



The City of New York
BUSINESS INTEGRITY COMMISSION
100 Church Street · 20th Floor
New York · New York 10007
Tel. (212) 437-0500 · Fax (646) 500-7096
www.nyc.gov/bic

Daniel D. Brownell
Commissioner and Chair

Testimony of Commissioner Daniel D. Brownell of the New York City Business Integrity Commission before the Committee on Sanitation and Solid Waste Management of the New York City Council on Intro No. 76 Exempting Master Plumbers from BIC Regulation

December 2, 2015

Good afternoon, Chair Reynoso and Council members. I am Dan Brownell, Commissioner of the New York City Business Integrity Commission, or “BIC.” Thank you for providing me the opportunity to testify at today’s hearing regarding Intro No. 76. This bill would exempt master plumbers in New York City from BIC regulation when they haul construction and demolition debris from jobs in which they are removing or opening the pavement of a public street. For reasons I will explain this afternoon, BIC has serious concerns about this bill and, therefore, opposes it. After my testimony, I will be happy to answer your questions as to why we urge no further action or consideration by the Committee on Intro No. 76.

The rule with respect to hauling trade waste in New York City is clear: if you haul it, you must be licensed or registered with BIC. If you hire a BIC-approved company to haul your trade waste for you, you do not fall under BIC’s regulations. The master plumbers are asking to be exempted from that rule. Granting the proposed exemption would make master plumbers the only profession expressly carved out from BIC oversight. Respectfully, there is no logical reason for treating master plumbers differently from any other construction trade in New York City when they haul construction and demolition debris through the streets. And, as I will explain shortly, there are good reasons to continue to regulate master plumbers if they choose to haul trade waste in New York City.

BIC was created through Local Law 42 of 1996, at a time when the commercial waste carting industry was completely overrun and controlled by organized crime. Local Law 42 created a regulatory framework for BIC and authorized the commission to issue licenses and registrations to companies that haul “trade waste.” “Trade waste” includes all materials that are discarded by business establishments here in the City such as garbage, refuse, organic waste (usually from food materials), construction and demolition debris (often referred to as “C&D material”) and recyclables. BIC’s regulatory authority is strictly confined to companies that directly haul these materials; we play no regulatory role over any other industries or trades in the City, whether they be electricians, architects, contractors or plumbers. So, for example, unless a

master plumber is hauling C&D material or other trade waste from their job sites, they do not come under BIC regulation and do not need a BIC-issued license or registration.

There are approximately 1,200 master plumbers currently licensed by the Department of Buildings (“DOB”) in the City. Less than 40 of them are licensed or registered by BIC. This is because most master plumbers do not haul C&D materials from their jobs themselves. Instead, they arrange for a BIC-approved business to provide that service. So, for the overwhelming majority of master plumbers, BIC regulation is a non-issue.

Regulation of trade waste removal is important to the City not only to keep organized crime out of this industry that it once dominated, but to keep other forms of fraud and corruption out as well. BIC’s role has become more critical as the general public and public officials emphasize greater focus on environmental concerns, such as higher recycling rates and lower truck emissions, and as interest for the safety conditions of trade waste workers and the public at large is further evolving.

This bill would have far-reaching effects, with consequences concerning air emissions and truck safety that are surely unintended. For example, if this bill were signed into law, plumbers who haul C&D material would no longer be bound by Local Law 145 of 2013, which requires more stringent emission standards on all trade waste trucks by the year 2020. In addition, master plumbers would not be required to put side guards on their trucks pursuant to the requirements of Local Law 56 of 2015, signed into law by the Mayor in June. In fact, under this bill, the master plumbers could use whatever type and condition of trucks they want to haul C&D material. The only requirement would be that the driver have the proper driver’s license. Thus, Intro No. 76 would have the effect of rolling back some of the progress the City Council has made on the issues of improving the environment and safety in the City.

