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I N   A S S E M B L Y

June 7, 2016

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Kim, Gottfried, Dinowitz, Bichotte) -- read once and referred to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to enacting the predatory towing prevention act

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

1     Section 1. Subdivisions a and b of section 20-499 of the administrative code of the city of New York, subdivision a as amended and subdivision b as added by local law number 11 of the city of New York for the year 1989, are amended to read as follows:  
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5     a. As a condition of the issuance of a license to engage in towing, each applicant shall furnish to the commissioner a surety bond in the sum of [five] TWENTY-FIVE thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules or regulations promulgated hereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation within thirty days of its imposition, or any final judgment recovered by any person who received towing services from a licensee thereunder and was damaged thereby. The commissioner may in his or her discretion, after a public hearing, five days notice of which shall be published in the City Record, increase the amount of the surety bond required by this section to an amount not to exceed [twenty-five] TWO HUNDRED AND FIFTY thousand dollars. The commissioner may by regulation authorize an applicant to, in lieu of a bond, deposit cash to satisfy the requirements of this section in an amount equal to the sum of the surety bond required by this section.  
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23     b. (1) The commissioner may by regulation establish a fund to be administered by the comptroller and authorize an applicant for a RENEWAL license to engage in towing to, in lieu of a bond or cash equivalent, make contributions to such fund to satisfy the requirements of subdivision a of this section. The commissioner may promulgate such rules or  
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 regulations as are necessary for the administration of such fund includ-  
2 ing, but not limited to, regulations setting forth the conditions for  
3 participation in the fund, the contributions required to be made to the  
4 fund, INCLUDING THE CRITERIA AND METHODOLOGY FOR DETERMINING THE APPRO-  
5 PRIATE AMOUNT OF THE CONTRIBUTIONS, and the circumstances under which  
6 disbursements will be made from the fund.

7 (2) NOTWITHSTANDING ANY PROVISIONS OF THE NEW YORK CITY CHARTER AND  
8 THIS CHAPTER TO THE CONTRARY, ANY LICENSEE WHO PRIOR TO THE EFFECTIVE  
9 DATE OF THIS PARAGRAPH WAS AUTHORIZED BY THE COMMISSIONER TO MAKE A  
10 CONTRIBUTION TO THE FUND ESTABLISHED PURSUANT TO PARAGRAPH ONE OF THIS  
11 SUBDIVISION AND WHO HAS BEEN FOUND BY THE COMMISSIONER IN VIOLATION OF  
12 SECTIONS 20-510 AND 20-515 OF THIS SUBCHAPTER SHALL BE REQUIRED TO  
13 FURNISH A SURETY BOND TO THE COMMISSIONER IN THE SUM OF ONE HUNDRED  
14 THOUSAND DOLLARS.

15 S 2. Section 20-504.1 of the administrative code of the city of New  
16 York, as amended by local law number 41 of the city of New York for the  
17 year 2011, is amended to read as follows:

18 S 20-504.1 Mandatory suspension or revocation of license. A. After  
19 due notice and opportunity to be heard, the commissioner shall refuse to  
20 renew, or shall suspend or revoke a license required under this subchap-  
21 ter, upon the occurrence of any one or more of the following conditions:

22 [a.] 1. the person holding a license to engage in towing or where  
23 applicable, any of such licensee's officers, principals, directors,  
24 employees, or stockholders owning more than ten percent of the outstand-  
25 ing stock of the corporation, has been found by the commissioner to have  
26 unjustifiably refused to release a vehicle towed pursuant to section  
27 20-518 or section 20-519 of this subchapter, to the vehicle's owner or  
28 the owner's agent. The commissioner shall establish standards concerning  
29 the sufficiency of proof of ownership of the vehicle and the legality of  
30 any charges demanded by the licensee for release of the vehicle. In  
31 determining whether such refusal is unjustifiable, the commissioner in  
32 addition to any other relevant fact shall consider such standards;

33 [b.] 2. in a two year period, the person holding a license to engage  
34 in towing or where applicable, any of such licensee's officers, princi-  
35 pals, directors, employees, or stockholders owning more than ten percent  
36 of the outstanding stock of the corporation, has been found by the  
37 commissioner to have committed in any combination three or more  
38 violations of sections 19-169, 19-169.1 of this code or any rules  
39 promulgated thereunder, or sections 20-507, 20-509, 20-509.1, 20-510,  
40 20-512, 20-514, 20-515, 20-516, 20-518, 20-519, 20-520, 20-520.1 or  
41 20-527 of this subchapter or any rules promulgated thereunder;

42 [c.] 3. the person holding a license to engage in towing or where  
43 applicable, any of such licensee's officers, principals, directors,  
44 employees, or stockholders owning more than ten percent of the outstand-  
45 ing stock of the corporation, has been convicted of a misdemeanor or a  
46 felony relating to auto stripping in violation of article 165 of the  
47 penal law;

48 [d.] 4. in a two year period, the person holding a tow truck opera-  
49 tor's license has been found by the commissioner to have committed in  
50 any combination three or more violations of the provisions of sections  
51 19-169 and 19-169.1 of this code and any rules promulgated thereunder,  
52 or sections 20-510, 20-512, 20-514, 20-515, 20-518, 20-519, 20-520,  
53 20-520.1 or 20-527 of this subchapter or any rules promulgated there-  
54 under;

55 [e.] 5. the person holding a tow truck operator's license has been  
56 found to have operated any motor vehicle in violation of section eleven

1 hundred ninety-two of the vehicle and traffic law during the license  
2 term, or has been found to have operated a tow truck in violation of  
3 section eleven hundred eighty-two of the vehicle and traffic law.

