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

3071

2011-2012 Regular Sessions

I N S E N A T E

February 8, 2011

Introduced by Sen. HUNTLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the New York city charter, in relation to docketing of decisions and orders of the administrative tribunal of the New York city taxi and limousine commission

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

Section 1. Subdivision c of section 2303 of the New York city charter, as amended by local law number 115 of the city of New York for the year 1993, paragraph 1 as amended by local law number 16 of the city of New York for the year 2008, is amended to read as follows:

c. (1) The commission shall create an administrative tribunal to adjudicate charges of violation of [provisions of the administrative code and rules promulgated thereunder] THE LAWS, RULES AND REGULATIONS ENFORCED BY THE COMMISSION PURSUANT TO THE PROVISIONS OF SUBDIVISION B OF THIS SECTION OR OF ANY OTHER LAW PROVIDING FOR ENFORCEMENT BY THE COMMISSION IN ACCORDANCE WITH THIS PARAGRAPH AND WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSION. The commission shall have the power to enforce its tribunal's decisions and orders imposing civil penalties, not to exceed ten thousand dollars for each respondent, [for violations relating to unlicensed vehicles for hire and unlicensed drivers of vehicles for hire and for violations relating to the operation of commuter van services without authorization and the operation of unlicensed commuter vans and unlicensed drivers of commuter vans pursuant to chapter five of title nineteen of the administrative code] as if they were money judgments, without court proceedings, in the following manner: Any such decision or order of the commission's administrative tribunal imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the commission which may be entered in the civil court of New York or any other place provided for the entry of civil judgments

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

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within the state. Before a judgment based upon a default may be so entered the commission or administrative tribunal shall have first notified the respondent by first class mail in such form as the commission may direct: (i) of the default and order and the penalty imposed; (ii) that a judgment will be entered in the civil court of the city of New York or any other place provided by law for the entry of civil judgments within the state of New York; and (iii) that entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the commission or administrative tribunal within thirty days of the mailing of such notice.

(2) The commission or tribunal shall not enter any decision or order pursuant to paragraph one of this subdivision unless the notice of violation shall have been served in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law except that:

(a) with respect to any notice of violation which alleges the operation of [an] A LICENSED OR unlicensed vehicle for hire the operator of such vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive such notice of violation and service made pursuant to this paragraph on such operator shall also be deemed to be lawful service upon such owner; or

(b) with respect to any notice of violation which alleges the operation of an AUTHORIZED OR unauthorized commuter van service or [an] A LICENSED OR unlicensed commuter van, the operator of the vehicle giving rise to such violation who is not the owner of such commuter van service or such commuter van, as applicable, but who uses or operates such vehicle with the permission, express or implied, of the owner of such commuter van service or such commuter van, as the case may be, shall be deemed to be the agent of the owner of such commuter van service or such commuter van, as the case may be, to receive such notice of violation. Service made pursuant to this paragraph on such operator shall be deemed to be lawful service upon the owner of such commuter van service or commuter van, as applicable; OR

(C) WITH RESPECT TO ANY NOTICE OF VIOLATION WHICH ALLEGES THE OPERATION OF ANY OTHER LICENSED OR UNLICENSED ENTITY WHOSE ESTABLISHMENT AND OPERATION ARE GOVERNED BY RULES AND REGULATIONS PROMULGATED BY THE COMMISSION, SERVICE MAY BE MADE PURSUANT TO THIS PARAGRAPH UPON A PERSON OF SUITABLE AGE AND DISCRETION EMPLOYED BY OR ACTING AS AN AGENT OF THE RESPONDENT AT THE RESPONDENT'S PLACE OF BUSINESS.

S 2. This act shall take effect immediately.