In addition, Intro No. 76 would exempt a specific type of plumbing work involving the opening of City streets, rather than the broader scope of what plumbers do, which is interior plumbing work. Based on information received from the City’s Department of Investigation and DOB, relatively few plumbing companies regularly take on such jobs. So again, why arbitrarily create this exception?

There have been claims that, with plumbing work in the streets (unlike interior plumbing work), the material removed from the trenches is not generally “debris,” but material that is usually clean enough to either go back into the same trench it came out of when the plumbing work is complete or simply be used as fill material at another job site. As you know when you see an exposed trench on a City street, the material that comes out often includes sand, soil, rock, asphalt, old pipes, and bricks, all of which could be mixed with sewage, oil and other contaminants. We have brought photos to show the types of materials that are often found at these sites. There could be serious environmental hazards if these materials were to go directly back into a trench as fill without first being treated and cleaned. With respect to the argument that the material would simply be brought to another site to be used as fill, that is precisely the conduct that BIC regulates, regardless of the profession of the person or company hauling the material. If you haul it, you need a BIC license or registration.

We have heard the claim that the master plumbers are essentially double-regulated by DOB and BIC. This is simply not true. BIC's objective is to keep the trade waste industry, including the sector that hauls C&D material, as free as possible from criminal influences that drive out honest carting companies and drive up carting costs in the City. BIC is a law enforcement agency with our own squad of NYPD detectives. We focus on the integrity of the carting companies and their principals, among other things. Using our knowledge of the industry and our law enforcement relationships, we perform extensive background checks to prevent bad actors from entering, or re-entering, the industry.

BIC's role in this area is much different from DOB's role. DOB focuses on ensuring that master plumbers actually have the necessary training and experience to perform as a master plumber. DOB licenses only the individual plumbers. For BIC, the fact that someone is a master plumber is essentially irrelevant. Any company that hauls debris must have a BIC license or registration. BIC's application process focuses on the good character, honesty and integrity of the entire applicant company, including its principals and employees. If a master plumber has a business partner with a racketeering conviction or organized crime connections, BIC would find it. DOB's licensing process simply does not focus on that issue. Thus, BIC's purpose and objectives clearly are distinct from those of DOB in the area of licensing master plumbers. The regulations of the two agencies are absolutely not duplicative.

We have heard concerns from individuals doing subsurface work that they are further burdened in that they must obtain permits from the Department of Transportation ("DOT") and the Department of Environmental Protection ("DEP") in order to perform work for the particular job sites. Those permits are site specific and have a completely different function and focus from what BIC or DOB do. They are an unavoidable cost of doing business in New York City. Do we really want plumbers or any other type of contractor digging up City streets without clearance from DOT and/or DEP? Plumbing work is often dangerous, and not just for the workers on the site. When you open up and dig in a City street, disasters can result without the proper oversight from expert agencies such as DOT and DEP.

At first glance, exempting solely plumbing work in a public street may not appear to be a major issue. But from a regulatory standpoint, it would create an enforcement nightmare for BIC. Under this proposed bill, if BIC investigators saw a truck without BIC license plates hauling what appears to be C&D material, they would have no way to determine at the scene whether the truck is illegally hauling debris without a BIC license or whether the carter falls under the master plumber exception created in the bill. In fact, the investigator would have no way of knowing at that time whether the truck is even actually owned by a master plumber. Unlike with BIC registrants, we would have no record of the VIN number for the truck or who owns it. This information would only be accessible later, once the investigator was able to check BIC, DMV and other law enforcement databases. Therefore, at a minimum, the investigator would have to stop and inspect the truck and question the driver. Vehicle stops are always time consuming and potentially dangerous for law enforcement. At least with BIC-regulated companies, BIC would have already vetted and approved all the key personnel, including the drivers.

