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Title: A Local Law to amend the administrative code of the city of New York, in relation to regulating the idling of engines and the use of citizen’s complaints to enforce laws enforced by the department of environmental protection

Sponsors: James F. Gennaro, Julie Menin

Indexes: Agency Rule-making Required

Attachments: 1. Summary of Int. No. 1038-A, 2. Summary of Int. No. 1038, 3. Int. No. 1038, 4. May 11, 2023 - Stated Meeting Agenda, 5. Hearing Transcript - Stated Meeting 5-11-23, 6. Minutes of the Stated Meeting - May 11, 2023, 7. Proposed Int. No. 1038-A - 6/14/23

Date	Ver.	Action By	Action	Result
5/11/2023	*	City Council	Introduced by Council	
5/11/2023	*	City Council	Referred to Comm by Council	
12/31/2023	A	City Council	Filed (End of Session)	

Proposed Int. No. 1038-A

By Council Members Gennaro and Menin

A Local Law to amend the administrative code of the city of New York, in relation to regulating the idling of engines and the use of citizen’s complaints to enforce laws enforced by the department of environmental protection

Be it enacted by the Council as follows:

Section 1. Subdivisions (a), (c), (d), and (f) of section 24-163 of the administrative code of the city of New York, as amended by local law number 38 for the year 2015, are amended to read as follows:

(a) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes in any sixty-minute period, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping

as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading device, unloading device, or processing device. When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus [as defined in section one hundred four of the vehicle and traffic law] to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route.

(c) For the purpose of this section only [the term "school bus depot" shall mean any garage, lot or other facility where buses that transport children to or from schools are parked over night and the term "multiple use bus terminal point" shall mean a location that is both a terminal point of at least one bus route (other than a school bus route) and a bus stop (other than a school bus stop) on one or more other bus routes] the following terms shall be defined as follows:

"Bus" has the same meaning as defined in section 104 of the vehicle and traffic law.

"Embark or disembark" means the active entering or exiting of passengers from a bus while the bus is stopped, standing or parked.

"Loading device" means a device used to move goods or people on to a vehicle.

"Processing device" has the same meaning as set forth in section 39-01 of title fifteen of the rules of the city of New York.

"School bus depot" means any garage, lot or other facility where buses that transport children to or from schools are parked overnight.

"Terminal point" means the beginning or end of a bus route.

"Truck" has the same meaning as defined in section 158 of the vehicle and traffic law.

"Unloading device" means a device used to move goods or people off of a vehicle.

(d) In any proceeding relating to a violation of the restrictions on idling, it shall not be a defense that: (1) a sign required by this section was absent at the time of the violation; or (2) one or more summonses, appearance tickets or notices of violation concerning violations of the restrictions on idling had been issued at

the same location and on the same day.

(f) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading device, unloading device, or processing device, and provided that idling of an engine of a school bus may be permitted [to the extent necessary]: (1) to the extent necessary for mechanical work; (2) [to maintain an appropriate temperature for passenger comfort] for up to fifteen minutes in a sixty-minute period to provide heating or air-conditioning to passengers on board a bus when the temperature at the location of the bus is less than forty degrees Fahrenheit or at least eighty degrees Fahrenheit, respectively; or (3) to the extent necessary in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred.

§ 2. Section 24-178 of the administrative code of the city of New York is amended by adding new subdivisions (f) and (g) to read as follows:

(f) Notwithstanding the minimum and maximum amounts set forth in the table of civil penalties following subparagraph (i) of paragraph (3) of subdivision (a) of this section, a penalty imposed on a person for a violation of subdivision (a) or (f) of section 24-163 shall be reduced by 50 percent, provided that: (1) no later than the cure deadline, the respondent admits liability for the violation and files a certification with the department specifying that anti-idling technology has been installed on the engine of the motor vehicle that idled in violation of such subdivision; and (2) the commissioner accepts such certification of compliance, and

provided further, that such violation may serve as a predicate for the imposition of civil penalties for any subsequent violations of subdivision (a) or (f) of section 24-163. For purposes of this subdivision, “cure deadline” means: (i) prior to the date on the summons for a hearing before the office of administrative trials and hearings, acting pursuant to section 1049-a of the New York city charter, in relation to such violation; and (ii) 90 days from either: (A) the date on the summons issued by the department pursuant to section 24-180; or (B) the date of service of the summons served by a complainant pursuant to subdivision (b) of section 24-182.

