S T A T E O F N E W Y O R K

8243

2009-2010 Regular Sessions

I N A S S E M B L Y

May 11, 2009

Introduced by M. of A. MAISEL -- read once and referred to the Committee on Transportation

AN ACT to amend the administrative code of the city of New York, in relation to establishing a violations hearing board to conduct hearings of parking and environmental control board violations; and to repeal chapter 2 of title 19 of the administrative code of the city of New York relating to the parking violations bureau

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 2 of title 19 of the administrative code of the city of New York is REPEALED.

S 2. Title 7 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

CHAPTER 10

VIOLATIONS HEARING BOARD

S 7-1001 DEFINITIONS. WHENEVER USED IN THIS CHAPTER, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCE.

B. "DEPARTMENT" MEANS THE DEPARTMENT OF FINANCE.

S 7-1002 VIOLATIONS HEARING BOARD CREATED. THERE IS HEREBY CREATED IN THE DEPARTMENT A VIOLATIONS HEARING BOARD WHICH SHALL HAVE THE JURISDICTION OF PARKING AND ENVIRONMENTAL CONTROL BOARD VIOLATIONS. FOR THE PURPOSE OF THIS CHAPTER, A PARKING VIOLATION IS THE VIOLATION OF ANY LOCAL LAW, RULE OR REGULATION PROVIDED FOR OR REGULATING THE PARKING, STOPPING OR STANDING OF A MOTOR VEHICLE. FOR THE PURPOSE OF THIS CHAPTER, AN ENVIRONMENTAL CONTROL BOARD VIOLATION IS THE VIOLATION OF ANY LOCAL LAW, RULE OR REGULATION WHICH THE ENVIRONMENTAL CONTROL BOARD IS AUTHORIZED TO ENFORCE UNDER SUBDIVISION C OF SECTION ONE THOUSAND FORTY-NINE-A OF THE CHARTER OF THE CITY OF NEW YORK.

S 7-1003 PERSONNEL OF THE BUREAU. A. THE HEAD OF SUCH BUREAU SHALL BE THE DIRECTOR, WHO SHALL BE APPOINTED BY THE COMMISSIONER. THE DIRECTOR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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MAY DELEGATE ANY OF THE POWERS AND DUTIES CONFERRED UPON HIM OR HER BY THIS CHAPTER.

B. THE DIRECTOR MAY APPOINT A DEPUTY DIRECTOR AND MAY EMPLOY SUCH OFFICERS AND EMPLOYEES AS MAY BE REQUIRED TO PERFORM THE WORK OF THE BUREAU, WITHIN THE AMOUNTS AVAILABLE THEREFOR BY APPROPRIATION.

C. THE DIRECTOR SHALL APPOINT SENIOR HEARING EXAMINERS, NOT TO EXCEED TEN IN NUMBER. THE DUTIES OF EACH SENIOR HEARING EXAMINER SHALL INCLUDE, BUT NOT BE LIMITED TO: (1) PRESIDING AT HEARINGS FOR THE ADJUDICATION OF CHARGES OF PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATIONS; (2) THE SUPERVISION AND ADMINISTRATION OF THE WORK OF THE BUREAU; AND (3) MEMBERSHIP ON THE APPEALS BOARD OF THE BUREAU, AS HEREIN PROVIDED.

D. THE DIRECTOR SHALL APPOINT HEARING EXAMINERS WHO SHALL PRESIDE AT HEARINGS FOR THE ADJUDICATION OF CHARGES OF PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATIONS. THE DIRECTOR MAY ALSO DESIGNATE NON-COMPENSATED HEARING EXAMINERS AS HE OR SHE MAY DEEM NECESSARY.

S 7-1004 FUNCTIONS, POWERS AND DUTIES OF THE VIOLATIONS HEARING BOARD. THE VIOLATIONS HEARING BOARD SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

A. TO ACCEPT PLEAS TO, AND TO HEAR AND DETERMINE, CHARGES OF PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATIONS;

B. TO PROVIDE FOR PENALTIES OTHER THAN IMPRISONMENT FOR PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATIONS;

C. TO ADOPT RULES AND REGULATIONS NOT INCONSISTENT WITH ANY APPLICABLE PROVISION OF LAW TO CARRY OUT THE PURPOSES OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS PRESCRIBING THE INTERNAL PROCEDURES AND ORGANIZATION OF THE BUREAU, THE MANNER AND TIME OF ENTERING PLEAS, THE CONDUCT OF HEARINGS, AND THE AMOUNT AND MANNER OF PAYMENT OF PENALTIES;