Once the BIC investigators stop a suspect truck, there would also be no way for them to accurately determine where the C&D materials in the truck came from. C&D materials are often aggregated from several job sites onto a single truck before being hauled to a transfer station. BIC investigators would not be able to determine whether all the debris came from the street, and thus would be exempted by the bill, or from an interior job, or both. There is no way for an investigator to accurately tell whether it was C&D material from a master plumber or from some other contractor who should be using a BIC-regulated hauler. As with all violations, BIC has the legal burden of proof. In this case, it would be to prove that the material was not from an exempted job. This is a near impossibility. As long as the master plumbers are careful to limit themselves to C&D material, so that it could appear to have come from a job involving removal or opening of the pavement of a public street, BIC would have no way to establish where the C&D material came from and, therefore, whether the company doing the carting comes under BIC's jurisdiction.

Moreover, and perhaps most importantly, this bill would create a loophole that would open a back door into the carting industry for BIC-denied haulers. Shielded from BIC regulation, unscrupulous members of companies excluded from the carting industry by BIC could use master plumbers as fronts to permit the denied companies to re-enter the industry. Without the ability to conduct background checks, take sworn testimony, and use other investigative techniques, BIC would have no way to prevent those bad actors from once again flourishing in the carting industry under the guise of a master plumber's company.

Under Intro No. 76, master plumbers would be exempted from BIC regulations in a way that other professions are not. In other words, they are asking for less oversight in a heavily-regulated industry. As with any industry, periodically, law enforcement discovers individuals and companies engaged in criminal activity in the construction industry and prosecutes them. In considering whether to exempt master plumbers from BIC's regulations, the question should be asked whether the master plumbers, as a group, have had better safety and integrity records than the other construction industry trades. The answer is: they have not.

It is not my intention to smear plumbers, but there unfortunately has been a history where licensed and unlicensed plumbers were indicted by various prosecutors' offices for bribing DOB and DEP inspectors for sign-offs on their subsurface plumbing jobs. Sometimes the bribes are paid simply to expedite the process, but more often than not, they are paid to obtain City sign-offs when the inspections were never actually performed. In 2003, the United States Attorney's Office in Brooklyn prosecuted 14 plumbing contractors, charging them with fraud involving bribes they paid to a DOB inspector. The investigation began in 1999 and involved the payment of more than 100 bribes to this one inspector. The plumbers had formed a "club" through which they made regular monthly payments of \$400 to the inspector to obtain their sign-offs, and even offered to pay an additional \$600 per month to encourage the inspector to deny inspection approvals to their main competitor.

A smaller criminal prosecution that I personally handled when I worked in that same office in 2008 involved a master plumber who was charged with making payments to a different DOB inspector for illegal sign-offs on his subsurface plumbing jobs. In my investigation, as in the larger criminal case, the tainted inspector usually showed up on the job site solely to deliver

the coveted DEP inspection approval. After the work was done and the trench filled in, there was no record of any kind as to what work had actually been performed and what sort of material was used to refill the trench. As a result of my small case alone, many building owners were ultimately required to reopen those trenches, some after many months had passed, so that honest City inspectors could view the work that had been done. The costs were astronomical to both the City and the building owners. More recently, press reports have indicated that the Manhattan District Attorney's Office is investigating a master plumber, along with others, regarding possible criminal charges in connection with the gas explosion late last winter on the Lower East Side.

On the regulatory side, BIC and DSNY have issued numerous violations to master plumbers for various legal infractions committed in connection with their hauling of C&D material. The materials the investigators observed being hauled were far from clean fill or even materials that can be easily refurbished and used again to properly fill in a work site trench. There are significant environmental and safety concerns with these materials not being properly transported and disposed of at an appropriate transfer station. The prospect of a company losing its BIC license and, therefore, waste hauling privileges in New York City, is a serious deterrent to illegal conduct. It could mean the demise of a company, or at least damage to its bottom line.