(g) The department shall promulgate rules relating to the requirements described in subdivision (f) of this section for imposition of a zero dollar civil penalty on a person for violation of subdivision (a) or (f) of section 24-163, including, but not limited to, prescribing the form and manner of the certification, describing the type of anti-idling technology that is required to be installed, and specifying the information and documentation, which may include a physical inspection of the vehicle, that must be provided with such certification.

§ 3. Section 24-182 of the administrative code of the city of New York, as amended by, and subdivision (f) as added by, local law number 58 for the year 2018, is amended to read as follows:

§ 24-182 Citizen’s complaint. (a) Any natural person, other than personnel of the department and other employees of the city of New York authorized by law to serve summonses for violations of the code, may serve upon the department a complaint, in a form prescribed by the department, as described in rules promulgated by the department pursuant to subdivision (f) of this section, alleging that a person has violated any provision of this code or order or regulation promulgated by the commissioner [or the board], except with respect to sections 24-143 <<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCAadmin/0-0-0-43375>> and 24-163 <<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCAadmin/0-0-0-43556>> of this code, but still applicable to buses [as defined in section one hundred four of the vehicle and traffic law] and trucks [as defined in section one hundred fifty eight of the vehicle and traffic law], together with evidence of such violation as described in rules promulgated by the department pursuant to subdivision (f) of this section. With respect to section 24-142 <<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCAadmin/0-0-0-43366>> of this code, only such person who has been certified as a smoke watcher, by passing a course of smoke observation approved by the department within three years prior to the observation, may serve such complaint.

(b) A person who has served a complaint pursuant to subdivision (a) of this section may serve upon the person allegedly in violation, and file with the office of administrative trials and hearings pursuant to section 1049-a of the charter, a notice of violation in a form prescribed by such office, provided that: (1) within [forty-five] one hundred eighty days from service of such complaint [if:

(1) (A) [The] the department has failed to serve a notice of violation, pursuant to the rules of the environmental control board within the office of administrative trials and hearings, for the violation alleged in a complaint pursuant to subdivision (a) of this section; [or

(2) The] and (B) the department [fails] has failed to serve a written notice upon the complainant of its determination that [his or her] the complaint is [frivolous or duplicitous] rejected based on its failure to comply with the requirements set forth in rules promulgated pursuant to paragraph (1) of subdivision (f) of this section; and

(2) the date provided in such notice of violation for a hearing before the office of administrative trials and hearings, acting pursuant to section 1049-a of the charter, is no less than one hundred fifty days from the date of service of such notice of violation and an affidavit of service has been provided to the department within ten business days of the date of such service.

(c) A person commencing a proceeding pursuant to this section shall provide notice to the department at the time of commencement and prosecute such proceeding at his or her own expense. The department may intervene in such a proceeding at any time.

(d) In any proceeding brought by the department after receiving a complaint[,] served pursuant to subdivision (a) of this section, the office of administrative trials and hearings acting pursuant to section 1049-a <<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCcharter/0-0-0-2841>> of the charter shall award the complainant, out of the proceeds collected, twenty-five percent of such proceeds, for disclosure of information or evidence, not in the possession of the department prior to the receipt of the complaint by the department, which leads to the imposition of the civil penalty.

(e) In any proceeding brought by a complainant pursuant to subdivision (a) of this section, such office shall award, out of the proceeds collected, fifty percent of any civil penalty as fair and reasonable compensation to such person.

(f) [On or before January 1, 2019, the] The department shall [publish on the city's website information related to best practices for filing citizen complaints pursuant to this section. Such information shall include but need not be limited to guidance on procedures for serving such complaints and for gathering supporting documentation.] promulgate rules relating to:

(1) the form in which complaints, as authorized by subdivision (a) of this section, must be served and the form in which evidence, as required by such subdivision, must be submitted, to the department to ensure the accuracy and reliability of such complaints, including, but not limited to, prohibiting the submission of false, altered or misleading evidence and evidence collected by persons other than the complainant, and the integrity of proceedings commenced to enforce provisions of this code or order or regulation promulgated by the commissioner or the board; and

(2) the process the department will utilize to advise a person that a complaint or evidence has been rejected based on its failure to comply with the requirements set forth in rules promulgated pursuant to

paragraph (1) of this subdivision.

§ 4. This local law takes effect 120 days after it becomes law.

LS 11752
6/8/2023