D. TO ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF PERSONS TO GIVE TESTIMONY AT HEARINGS AND TO COMPEL THE PRODUCTION OF RELEVANT BOOKS, PAPERS AND OTHER THINGS;

E. TO ENTER JUDGMENTS AND ENFORCE THEM, WITHOUT COURT PROCEEDINGS, IN THE SAME MANNER AS THE ENFORCEMENT OF MONEY JUDGMENTS IN CIVIL ACTIONS;

F. TO COMPILE AND MAINTAIN COMPLETE AND ACCURATE RECORDS RELATING TO ALL CHARGES AND DISPOSITIONS;

G. TO REMIT TO THE COMMISSIONER, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, ALL MONETARY PENALTIES OR FEES RECEIVED BY THE BUREAU DURING THE PRIOR CALENDAR MONTH, ALONG WITH A STATEMENT THEREOF, AND, AT THE SAME TIME, TO FILE A DUPLICATE COPY OF SUCH STATEMENT WITH THE COMPTROLLER;

H. TO PREPARE AND ISSUE A NOTICE OF VIOLATION IN BLANK TO MEMBERS OF THE POLICE DEPARTMENT, THE FIRE DEPARTMENT, THE DEPARTMENT OF TRANSPORTATION AND TO OTHER OFFICERS AS THE BUREAU BY REGULATION SHALL DETERMINE. THE NOTICE OF VIOLATION, WHEN FILLED IN AND SWORN TO OR AFFIRMED BY SUCH DESIGNATED OFFICERS, AND SERVED AS PROVIDED IN THIS CHAPTER, SHALL CONSTITUTE NOTICE OF THE PARKING VIOLATION CHARGED.

S 7-1005 NOTICE OF VIOLATION. THE NOTICE OF VIOLATION SHALL CONTAIN INFORMATION ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY PLEAD EITHER GUILTY OR NOT GUILTY TO THE CHARGE ALLEGED IN THE NOTICE. SUCH NOTICE OF VIOLATION SHALL ALSO CONTAIN A WARNING TO ADVISE THE PERSON CHARGED THAT FAILURE TO PLEAD IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED, FOR ALL PURPOSES, AN ADMISSION OF LIABILITY AND THAT A DEFAULT JUDGMENT MAY BE RENDERED. THE FORM AND WORDING OF THE NOTICE OF VIOLATION SHALL BE PRESCRIBED BY THE DIRECTOR. A COPY OF EACH NOTICE OF VIOLATION SERVED SHALL BE FILED AND RETAINED BY THE BUREAU, AND SHALL BE DEEMED A RECORD KEPT IN THE ORDINARY COURSE OF

BUSINESS, AND SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

S 7-1006 HEARINGS. A. WHENEVER A PERSON CHARGED WITH A PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATION ENTERS A PLEA OF NOT GUILTY, THE BUREAU SHALL ADVISE SUCH PERSON PERSONALLY OR BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE DATE ON WHICH HE OR SHE MUST APPEAR TO ANSWER THE CHARGE AT A HEARING. THE FORM AND CONTENT OF SUCH NOTICE OF HEARING SHALL BE PRESCRIBED BY THE DIRECTOR, AND SHALL CONTAIN A WARNING TO ADVISE THE PERSON SO PLEADING THAT FAILURE TO APPEAR ON THE DATE DESIGNATED, OR ON ANY SUBSEQUENT ADJOURNED DATE, SHALL BE DEEMED, FOR ALL PURPOSES, AN ADMISSION OF LIABILITY, AND THAT A DEFAULT JUDGMENT MAY BE RENDERED.

B. (1) EVERY HEARING FOR THE ADJUDICATION OF A CHARGE OF PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATION SHALL BE HELD BEFORE A SENIOR HEARING EXAMINER OR A HEARING EXAMINER IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE BUREAU.

(2) NO CHARGE MAY BE ESTABLISHED EXCEPT UPON PROOF BY A PREPONDERANCE OF THE EVIDENCE.

(3) THE HEARING OFFICER SHALL NOT BE BOUND BY THE RULES OF EVIDENCE IN THE CONDUCT OF THE HEARING, EXCEPT RULES RELATING TO PRIVILEGED COMMUNICATIONS.