But the biggest black eye to the plumbing trade in recent years was a massive fraud scheme against the MTA that lasted for years. That fraud was executed by one of the largest plumbing contractors in the City, operated by then-master plumbers Alex Figliolia and his son Alex, Jr. Their company paid kickbacks to MTA officials in exchange for reaping millions of dollars in overpayments the company received for plumbing materials used on multiple MTA construction sites. Three MTA officials approved fraudulent invoices that allowed the Figliolias to receive outrageous mark-ups on some of these supplies. The plumbing contractor also falsely claimed to be paying their workers prevailing wages, when in fact they were paying far less and submitting false reports to the MTA that they were in compliance. Then, to help conceal their crimes and avoid the taxes owed, they laundered their stolen proceeds by creating phony invoices that misrepresented their illegal gains as reimbursement for legitimate business expenses. The two architects of this fraud went to jail and \$18.7 million was ultimately paid to the City as forfeiture.

Taken together, the examples I have discussed demonstrate that the plumbing trade, like all construction industry trades, has its share of bad actors. Fair, comprehensive oversight is always needed, and BIC plays its role by focusing on the integrity of the trade waste hauling industry. Given the damage this bill could do by potentially allowing bad actors who were once excluded from the industry to reinsert themselves into it, together with the logistical problems the proposed law would cause to BIC enforcement, exempting master plumbers from BIC regulation would be detrimental to public safety and the environment. The requested exemption is wholly arbitrary and unnecessary. We urge the Sanitation and Solid Waste Management Committee to disapprove this bill.

Thank you for the opportunity to testify today. I am now happy to answer your questions.



Hearing on Intro No. 76, NYC Council Committee on Sanitation and Solid Waste Management

Testimony from Jayant Kairam, Director of Partnerships and Urban and Rural Strategic Implementation, Clean Energy Program

Good afternoon Chair Reynoso and members of the Committee, my name is Jayant Kairam and I am Director of Clean Energy Partnerships and Urban and Rural Strategic Implementation with the Environmental Defense Fund. EDF is an international environmental nonprofit that works on systems and solutions to address the world's most pressing environmental problems. Our Clean Energy program is a national campaign to decarbonize the country's electricity system, which is one of the largest sources of carbon emissions in the US, and is part of our broader Climate and Energy initiative which works globally on solutions to reduce climate pollution and address the impacts of climate change. Thank you for the opportunity to speak on Intro 76, concerning amendments to the licensing and permitting requirements the New York City Business Integrity Commission administers to the commercial trade waste industry.

Our interests in Intro 76 are tied to our organizational commitments to address climate pollution and improve air quality at all levels. We have built a strong relationship with New York City government on policies and programs tied to improving the City's air quality and reducing GHGs from mobile and stationary sources. New York City now has the cleanest air in over 50 years, even while continuing to grow and develop, because of smart, aggressive actions taken by city officials, the City Council and advocates. Over four years, the Clean Heat program, transitioned 6,000 buildings off dirty heating oils, reducing harmful particulate emissions by 65% from these sources. The Clean Heat program's success is being leveraged by the De Blasio Administration under its Retrofit Accelerator program, a one-stop shop for building owners and investors to take up energy efficiency upgrades and achieve the City's 80 x 50 GHG target. EDF was the city's main program partner on Clean Heat. In December 2013, the City Council took another important step towards improving local air quality when it approved LL 145. The law was a direct response to long-standing voicing from local neighborhoods and advocates about the health and safety threats posed by dirty diesel garbage trucks. EDF prominently supported the activities of BIC and the City Council in codifying new emissions standards for the commercial waste fleet. Preserving the full impact of LL 145 is the reason we're here today.

LL145 requires all firms licensed and registered to remove trade waste by the New York City Business Integrity Commission to meet critical and reasonable federal engine standards for their fleets by January 1, 2020. These standards matter because they eliminate between 85-95% of the particulate matter and other air pollutant standards that are produced from heavy duty waste trucks and that contribute to negative health outcomes like asthma and cardiovascular disease.

Over 80% of the approximately 8000 heavy-duty diesel trucks that haul commercial and C & D waste pre-date 2007 when EPA adopted the truck emission standards that LL 145 leverages to improve air quality in New York City. This legislation, which was signed by then Mayor Bloomberg, and recently highlighted in Mayor De Blasio's "OneNYC" Plan, was actively supported by environmental advocates like our organization and CalStart. Further, the valuable intention and concept of the bill was never questioned by industry trade groups like the National Solid Waste and Recycling Association (NSWRA).

