



Legislation Text

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Int. No. 839

By the Public Advocate (Mr. Williams) and Council Members Brannan and Louis (by request of the Queens Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to increasing penalties for failure to comply with backflow prevention requirements

Be it enacted by the Council as follows:

Section 1. Section 24-343.1 of the administrative code of the city of New York, subdivisions a, b and c as added by local law number 76 for the year 2009, and subdivision d as added by local law number 58 for the year 2019, is amended to read as follows:

§ 24-343.1 Backflow prevention [device reporting].

a. Definitions. For purposes of this section, the following terms [shall] have the following meanings:

[(1) "Backflow" shall mean] Backflow. The term “backflow” means a flow condition, induced by a differential in pressure, that causes the flow of water or other liquids [and/]or gases into the distribution of pipes of a city water main, private water main, or to an internal water main from any source other than its intended source.

[(2) "Backsiphonage" shall mean] Backsiphonage. The term “backsiphonage” means the backflow of contaminated or polluted water, or water of questionable quality from a plumbing fixture or other source, into a city water main, private water main[,], or to an internal water main due to a temporary negative or sub-atmospheric pressure within the public water supply system.

[(3) "Backflow prevention device" shall mean] Backflow prevention device. The term “backflow prevention device” means an approved air gap, reduced pressure zone device or double check valve assembly

used to contain potential contamination within a facility.

[(4) "Cross connection" shall mean] Cross connection. The term “cross connection” means a physical connection or arrangement between two separate piping systems where one system contains potable water and the other contains steam, gas, a chemical[,], or water of questionable safety, and there may be a flow from one system to the other.

[(5) "Hazardous facility" shall mean] Hazardous facility. The term “hazardous facility” means a facility in which substances may be present that may endanger the health of other water users if introduced into the public water system, including but not limited to, laboratories, sewage treatment plants, chemical plants, hospitals and mortuaries.

b. Backflow prevention devices required. 1. When the department or the owner or operator of a building or structure has determined that there is a cross connection and no backflow prevention device, or a defective or unapproved device, such that there is a possibility of backflow or backsiphonage from such building or structure into a city water main, private water main, or to an internal water main, the owner or operator of such building or structure shall be under a duty to correct such potential or actual backflow or backsiphonage and provide the proper documentation to certify to the department that a backflow prevention device has been installed and where appropriate, that a backflow prevention device has been replaced.

2. Where removal of a cross-connection or installation or replacement of a backflow prevention device has been performed as part of a project for which a licensed professional engineer or registered architect has submitted plans that have been approved by the department, such licensed professional engineer or registered architect shall inspect and submit to the department a certification that the cross-connection has been removed or a backflow prevention device installed or replaced in conformity with plans approved by the department or the department of buildings.

[c.] 3. The department shall send out a mailing to or shall otherwise notify owners or operators of facilities identified by the department as potentially requiring backflow prevention devices informing them of

the potential need for such a device and of the process for installation of backflow prevention devices under the auspices of the cross connection control program. The materials contained in such mailing shall be [translated into such languages provided for in section 8-1002 of this code] made available in each of the designated citywide languages as defined in section 23-1101.

4. Any owner or operator of a building or structure who fails to install a backflow prevention device as required by this section shall be subject to such fines, penalties and other enforcement measures as may be imposed pursuant to section 24-346.

c. Testing of backflow prevention devices. 1. Each backflow prevention device installed pursuant to this section shall be tested annually and the owner or operator of such building or structure shall provide an annual test report to the department in accordance with department rules.

2. Any owner or operator of a building or structure who fails to provide an annual test report in accordance with department rules shall be subject to such fines, penalties and other enforcement measures as may be imposed pursuant to section 24-346.

d. Reporting on backflow prevention. On or before February 15, 2020, and on or before every February 15 thereafter, the department shall submit a report to the mayor and the speaker of the council setting forth the following information:

1. The number of all facilities that the department estimates requires the installation of one or more backflow prevention devices;

2. The number of such facilities that the department has determined to be hazardous facilities;

3. The number of all facilities in which backflow prevention devices were installed in the preceding calendar year;

4. The number of hazardous facilities in which backflow prevention devices were installed in the preceding calendar year;

5. The number of annual backflow prevention device test reports filed with the department in the

preceding calendar year;

6. The number of violations issued in the preceding calendar year for failure to install a backflow prevention device; and

7. The number of violations issued in the preceding calendar year for failure to file an annual backflow prevention device test report with the department.

§ 2. Section 24-346 of the administrative code of the city of New York, subdivision b, as amended by local law number 95 for the year 2016, and subdivision c, as amended by local law 55 for the year 2013, are amended to read as follows:

b. Any person who violates or fails to comply with any of the provisions of this chapter and chapter four of this title or any order, rule or regulation issued by the board or commissioner or with the conditions of any permit issued by the commissioner within the city of New York shall be liable for a civil penalty of not less than [fifty nor more than one thousand dollars] \$50 nor more than \$1,000 for each violation, except that the civil penalty for violating section 24-303.1 shall be not less than [two thousand five hundred dollars nor more than twenty-five thousand dollars and] \$2,500 nor more than \$25,000, the civil penalty for the removal of a manhole cover in violation of section 24-304 shall be not less than [two thousand five hundred dollars nor more than ten thousand dollars] \$2,500 nor more than \$10,000, the civil penalty for the failure to install a backflow prevention device in violation of subdivision b of section 24-343.1 shall be not less than \$1,000 nor more than \$10,000, and the civil penalty for the failure to provide an annual test report in violation of subdivision c of section 24-343.1 shall be not less than \$700 nor more than \$10,000. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. The environmental control board shall have the power to impose such civil penalties. A proceeding to impose such penalties shall be commenced by the service of a notice of violation returnable to such board. Such board, after a hearing as provided by the rules and regulations of the board, shall have the power to enforce its final decisions and orders imposing such civil penalties as if they were money judgments pursuant to subdivision d of section [one thousand forty-nine-a]

1049-a of the New York city charter. A civil penalty imposed by the board may also be collected in an action brought in the name of the city in any court of competent jurisdiction. The board, in its discretion, may, within the limits set forth in this subdivision, establish a schedule of civil penalties indicating the minimum and maximum penalty for each separate offense.

c. In addition to the civil penalties set forth in subdivision b of this section and except as otherwise specifically provided, any person who knowingly violates or fails to comply with any provision of this chapter and chapter four of this title or any order, rule or regulation issued by the commissioner or board or with the conditions of any permit issued by the commissioner shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than [two hundred fifty nor more than one thousand dollars] \$250 nor more than \$1,000, or by imprisonment not exceeding [thirty] 30 days, or both for each violation, except that the punishment for the removal of a manhole cover in violation of section 24-304 shall be a fine of not less than [five hundred dollars nor more than ten thousand dollars] \$500 nor more than \$10,000, or imprisonment not exceeding [thirty] 30 days, or both for each violation [.] the punishment for the failure to install a backflow prevention device in violation of subdivision b of section 24-343.1 shall be a fine of not less than \$2,000 nor more than \$10,000, or imprisonment not exceeding 30 days, or both for each violation, and the punishment for the failure to provide an annual test report in violation of subdivision c of section 24-343.1 shall be a fine of not less than \$1,400 nor more than \$10,000, or imprisonment not exceeding 30 days, or both for each violation. In the case of a continuing violation each day's continuance shall be a separate and distinct offense.

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

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