(4) THE HEARING OFFICER MAY, IN HIS OR HER DISCRETION, OR AT THE REQUEST OF THE PERSON CHARGED, ISSUE A SUBPOENA TO COMPEL THE APPEARANCE AT A HEARING OF THE OFFICER WHO SERVED THE NOTICE OF VIOLATION OR OF OTHER PERSONS TO GIVE TESTIMONY, AND MAY ISSUE A SUBPOENA DUCES TECUM TO COMPEL THE PRODUCTION FOR EXAMINATION OR INTRODUCTION INTO EVIDENCE, OF ANY BOOK, PAPER OR OTHER THING RELEVANT TO THE CHARGES.

(5) IN THE CASE OF A REFUSAL TO OBEY A SUBPOENA, THE BUREAU MAY MAKE APPLICATION TO THE SUPREME COURT PURSUANT TO SECTION TWENTY-THREE HUNDRED EIGHT OF THE CIVIL PRACTICE LAW AND RULES, FOR AN ORDER REQUIRING SUCH APPEARANCE, TESTIMONY OR PRODUCTION OF EVIDENCE.

(6) THE HEARING OFFICER SHALL NOT EXAMINE THE PARKING OR ENVIRONMENTAL CONTROL BOARD RECORD OF A PERSON CHARGED PRIOR TO MAKING A DETERMINATION.

S 7-1007 JUDGMENTS. THE HEARING OFFICER SHALL MAKE A DETERMINATION ON THE CHARGES, EITHER SUSTAINING OR DISMISSING THEM. WHERE THE HEARING OFFICER DETERMINES THAT THE CHARGES HAVE BEEN SUSTAINED HE OR SHE MAY EXAMINE THE PARKING OR ENVIRONMENTAL CONTROL BOARD VIOLATIONS RECORD OF THE PERSON CHARGED PRIOR TO RENDERING A JUDGMENT. JUDGMENTS SUSTAINING OR DISMISSING CHARGES SHALL BE ENTERED ON A JUDGMENT ROLL MAINTAINED BY THE BUREAU TOGETHER WITH RECORDS SHOWING PAYMENT AND NON-PAYMENT OF PENALTIES.

S 7-1008 APPEALS WITHIN THE BUREAU. A. THERE SHALL BE AN APPEALS BOARD WITHIN THE BUREAU WHICH SHALL CONSIST OF THREE OR MORE SENIOR HEARING EXAMINERS, AS THE DIRECTOR SHALL DETERMINE.

B. AN APPEAL FROM A JUDGMENT OF ANY HEARING OFFICER SHALL BE SUBMITTED TO THE APPEALS BOARD, WHICH SHALL HAVE POWER TO REVIEW THE FACTS AND THE LAW, BUT SHALL NOT CONSIDER ANY EVIDENCE WHICH WAS NOT PRESENTED TO THE HEARING OFFICER AND SHALL HAVE POWER TO REVERSE OR MODIFY ANY JUDGMENT APPEALED FROM FOR ERROR OF FACT OR LAW.

C. A PARTY AGGRIEVED BY THE JUDGMENT OF A HEARING OFFICER MAY OBTAIN A REVIEW THEREOF BY SERVING UPON THE BUREAU WITHIN THIRTY DAYS OF THE ENTRY OF SUCH JUDGMENT, A NOTICE OF APPEAL SETTING FORTH THE REASONS WHY THE JUDGMENT SHOULD BE REVERSED OR MODIFIED.

D. APPEALS SHALL BE MADE WITHOUT THE APPEARANCE OF THE APPELLANT UNLESS REQUESTED BY THE APPELLANT OR THE APPEALS BOARD. WITHIN TEN DAYS

AFTER THE REQUEST FOR AN APPEARANCE, MADE BY THE APPELLANT OR THE BOARD, THE BUREAU SHALL ADVISE THE APPELLANT, EITHER PERSONALLY OR BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE DATE ON WHICH HE OR SHE SHALL APPEAR. THE APPELLANT SHALL BE NOTIFIED IN WRITING OF THE DECISION OF THE APPEALS BOARD.

E. THE SERVICE OF A NOTICE OF APPEAL SHALL NOT STAY THE ENFORCEMENT OF A JUDGMENT APPEALED FROM UNLESS THE APPELLANT SHALL HAVE POSTED A BOND IN THE AMOUNT OF THE JUDGMENT APPEALED FROM, AT THAT TIME OF, OR BEFORE THE SERVICE OF SUCH NOTICE.