The City Council is now considering Intro 76, which would amend Section 1. Subdivision b of section 16-505 of chapter one of title sixteen-a of the New York City Administrative Code to exempt licensed master plumbers from BIC trade waste licensing and registration requirements. We consider this proposed amendment detrimental to the public health and environmental aspirations of the city. We are greatly concerned that it could potentially set a bad precedent for other trade waste subgroups and set in motion a slippery slope of exemption after exemption that would gradually undermine the intent and potential of LL145. While there are 1,400 Department of Buildings licensed master plumbers, less than 40 are licensed with BIC. The vast majority use other BIC-licensed firms for C&D removal needs. For the large majority of this industry, BIC licensing doesn't pose a problem to doing business and it would be risky to amend an entire industry regulatory structure at the behest of a very small subset.

In a report that EDF jointly commissioned with BIC, we saw that the air quality benefits of LL145 were substantial and would result in sustained public health benefit for New Yorkers at least through 2030, when most of these licensed trucks would come into compliance with the EPA 2007 standards. According to this report, the net benefits of eliminating nearly 800 tons of PM and 12,000 tons of NOx, in the 2020 – 2030 time frame is the equivalent of taking 1,100 coach buses or 1,400 tractor trailers off the road until 2030. These air quality and public health benefits would be especially evident in some of the city's most vulnerable neighborhoods in the South Bronx, Southeast Queens and Northeast Brooklyn where a number of commercial transfer facilities are located.

Clean air is one of our most important and precious resources, and the progress New York has made is working to make all parts of the City great places to live. We strongly encourage the City Council to maintain and build upon the air quality and public health progress reflected in LL 145. We therefore urge the Council to oppose passage of the amendment to the Administrative Code that is being put forth in Intro 76. Thank you for the opportunity to testify before this Committee today.



DAVIDOFF HUTCHER & CITRON LLP

ATTORNEYS AT LAW
605 THIRD AVENUE
NEW YORK, NEW YORK 10158

TEL: (212) 557-7200
FAX: (212) 286-1884
WWW.DHCLLEGAL.COM

FIRM OFFICES

GARDEN CITY
ATTORNEYS AT LAW
200 GARDEN CITY PLAZA
GARDEN CITY, NY 11530
(516) 248-6400

ALBANY
GOVERNMENT RELATIONS
150 STATE STREET
ALBANY, NY 12207
(518) 465-8230

WASHINGTON, D.C.
GOVERNMENT RELATIONS
1211 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036
(202) 347-1117

Hearing December 2, 2015, 1:00

Intro 76 - Arthur Goldstein's Testimony

I represent the Association of Water and Sewer Excavators, master plumbers that do work in city streets. We are asking for an exemption because two out of the last three Business Integrity Commission ("BIC") Commissioners deemed the material transported by Master Plumber businesses from City Streets under a DOT permit carting that requires those businesses to submit to another registration process without the City Council authorizing it. We believe it's over regulation and therefore we are asking for this highly regulated plumbing industry to be exempt under the narrow circumstances presented in the legislation.

I would argue that BIC doesn't have the clear authority from the City Council to require Master Plumbers, who work on City Streets under a DOT permit to register and this legislation will make this clear.

First the history, the Trade Waste Commission was established by the City Council as your predecessors found "that the carting industry had been corruptly influenced by organized crime . . .". City businesses were paying a "mob tax" to remove trade waste. BIC thoroughly vets carting businesses and their employees and they have cleaned up the carting industry.

Trade Waste was defined in §16-501 as materials discarded by a commercial establishment that are generated by such commercial establishments (full definition attached).

Simply put, restaurants as an example must have a licensed carter to discard its waste. The law was meant to protect commercial establishments from the “mob tax”.

In §16-505 it requires “a business for the purpose of the collection of waste from the premises of a commercial establishment be licensed.” It further states “. . . a business solely engaged in the removal of waste materials resulting from building demolition, contraction, alteration or excavation shall be exempt . . .” after the Commission fully vets the principals and the company (Section attached).

