioner of BIC post information on the BIC website about the rights of employees of businesses that are registered or licensed by BIC. This bill would also require that this information be disseminated directly to those employees. Int. No. 1368 would take effect 90 days after it becomes law.

By Council Members Reynoso, Lancman, Menchaca and Rosenthal

A LOCAL LAW

To amend the administrative code of the city of New York in relation to trade waste industry labor unions

1 Be it enacted by the Council as follows:

2 Section 1. Section 16-503 of the administrative code of the city of New York, as added by
3 local law number 42 for the year 1996, is amended to read as follows:

4 § 16-503 Functions. The commission shall be responsible for the licensing, registration and
5 regulation of businesses that remove, collect or dispose of trade waste [and], trade waste brokers,
6 and labor unions or labor organizations that represent or seek to represent employees directly
7 involved in the collection, removal, transportation or disposal of trade waste.

8 § 2. Section 16-504 of the administrative code of the city of New York, as added by local
9 law number 42 for the year 1996, is amended by adding a new subdivision j to read as follows:

10 j. To issue and establish standards for the registration of labor unions or labor organizations
11 representing or seeking to represent employees directly involved in the collection, removal,
12 transportation or disposal of trade waste and for suspending or disqualifying officers of such
13 unions or organizations.

14 § 3. Section 16-505 of the administrative code of the city of New York is amended by
15 adding new subdivisions d and e to read as follows:

16 d. A labor union or labor organization representing or seeking to represent employees
17 directly involved in the collection, removal, transportation or disposal of waste shall, within the
18 time period prescribed by the commission, register with the commission and shall disclose
19 information to the commission as the commission may by rule require, including but not limited

1 to the names of all officers and agents of such union or organization; provided, however, that this
2 section shall not apply:

3 (i) to a labor union representing or seeking to represent clerical or other office workers;

4 (ii) to affiliated national or international labor unions of local labor unions required to
5 register pursuant to this provision;

6 (iii) and provided, further, that no labor union or labor organization shall be required to
7 furnish information pursuant to this section which is already included in a report filed by such
8 labor union or labor organization with the secretary of labor pursuant to 29 U.S.C. § 431, et seq.,
9 or § 1001, et seq., if a copy of such report, or of the portion thereof containing such information,
10 is furnished to the commission.

11 e. An officer of a labor union or labor organization required to register with the commission
12 pursuant to subdivision d of this section shall inform the commission, on a form prescribed by the
13 commission, of:

14 (i) all criminal convictions, in any jurisdiction, of such officer;

15 (ii) any pending civil or criminal actions to which such officer is a party; and

16 (iii) any criminal or civil investigation by a federal, state, or local prosecutorial agency,
17 investigative agency or regulatory agency, in the five-year period preceding the date of registration
18 pursuant to subdivision e of this section and at any time subsequent to such registration, wherein
19 such officer has (A) been the subject of such investigation, or (B) received a subpoena requiring
20 the production of documents or information in connection with such investigation. Any material
21 change in the information reported pursuant to this subdivision shall be reported to the commission
22 within 10 calendar days thereof. If the commission has reasonable cause to believe that such an
23 officer lacks good character, honesty and integrity, it may require that such officer be fingerprinted
24 by a person designated by the commission for such purpose and pay a fee to be submitted to the

1 division of criminal justice services and/or the federal bureau of investigation for the purpose of
2 obtaining criminal history records.

3 § 5. Section 16-506 of the administrative code of the city of New York, as added by local
4 law number 42 for the year 1996, is amended to read as follows:

5 § 16-506 Term and fee for license or registration. a. [A] Except as provided in subdivision
6 c of this section, a license or registration issued pursuant to this chapter shall be valid for a period
7 of two years.

8 b. The commission shall promulgate rules establishing the fee for any license or registration
9 required by this chapter. Such rules may provide for a fee to be charged for each vehicle in excess
10 of one that will collect, remove, transport or dispose of waste pursuant to such license and for each
11 such vehicle operated pursuant to such registration.

12 c. A labor union or labor organization registration issued pursuant to this chapter shall be
13 valid for a period of five years.