S 7-1009 JUDICIAL REVIEW. THE ORDER OF THE APPEALS BOARD SHALL BE THE FINAL DETERMINATION OF THE BUREAU. JUDICIAL REVIEW MAY BE SOUGHT PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 3. Subdivisions e, g, and h of section 19-171.1 of the administrative code of the city of New York, as added by local law number 19 of the city of New York for the year 2007, are amended to read as follows:

e. Where a police or peace officer or an authorized employee of a department designated by the commissioner serves a summons or notice of violation for violation of this section on a person operating a multi-passenger wheeled device or motorized pedicab, such multi-passenger wheeled device or motorized pedicab may be seized. Any device seized pursuant to this subdivision shall be delivered into the custody of the police department. The [environmental control board] VIOLATIONS HEARING BOARD shall hold a hearing to adjudicate the violation of subdivision b of this section on an expedited schedule and shall render its determination accordingly.

g. Where the [environmental control board] VIOLATIONS HEARING BOARD finds that there was no violation of subdivision b of this section, the owner shall be entitled forthwith to possession of the multi-passenger wheeled device or motorized pedicab without charge or to the extent that any amount has been previously paid for release of the device, such amount shall be refunded.

h. Where the [board] VIOLATIONS HEARING BOARD, after adjudication of the violation of subdivision b of this section, finds a violation of such subdivision, then (i) if the multi-passenger wheeled device or motorized pedicab is not subject to forfeiture pursuant to paragraph one of subdivision j, the police department shall release such device to its owner upon payment of all applicable civil penalties and all reasonable costs of removal and storage; or (ii) if the multi-passenger wheeled device or motorized pedicab is subject to forfeiture pursuant to paragraph one of subdivision j of this section, the police department may release such device to its owner upon payment of all civil penalties and all reasonable costs of removal and storage, or may commence a forfeiture action within ten days after the written demand by such owner for such device.

S 4. Subdivisions c and f of section 19-176 of the administrative code of the city of New York, subdivision c as amended and subdivision f as relettered by local law number 14 of the city of New York for the year 2002, subdivision f as added by local law number 6 of the city of New York for the year 1996, are amended to read as follows:

c. A person who violates subdivision b of this section in a manner that endangers any other person or property shall be guilty of a misdemeanor, punishable by a fine of not more than one hundred dollars or imprisonment for not more than twenty days or both such fine and imprisonment. Such person shall also be liable for a civil penalty of not less than one hundred dollars nor more than three hundred dollars, except where [a hearing officer] THE VIOLATIONS HEARING BOARD has deter-

mined that where there was physical contact between the rider and another person, an additional civil penalty of not less than one hundred dollars nor more than two hundred dollars may be imposed. Such civil penalties may be recovered in a proceeding before the [environmental control board] VIOLATIONS HEARING BOARD. Enforcement agents shall indicate on the summons or notice of violation issued pursuant to this subdivision whether physical contact was made between the rider and another person. Any person who violates any provision of this subdivision more than once within any six month period shall be subject to the imposition of civil penalties in an amount that is double what would otherwise have been imposed for the commission of a first violation. It shall be an affirmative defense that physical contact between a rider and another person was in no way the fault of the rider.

f. The owner of a bicycle shall be given the opportunity for a post seizure hearing within five business days before the [environmental control board] VIOLATIONS HEARING BOARD regarding the impoundment. The [environmental control board] VIOLATIONS HEARING BOARD shall render a determination within three business days after the conclusion of the hearing. Where the board finds that there was no basis for the impoundment, the owner shall be entitled forthwith to possession of the bicycle without charge or to the extent that any amount has been previously paid for release of the bicycle, such amount shall be refunded.