Before we examine the law under this fact pattern, one must also understand that Administrative Code §16-130 defines this material from city streets as “fill material” (attached). Thus, plumbers can use this so called waste as a work material, the equivalent of transporting pieces of pipe.

Applying the facts to the law, I find the following issues:

The City Council was trying to protect businesses from the “mob tax.” Who is the business being protected in this scenario? The City owns the streets that the plumbers are removing material from. The homeowner who hires the master plumber is not a commercial establishment. No material or waste is being generated by a commercial establishment. BIC doesn't have authority to regulate a master plumbers contract with their customers (residential or commercial) and BIC is not protecting the plumbers from themselves. So how do master plumbers fit into the law without express authorization from the City Council?

Material that is sometimes considered waste is generated from random streets owned by the City of New York is not generated by a commercial establishment that needs to be protected from unscrupulous carters.

The plumbers are not solely engaged in carting, it is incidental to the work they need to accomplish to fix pipes. The language above deals with building construction issues, not plumbing work under City Streets.

In the City Charter §2101, it clearly states that BIC is specifically responsible for the trade waste industry and shipboard gambling, etc. The City Council was quite specific about what it wanted covered as each industry added to the law had a history.

The history and the legislative intent to eradicate organized crime are crucial in analyzing this matter. BIC's unilateral expansion of their powers without the City Council's authorization does not pass the smell test.

Plumbers should be exempt because no commercial establishment has discarded such material nor does it control the material that comes from city streets. The removal of such material is incidental to the plumbing work and the material is actually usable on other jobs. An exemption is warranted.

NEW YORK CITY ADMINISTRATIVE CODE
TRADE WASTE REMOVAL

d. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, domestic partner, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

e. "Trade association" shall mean an entity having as a primary purpose the promotion, advancement or self-regulation of businesses that remove, collect or dispose of trade waste, including but not limited to a corporation, unincorporated association, partnership, trust or limited liability company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes.

f. "Trade waste" or "waste" shall mean: (1) all putrescible and non-putrescible materials or substances, except as described in paragraph (2) of this subdivision, that are discarded or rejected by a commercial establishment required to provide for the removal of its waste pursuant to section 16-116 of this code as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, street sweepings, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, medical waste, offal and any other offensive or noxious material. Such term shall also include recyclable materials as defined in subdivision i of section 16-303 of this code that are generated by such commercial establishments.

(2) The following are not "trade waste" or "waste" for the purposes of this chapter: sewage; industrial wastewater discharges; irrigation return flows; radioactive materials that are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 41 U.S.C. §2011 *et seq.*; materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process; and hazardous waste as defined in section 27-0901 of the environmental conservation law.

NEW YORK CITY ADMINISTRATIVE CODE
TRADE WASTE REMOVAL

- d. To establish standards for service and for the regulation and conduct of businesses licensed or registered pursuant to this chapter, including but not limited to requirements governing the level of service to be provided by licensees, contracts for trade waste removal, billing form and procedures, the maintenance and inspection of records, the maintenance of appropriate insurance, and compliance with safety and health measures;
- e. To appoint, within the appropriations available therefor, such employees as may be required for the performance of the duties prescribed herein. In addition to such employees appointed by the commission, the commissioners of business services, investigation, consumer affairs, transportation, sanitation, health, finance, environmental protection and police may, at the request of the chair, provide staff and other assistance to the commission in all matters under its jurisdiction;
- f. To conduct studies or investigations into the needs of commercial and other enterprises for waste removal and the trade waste industry in the city and other jurisdictions in order to assist the city in formulating policies to provide for orderly and efficient trade waste removal at a fair and reasonable cost to businesses;
- g. To establish programs for the education of customers, including but not limited to education of customers in the accurate assessment of the types and volume of waste and the rights of such customers in relationship to contracting, service and customer complaint procedures established pursuant to this chapter;
- h. To establish special trade waste removal districts pursuant to section 16-523 of this chapter; and
- i. To establish fees and promulgate rules as the commission may deem necessary and appropriate to effect the purposes and provisions of this chapter.