14 § 6. Subdivision a of section 16-509 of the administrative code of the city of New York, as
15 added by local law number 42 for the year 1996, is amended to read as follows:

16 a. The commission may, by majority vote of its entire membership and after notice and the
17 opportunity to be heard, refuse to issue a license or registration to an applicant who lacks good
18 character, honesty and integrity. Such notice shall specify the reasons for such refusal. In making
19 such determination, the commission may consider, but is not limited to: (i) failure by such
20 applicant to provide truthful information in connection with the application; (ii) a pending
21 indictment or criminal action against such applicant for a crime which under this subdivision
22 would provide a basis for the refusal of issuance of such license or registration, or a pending civil
23 or administrative action to which such applicant is a party and which directly relates to the fitness
24 to conduct the business or perform the work for which [the] such license or registration is sought,

1 in which cases the commission may defer consideration of an application until a decision has been
2 reached by the court or administrative tribunal before which such action is pending; (iii) conviction
3 of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-
4 three of the correction law, would provide a basis under such law for the refusal of such license or
5 registration; (iv) a finding of liability in a civil or administrative action that bears a direct
6 relationship to the fitness of the applicant to conduct the business for which the license or
7 registration is sought; (v) commission of a racketeering activity or knowing association with a
8 person who has been convicted of a racketeering activity, including but not limited to the offenses
9 listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and
10 Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one
11 of section 460.10 of the penal law, as such statutes may be amended from time to time, or the
12 equivalent offense under the laws of any other jurisdiction; (vi) association with any member or
13 associate of an organized crime group as identified by a federal, state or city law enforcement or
14 investigative agency when the applicant knew or should have known of the organized crime
15 associations of such person; (vii) having been a principal in a predecessor trade waste business as
16 such term is defined in subdivision a of section 16-508 of this chapter where the commission would
17 be authorized to deny a license or registration to such predecessor business pursuant to this
18 subdivision; (viii) current membership in a trade association where such membership would be
19 prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the
20 commission has determined, pursuant to such subdivision, that such association does not operate
21 in a manner inconsistent with the purposes of this chapter; (ix) the holding of a position in a trade
22 association where membership or the holding of such position would be prohibited to a licensee
23 pursuant to subdivision j of section 16-520 of this chapter; or (x) failure to pay any tax, fine,
24 penalty[,] or fee related to the applicant's business for which liability has been admitted by the

1 person liable therefor, or for which judgment has been entered by a court or administrative tribunal
2 of competent jurisdiction. For purposes of determination of the character, honesty and integrity of
3 a trade waste broker pursuant to subdivision c or subdivision d of section 16-507 of this chapter,
4 the term "applicant" shall refer to the business of such trade waste broker and all the principals
5 thereof; for purposes of determining the good character, honesty and integrity of employees or
6 agents pursuant to section 16-510 of this chapter, the term "applicant" as used herein shall be
7 deemed to apply to employees, agents or prospective employees or agents of an applicant for a
8 license or a licensee.

9 § 7. Section 16-509 of the administrative code of the city of New York, as added by local
10 law number 42 for the year 1996 is amended by adding new subdivisions g, h and i to read as
11 follows:

12 g. The commission may, after notice and the opportunity to be heard, disqualify an officer
13 of a labor union or labor organization from holding office when such person: (i) has failed, by the
14 date prescribed by the commission, to be fingerprinted or to provide truthful information in
15 connection with the reporting requirements of subdivisions e and f of section 16-505; (ii) is the
16 subject of a pending indictment or criminal action against such officer for a crime which bears a
17 direct relationship to the trade waste industry, in which case the commission may defer a
18 determination until a decision has been reached by the court before which such action is pending;
19 (iii) has been convicted of a crime which, under the standards set forth in article 23-A of the
20 correction law, bears a direct relationship to the trade waste industry, in which case the commission
21 shall also consider the bearing, if any, that the criminal offense or offenses will have on the fitness
22 of the officer to perform his or her responsibilities, the time which has elapsed since the occurrence
23 of the criminal offense or offenses; the seriousness of the offense or offenses, and any information
24 produced by the person, or produced on his or her behalf, in regard to his or her rehabilitation or

1 good conduct; (iv) has been convicted of a racketeering activity or associated with a person who
2 has been convicted of a racketeering activity, including but not limited to the offenses listed in
3 subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt
4 Organizations statute (18 U.S.C. § 1961, et seq.) or of an offense listed in subdivision one of
5 section 460.10 of the penal law, as such statutes may be amended from time to time, when the
6 officer knew or should have known of such conviction; or (v) has associated with any member or
7 associate of an organized crime group, as identified by a federal, state or city law enforcement or
8 investigative agency, when the officer knew or should have known of the organized crime
9 associations of such person. An officer required to disclose information pursuant to subdivisions
10 e and f of section 16-505 may submit to the commission any material or explanation which such
11 officer believes demonstrates that such information does not reflect adversely upon the officer's
12 good character, honesty and integrity. If the commission determines pursuant to this subdivision
13 that there are sufficient grounds to disqualify a person from holding office in a labor union or labor
14 organization, the commission shall suspend such person from holding office pending a final
15 determination and, in the event such person is disqualified, such suspension shall continue pending
16 resignation or vacatur of or removal from office. Upon written request of the suspended person
17 within 10 days of the commission's determination, the director of the office of collective
18 bargaining shall prepare a list of the names of the first fifteen arbitrators selected at random from
19 the roster of arbitrators approved by the office of collective bargaining and present the first five
20 names on such list to the suspended person and the commission. Within alternating periods of five
21 business days the suspended person and then the commission shall each strike a name from the list
22 of selected arbitrators. If the parties cannot within two additional business days jointly appoint an
23 arbitrator from those remaining on the list, the suspended person and then the commission shall
24 within alternating periods of two business days each strike an additional name from the list. The