S 5. Subdivision e and paragraphs 3 and 4 of subdivision f of section 10-117.3 of the administrative code of the city of New York, as added by local law number 111 of the city of New York for the year 2005, are amended to read as follows:

e. Penalty for failure to remove graffiti from residential buildings containing six or more dwelling units or commercial buildings. The owner of a residential building of six or more units or a commercial building who has been given written notice to remove graffiti from such building, and who fails to remove such graffiti within sixty days of receipt of such notice, shall be liable for a civil penalty of not less than one hundred fifty dollars nor more than three hundred dollars. Such civil penalty may be recovered in a proceeding before the [environmental control] VIOLATIONS HEARING board. The owner of a residential building containing six or more dwelling units or a commercial building shall not be liable for a civil penalty if, within sixty days of receipt of such notice, such owner can demonstrate that the owner has contacted the mayor's community assistance unit, through a call to 311, with regard to providing graffiti removal services with respect to the graffiti that was the subject of the notice, and has executed a written consent and a waiver of liability in the form prescribed by the mayor with respect to such graffiti. Notwithstanding the foregoing, a property shall not be fined more than once in any six-month period, and summonses shall not be issued between November 1 and March 31.

3. Upon receipt of a timely request for a hearing, a hearing shall be held before the [environmental control] VIOLATIONS HEARING board within thirty days of receiving the request.

4. Upon a finding of a hearing [officer] EXAMINER of the [environmental control] VIOLATIONS HEARING board that the property has become a nuisance because of graffiti the city may enter or access the property specified in the notice and abate the nuisance by removing or concealing the graffiti.

S 6. Subdivision e of section 18-108.1 of the administrative code of the city of New York, as added by local law number 42 of the city of New York for the year 1995, is amended to read as follows:

e. The owner of a motorcycle, all terrain vehicle, snowmobile or motor vehicle shall be given the opportunity for a post seizure hearing within five business days before the [environmental control] VIOLATIONS HEARING board regarding the seizure. The [environmental control] VIOLATIONS HEARING board shall render a determination within three business days after the conclusion of the hearing. Where the [environmental control] VIOLATIONS HEARING board finds that there was no basis for the seizure, the owner shall be entitled forthwith to possession of the motorcycle, all terrain vehicle, snowmobile or motor vehicle without charge and to the extent that any amount has been previously paid for release of the motorcycle, all terrain vehicle, snowmobile or motor vehicle, such amount shall be refunded.

S 7. Subdivisions a, c and d and paragraph (i) of subdivision e of section 22-220 of the administrative code of the city of New York, subdivisions a and d and paragraph (i) of subdivision e as amended by local law number 54 of the city of New York for the year 1995 and subdivision c as added by local law number 50 of the city of New York for the year 1995, are amended to read as follows:

a. Any police officer or authorized officer or employee of the department may, upon service of a notice of violation or criminal summons upon the owner or operator of a vehicle or other property or equipment seize such vehicle or such other property or equipment which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter. Any vehicle, property or equipment seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. Where a notice of violation has been served, a hearing to adjudicate the violation underlying the seizure shall be held before the [environmental control] VIOLATIONS HEARING board within five business days after the seizure and such board shall render a decision within five business days after the conclusion of the hearing. Where a criminal summons has been served, a hearing to adjudicate the violation underlying the seizure shall be held before a court of competent jurisdiction. In the event that such court or the [environmental control] VIOLATIONS HEARING board determines that there has been no violation, the vehicle, property or equipment that was seized shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

c. Where a court of competent jurisdiction or the [environmental control] VIOLATIONS HEARING board makes a finding that the vehicle or other property or equipment has not been used in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter, the vehicle or other property or equipment shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

d. Any vehicle or other property or equipment that has not been claimed by the owner within ten business days after mailing by first class mail to such owner of notice of a determination by a court of competent jurisdiction or by the [environmental control] VIOLATIONS HEARING board that there has been no violation or that the vehicle or other property or equipment was not used in connection with a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter shall be deemed by the

department to be abandoned. Any vehicle unclaimed under the provisions of this subdivision shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law. Property or equipment other than a vehicle shall be disposed of by sale at public auction following notice by publication in the city record describing such property or equipment not less than ten business days prior to such sale. Such notice shall provide that the owner may reclaim such property or equipment until a date that shall be not sooner than ten business days from the date the notice is published.

(i) In addition to any other fines, penalties, sanctions or remedies provided for in this chapter, a vehicle or other property or equipment which has been seized pursuant to subdivision a of this section and all rights, title and interest therein shall be subject to forfeiture upon notice and judicial determination thereof if the owner of such vehicle or other property or equipment has been found liable by a court of competent jurisdiction or the [environmental control] VIOLATIONS HEARING board on one or more prior occasions for using such vehicle or such other property or equipment in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter.