§ 16-505 Licenses and registration required.

a. It shall be unlawful for any person to operate a business for the purpose of the collection of trade waste from the premises of a commercial establishment required to provide for the removal of such waste pursuant to the provisions of section 16-116 of this code, or the removal or disposal of trade waste from such premises, or to engage in, conduct or cause the operation of such a business, without having first obtained a license therefor from the commission pursuant to the provisions of this chapter. Notwithstanding the provisions of this subdivision, a business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation shall be exempt from the licensing provisions of this subdivision where, except in regard to the principals of a business solely in either or both of the class seven or the class three category of licensees as defined in rules previously promulgated by the commissioner of consumer affairs pursuant to subchapter eighteen of chapter two of title twenty of this code, no principal of such applicant is a principal of a business or a former business required to be licensed pursuant to this chapter or such former subchapter eighteen. Grant of such exemption shall be made by the commission upon its review of an exemption application, which shall be in the form and contain

13

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2003

No. 45

Introduced by Council Members McMahon, Comrie, Davis, Gerson, Liu, Serrano, Weprin and Provenzano.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the definition of fill material.

Be it enacted by the Council as follows:

Section 1. Paragraph 7 of subdivision a of section 16-130 of the administrative code of the city of New York, as amended by local law number 40 for the year 1990, is amended to read as follows.

7. The term "fill material" shall mean only clean material consisting of earth, ashes, dirt, concrete, asphalt millings, rock, gravel, stone or sand, provided that such material shall not contain organic matter having the tendency to decompose with the formation of malodorous by-products; and

§2. This local law shall take effect immediately upon its enactment into law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on June 27, 2003, and approved by the Mayor on July 14, 2003.

VICTOR L. ROBLES, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 45 of 2003, Council Int. No. 393-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 27, 2003: 48 for, 0 against, 0 not voting.

Was signed by the Mayor on July 14, 2003.

Was returned to the City Clerk on July 16, 2003.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

FOR THE RECORD

Registration for the removal of Construction and Demolition Debris (C&D Registration)

FOR THE RECORD FOR THE RECORD FOR THE RECORD

About

Business Integrity Commission

A Class 2 Registration for the removal of Construction and Debris (also known as Exemption from Licensing Requirements) is required for any person or business engaging solely in the removal of waste material resulting from building demolition, construction, alteration or excavation. Class 2 Construction and Demolition Removal Registrations expire every two years from date of approval.

Additional resources

Construction and Demolition License Application

Public Access Portal: Laws of The City of New York

NYC Business Integrity Commission (BIC)

Licensing Center
100 Church Street, 20th Floor
New York, NY 10007
Phone: (212) 676-6219
Fax: (212) 676-6204
webmail@bic.nyc.gov

For further assistance, please call 311 and ask for: **Exemption from licensing Construction and Demolition Debris Removal Class 2 Registration**

Website: <http://www.nyc.gov/bic>

Learn which permits, licenses and regulations matter to you

Use the Requirements Questionnaire to get a customized list of requirements for starting or operating your business in New York City.

Top

Association of Water & Sewer Excavators

My name is John Figliolia. I am a proud licensed master plumber, and an owner of a plumbing business. I am also president of the Association of Water & Sewer Excavators, plumbers who obtain a NYC Department of Transportation permit to work on plumbing issues in the City streets when hired by homeowners and commercial properties. DOT requires us to be bonded and insured to take out permits to do such work. It takes about 7 years to become a licensed master plumber and we are regulated by DOB, DEP, DOT, and work with other agencies as well.

We are highly regulated small businesses. My commercial establishment in Brooklyn has a licensed carter for any trade waste my business creates.