1 remaining arbitrator shall thereupon be appointed as the arbitrator for that proceeding and shall
2 establish a schedule for such proceeding. In the event that such arbitrator declines the appointment
3 or for any reason is unable to accept the appointment, then the director of the office of collective
4 bargaining shall within five business days present to the suspended person and the commission the
5 next five names on the list of arbitrators previously selected at random and the procedures set forth
6 in this subdivision for appointing an arbitrator shall be applied to this second group. In the event
7 that the arbitrator appointed from this second group declines the appointment or for any reason is
8 unable to accept the appointment, then the director of the office of collective bargaining shall
9 present the remaining five names from the list of arbitrators selected at random and the suspended
10 person shall select an arbitrator from such group. Such arbitrator shall make a final report and
11 recommendations in writing concerning the disqualification. The commission shall accept such
12 report and recommendations and issue its final determination consistent with such report and
13 recommendations. In the event that the suspended person does not make a request for arbitration
14 within the ten-day period, he or she shall be disqualified from holding office. Upon receiving an
15 order from the commission pursuant to this subdivision disqualifying a person from holding office
16 in a labor union or labor organization, such person shall resign or vacate such office within fourteen
17 days or, if such person fails to resign or vacate such office within such time period, such union or
18 organization shall remove such person forthwith from such office. Failure of such a person to
19 resign or vacate office within such time period shall subject such person to the penalties set forth
20 in section 16-515. Nothing in this section shall be construed to authorize the commission to
21 disqualify a labor union or labor organization from representing or seeking to represent employees
22 of a business required to be licensed or registered pursuant to section 16-505.

23 h. In reaching a determination to fingerprint an officer of a labor union or labor organization
24 pursuant to subdivision f of section 16-505 or to disqualify such an officer pursuant to subdivision

1 h of this section, the commission shall give substantial weight to the results of any investigation
2 conducted by an independent investigator, monitor, trustee or other person or body charged with
3 the investigation or oversight of such labor union or labor organization, including whether such
4 investigation has failed to return charges against such officer.

5 i. Notwithstanding any other provision of this chapter to the contrary, the provisions of this
6 section shall apply to any labor union or labor organization representing or seeking to represent
7 employees of businesses required to be licensed or registered pursuant to this chapter.

8 § 8. This local law takes effect 120 days after it becomes law, except that the business
9 integrity commission may take such measures as are necessary for the implementation of this local
10 law, including the promulgation of rules, before such date.

NKA
12/18/2018
2:22pm
LS 7894

Int. No. 1373

By Council Members Reynoso, Lander, Richards and Rosenthal

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to referral of labor and wage violations

Be it enacted by the Council as follows:

1 Section 1. Chapter 1 of title 16-a of the administrative code of the city of New York is
2 amended by adding a new section 16-527 to read as follows:

3 § 16-527 Labor and Wage Violations. Where the commissioner has reasonable cause to
4 believe that a licensee or registrant has engaged in or is engaging in actions (i) involving
5 egregious or repeated nonpayment or underpayment of wages or (ii) that violate city, state or
6 federal labor or employment law, the commissioner shall inform the New York state attorney
7 general, the New York state department of labor, the United States department of labor and other
8 relevant city, state or federal law enforcement agency of such actions.

9 § 2. This local law takes effect immediately.

NKA
LS 9323
12/18/2018

By Council Member Moya and Rosenthal

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to providing information to private sanitation employees

1 Be it enacted by the Council as follows:

2
3 Section 1. Chapter 1 of title 16-a of the administrative code of the city of New York is amended
4 by adding a new section 16-527 to read as follows:

5 § 16-527 Workers' rights information. The commission shall disseminate directly to the
6 employees of companies that are licensed or registered by the commission, and post conspicuously
7 on the commission's website, information about the rights of employees of companies that are
8 licensed or registered by the commission, including but not limited to:

9 a. The rights of such employees under city, state and federal law, including but not limited
10 to the maximum number of hours such employees are permitted to work and a list of safety
11 equipment that must be provided by employers under such laws;

12 b. Specific descriptions and examples of violations of workers' rights under city, state and
13 federal law that the commission is aware of routinely occurring in the trade waste industry;

14 c. A description of the commission's complaint process and how to contact the
15 commission; and

16 d. A list of additional government agencies that accept complaints about violations of
17 workers' rights, and contact information for such agencies.

§ 2. This local law takes effect 90 days after it becomes law.

2:43pm
LS 7886/7887