S 8. Subdivisions a, c and d and paragraph (i) of subdivision e of section 22-262.1 of the administrative code of the city of New York, as added by local law number 15 of the city of New York for the year 2000, are amended to read as follows:

a. Any police officer or authorized officer or employee of the department may, upon service of a notice of violation or criminal summons upon the owner or operator of a vehicle or other property or equipment, seize such vehicle or such other property or equipment which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter where such vehicle or other property or equipment is owned, leased or rented by a person subject to the provisions of such subdivision or such vehicle or other property or equipment is owned by a person other than an employee and is used directly by a person subject to the provisions of such subdivision. Any vehicle, property or equipment seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. Where a notice of violation has been served, a hearing to adjudicate the violation underlying the seizure shall be held before the [environmental control] VIOLATIONS HEARING board within five business days after the seizure and such board shall render a decision within five business days after the conclusion of the hearing. Where a criminal summons has been served, a hearing to adjudicate the violation underlying the seizure shall be held before a court of competent jurisdiction. In the event that such court or the [environmental control] VIOLATIONS HEARING board determines that there has been no violation, the vehicle, property or equipment that was seized shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

c. Where a court of competent jurisdiction or the [environmental control] VIOLATIONS HEARING board makes a finding that the vehicle or other property or equipment has not been used in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter, the vehicle or other property or equipment shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

d. Any vehicle or other property or equipment that has not been claimed by the owner within ten business days after mailing by first class mail to such owner of notice of a determination by a court of competent jurisdiction or by the [environmental control] VIOLATIONS HEARING board that there has been no violation or that the vehicle or other property or equipment was not used in connection with a violation of subdivision a of section 22-253 of this chapter shall be deemed by the department to be abandoned. Any vehicle unclaimed under the provisions of this subdivision shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law. Property or equipment other than a vehicle shall be disposed of by sale at public auction following notice by publication in the city record describing such property or equipment not less than ten business days prior to such sale. Such notice shall provide that the owner may reclaim such property or equipment until a date that shall be not sooner than ten business days from the date the notice is published.

(i) in addition to any other fines, penalties, sanctions or remedies provided for in this chapter, a vehicle or other property or equipment which has been seized pursuant to subdivision a of this section and all rights, title and interest therein shall be subject to forfeiture upon notice and judicial determination thereof if the owner of such vehicle or other property or equipment has been found liable by a court of competent jurisdiction or the [environmental control] VIOLATIONS HEARING board on one or more prior occasions for using such vehicle or such other property or equipment in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter.

S 9. Section 24-146.2 of the administrative code of the city of New York, as added by local law number 101 of the city of New York for the year 1989, is amended to read as follows:

S 24-146.2 Enforcement of the labor law. Pursuant to subdivision two of section nine hundred ten of the labor law, the commissioner shall have all the powers and responsibility of the commissioner of labor in enforcing the provisions of article thirty of the labor law and the rules and regulations adopted thereunder; provided, however, that the civil penalties authorized pursuant to subdivisions one and two of section nine hundred nine of such law shall be imposed by the [environmental control] VIOLATIONS HEARING board after a hearing in accordance with the rules of the board.

S 10. Subdivision b and paragraph 1 of subdivision d and paragraph 4 of subdivision e of section 24-346 of the administrative code of the city of New York, subdivision b as amended by local law number 35 of the city of New York for the year 2008, is 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 for each violation. In the case of a continuing violation each days 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 BEFORE THE VIOLATIONS HEARING BOARD as provided by the rules and regulations of the VIOLATIONS HEARING 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 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.

1. In the case of any continued or knowing violation of 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 of the conditions of any permit issued by the commissioner within the city of New York or where the board finds that the violation of any of such provisions or of the conditions of any such permit presents or may present a danger to the water supply or the water supply system, the board after notice and the opportunity for a hearing BEFORE THE VIOLATIONS HEARING BOARD in accordance with the rules and regulations of the VIOLATIONS HEARING board, may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility, device, equipment, installation or operation to cease and desist from any activity or process which causes or is conducted so as to cause such violation within the time specified in such order.

4. Any person affected by such an order may make written application to the [environmental control] VIOLATIONS HEARING board for a hearing BEFORE THE VIOLATIONS HEARING BOARD. Such hearing shall be provided, pursuant to the rules and regulations of the board, and shall be held within forty-eight hours after the receipt of such application. The board may suspend, modify or terminate such order.

S 11. This act shall take effect immediately.