The material we take from a city street is good material as defined by the City Council in Local Law 45 of 2003 (attached). We can use it on the job, we can take it to another job and use it, we can take it to our shop and bring it to a job the next day and use it. We can drive it to a recycling plant and just before releasing it, find out that this material is needed for a job and use it then as well. This incidental carting is not what the City Council intended. They were going after the trash haulers who had commercial establishments under their thumb.

Up until recently, even if I wanted to sign the registration order offered by the Business Integrity Commission (“BIC”), I would have signed a false statement because it said I was “a business solely engaged in the removal of waste materials . . .”. It was written that way to be consistent with the law. After years of pointing out that plumbers can’t sign that, BIC changed the language. Now we don’t believe the wording matches the law.

BIC wants us to register and some plumbers have, under threat of more fines and destruction of their businesses. BIC wants to charge \$500 a truck and a registration fee. Much of this will just raise our prices for your constituents - why?

BIC was not created to oversee plumbers. They are grasping beyond their Authority. This amendment clarifies the law in a narrow and acceptable way. It does not stop BIC from stopping master plumbers' trucks, but once the agent reviews the side panel of a truck and sees a DOT permit, either by paper or electronically, then the driver would be able to complete his or her task.

Please support small businesses and avoid excessive regulations that raise prices.

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2003**

No. 45

Introduced by Council Members McMahon, Comrie, Davis, Gerson, Liu, Serrano, Weprin and Provenzano.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the definition of fill material.

Be it enacted by the Council as follows:

Section 1. Paragraph 7 of subdivision a of section 16-130 of the administrative code of the city of New York, as amended by local law number 40 for the year 1990, is amended to read as follows.

7. The term "fill material" shall mean only clean material consisting of earth, ashes, dirt, concrete, asphalt millings, rock, gravel, stone or sand, provided that such material shall not contain organic matter having the tendency to decompose with the formation of malodorous by-products; and

§2. This local law shall take effect immediately upon its enactment into law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on June 27, 2003, and approved by the Mayor on July 14, 2003.

VICTOR L. ROBLES, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 45 of 2003, Council Int. No. 393-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 27, 2003: 48 for, 0 against, 0 not voting.

Was signed by the Mayor on July 14, 2003.

Was returned to the City Clerk on July 16, 2003.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/2/15

(PLEASE PRINT)

Name:

SAM FOLEY

Address:

40 BRUCKER BLVD BY NY 10454

I represent:

SUBSURFACE PLUMBERS ASSOCIATION

Address:

SAME

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: 12/2/15

(PLEASE PRINT)

Name:

JAYANT KAIRAM

Address:

I represent:

ENVIRONMENTAL DEFENSE FUND

Address:

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name:

John Curry

Address:

100 Church Street

I represent:

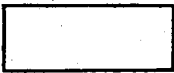
BIC Assistant Commissioner

Address:

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: 12/2/15

(PLEASE PRINT)

Name: Noah D. Genei

Address: 100 Church Street

I represent: BIC General Counsel

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: 12/2/15

(PLEASE PRINT)

Name: Daniel D. Brownell, BIC Commissioner

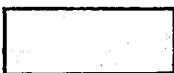
Address: 100 Church Street, 20th Fl

I represent: BIC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JOHN FIGLIOLIA

Address: 7-DOLLWOOD DR APOWEE NJ 07733

I represent: ASSOCIATION OF WATER & SEWER BYL

Address: 420 CARROLL ST BROOKLYN NY 11215

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: 12/2/15

(PLEASE PRINT)

Name: MICHAEL MARTONE

Address: PO BOX 197 MOUNTAIN VIEW NY 11379

I represent: ASS OF WATER & SEWER EXCAVATORS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Arthur Goldstein, Council

Address: _____

I represent: Assoc of Water & Sewer Excavators

Address: ↓ MPC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 76 Res. No. _____

in favor in opposition

Date: 12/2/15

(PLEASE PRINT)

Name: Rocco Murdocca

Address: _____

I represent: ASSOCIATION OF WATER & SEWER / MYSELF

Address: _____

Please complete this card and return to the Sergeant-at-Arms