



Legislation Text

File #: Int 1329-2019, **Version:** A

Int. No. 1329-A

By Council Members Reynoso, Lancman, Menchaca, Rosenthal and Kallos

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

Be it enacted by the Council as follows:

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

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

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

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

§ 3. Subdivision c of section 16-505 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, is relettered subdivision e.

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

c. A labor union or labor organization representing or seeking to represent employees directly involved

in the collection, removal, transportation or disposal of waste shall, within the time period prescribed by the commission, register with the commission and shall disclose information to the commission as the commission may by rule require, including but not limited to the names of all officers and agents of such union or organization; provided, however, that no labor union or labor organization shall be required to furnish information pursuant to this section which is already included in a report filed by such labor union or labor organization with the secretary of labor pursuant to 29 U.S.C. § 431, et seq., or § 1001, et seq., if a copy of such report, or of the portion thereof containing such information, is furnished to the commission; and provided further that this section shall not apply (i) to a labor union or labor organization representing or seeking to represent clerical or other office workers, or (ii) to affiliated national or international labor unions of local labor unions that are required to register pursuant to this provision.

d. Each officer of a labor union or labor organization required to register with the commission pursuant to subdivision c of this section shall inform the commission, on a form prescribed by the commission, of:

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

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

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

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

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

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

c. The commission shall promulgate rules establishing the fee for any license or registration required by this chapter. Such rules may provide for a fee to be charged for each vehicle in excess of one that will transport waste pursuant to such license and for each such vehicle operated pursuant to such registration.

§ 6. Section 16-509 of the administrative code of the city of New York, as amended by local law number 56 for the year 2015, is amended by adding new subdivisions g, h, i, j, and k to read as follows:

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

but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961, et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, when the officer knew or should have known of such conviction; or (v) has associated with any member or associate of an organized crime group, as identified by a federal, state or city law enforcement or investigative agency, when the officer knew or should have known of the organized crime associations of such person. An officer required to disclose information pursuant to subdivisions c and d of section 16-505 may submit to the commission any material or explanation which such officer believes demonstrates that such information does not reflect adversely upon the officer's good character, honesty and integrity. If the commission determines pursuant to this subdivision that there are sufficient grounds to disqualify a person from holding office in a labor union or labor organization, the commission shall suspend such person from holding office pending a final determination and, in the event such person is disqualified, such suspension shall continue pending resignation or vacatur of or removal from office.

h. Upon written request of a person suspended pursuant to subdivision g of this section within 10 business days of the commission's determination, the director of the office of collective bargaining shall prepare a list of the names of the first fifteen arbitrators selected at random from the roster of arbitrators approved by the office of collective bargaining and present the first five names on such list to the suspended person and the commission. Within alternating periods of five business days the suspended person and then the commission shall each strike a name from the list of selected arbitrators. If the parties cannot within two additional business days jointly appoint an arbitrator from those remaining on the list, the suspended person and then the commission shall within alternating periods of two business days each strike an additional name from the list. The remaining arbitrator shall then be appointed as the arbitrator for that proceeding and shall establish a schedule for such proceeding. In the event that such arbitrator declines the appointment or for any reason is unable to accept the appointment, then the director of the office of collective bargaining shall within five

business days present to the suspended person and the commission the next five names on the list of arbitrators previously selected at random and the procedures set forth in this subdivision for appointing an arbitrator shall be applied to this second group. In the event that the arbitrator appointed from this second group declines the appointment or for any reason is unable to accept the appointment, then the director of the office of collective bargaining shall present the remaining five names from the list of arbitrators selected at random and the suspended person shall select an arbitrator from such group. Such arbitrator shall make a final report and recommendations in writing concerning the disqualification. The commission shall accept such report and recommendations and issue its final determination consistent with such report and recommendations. In the event that the suspended person does not make a request for arbitration within the ten business-day period, he or she shall be disqualified from holding office.

i. Upon receiving a final determination from the commission pursuant to subdivision h disqualifying a person from holding office in a labor union or labor organization, such person shall resign or vacate such office within fourteen business days or, if such person fails to resign or vacate such office within such time period, such union or organization shall remove such person forthwith from such office. Failure of such a person to resign or vacate office within such time period shall subject such person to the penalties set forth in section 16-515. Nothing in this section shall be construed to authorize the commission to disqualify a labor union or labor organization from representing or seeking to represent employees of a business required to be licensed or registered pursuant to section 16-505.

j. In reaching a determination to fingerprint an officer of a labor union or labor organization pursuant to subdivision d of section 16-505 or to suspend or disqualify such an officer pursuant to subdivisions g and h of this section, the commission shall give substantial weight to the results of any investigation conducted by an independent investigator, monitor, trustee or other person or body charged with the investigation or oversight of such labor union or labor organization, including whether such investigation has failed to return charges against such officer.

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

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

NKA
2/20/2019
4:26pm
LS 7894