4 B. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 2 OF SUBDIVISION A OF  
5 THIS SECTION, THE COMMISSIONER, AFTER DUE NOTICE AND OPPORTUNITY TO BE  
6 HEARD, SHALL REFUSE TO RENEW, OR SHALL SUSPEND OR REVOKE A LICENSE  
7 REQUIRED UNDER THIS SUBCHAPTER UPON A FINDING THAT, IN A ONE YEAR PERI-  
8 OD, THE PERSON HOLDING A LICENSE TO ENGAGE IN TOWING OR WHERE APPLICA-  
9 BLE, ANY OF SUCH LICENSEE'S OFFICERS, PRINCIPALS, DIRECTORS, EMPLOYEES,  
10 OR STOCKHOLDERS OWNING MORE THAN TEN PERCENT OF THE OUTSTANDING STOCK OF  
11 THE CORPORATION, COMMITTED TWO OR MORE VIOLATIONS OF SUBDIVISION B OF  
12 SECTION 20-515 OF THIS SUBCHAPTER.

13 S 3. Subdivisions e and f of section 20-504 of the administrative code  
14 of the city of New York, subdivision e as amended by local law number 66  
15 of the city of New York for the year 1989 and subdivision f as added by  
16 local law number 28 of the city of New York for the year 1987, are  
17 amended and a new subdivision g is added to read as follows:

18 e. the person holding a tow truck operator's license, or the person  
19 holding a license to engage in towing or where applicable any of its  
20 officers, principals, directors or stockholders owning more than ten  
21 percent of the outstanding stock of the corporation has been convicted  
22 of a crime which, in the judgment of the commissioner, has a direct  
23 relationship to such person's fitness or ability to perform any of the  
24 activities for which a license is required under this subchapter; or has  
25 been convicted of any other crime which, in accordance with article  
26 twenty-three-a of the correction law, would provide a justification for  
27 the commissioner to refuse to renew, or to suspend or revoke, such  
28 license; [or]

29 f. the person holding a tow truck operator's license, or the person  
30 holding a license to engage in towing has failed to maintain any of the  
31 conditions for issuance of such license as provided under this subchap-  
32 ter or any rule or regulation promulgated hereunder[.]; OR

33 G. THE PERSON HOLDING A TOW TRUCK OPERATOR'S LICENSE, OR THE PERSON  
34 HOLDING A LICENSE TO ENGAGE IN TOWING IS THE SUBJECT OF AT LEAST FIVE  
35 SEPARATE COMPLAINTS WITHIN A ONE YEAR PERIOD TO THE COMMISSIONER OR THE  
36 POLICE DEPARTMENT FOR FAILURE TO COMPLY WITH SUBDIVISION B OF SECTION  
37 20-510 OR SUBDIVISION B OF SECTION 20-515 OF THIS SUBCHAPTER.

38 S 4. The opening paragraph of section 20-510 of the administrative  
39 code of the city of New York is designated subdivision a and two new  
40 subdivisions b and c are added to read as follows:

41 B. TOW TRUCK OPERATORS WHICH REMOVE VEHICLES THAT ARE UNLAWFULLY  
42 PARKED ON PRIVATE OR COMMERCIAL PROPERTY WITHOUT THE WRITTEN CONSENT OF  
43 THE OWNER OR OPERATOR OF THE VEHICLE SHALL, PRIOR TO THE REMOVAL OF THE  
44 VEHICLE, OBTAIN THE WRITTEN AUTHORIZATION OR CONSENT OF THE OWNER OR  
45 MANAGER OF THE PRIVATE OR COMMERCIAL PROPERTY, AND SHALL NOTIFY THE  
46 LOCAL POLICE STATION HOUSE HAVING JURISDICTION OVER THE AREA WHERE SUCH  
47 VEHICLE WAS UNLAWFULLY PARKED, OF THE DESCRIPTION OF THE CAR WHICH WAS  
48 REMOVED, AND THE TIME OF REMOVAL WITHIN TWO HOURS SUBSEQUENT TO THE  
49 TOWING.

50 C. A TOW TRUCK OPERATOR IS FORBIDDEN FROM USING SPOTTERS OR SPOTTING  
51 TECHNIQUES, SUCH AS WAITING AND TARGETING DRIVERS AT PARKING LOTS, TO  
52 TOW VEHICLES ON PRIVATE OR COMMERCIAL PROPERTY AND MUST OBTAIN THE WRIT-  
53 TEN CONSENT OF THE OWNER OR MANAGER OF THE PRIVATE OR COMMERCIAL PROPER-  
54 TY TO CONDUCT TOWING.

1 S 5. Subdivision b of section 20-515 of the administrative code of the  
2 city of New York, as amended by local law number 94 of the city of New  
3 York for the year 1997, is amended to read as follows:

4 b. soliciting or offering any inducements or making representations at  
5 the scene of a vehicular accident for the towing of any vehicle involved  
6 in an accident AT OR NEAR THE SCENE OF THE TOWING OF ANY VEHICLE IN OR  
7 FROM A TOW-AWAY ZONE, or for the performance of any repairs on any vehi-  
8 cle involved in an accident except as may be reasonable and necessary at  
9 the scene of an accident for the towing of an accident vehicle on a  
10 segment of the arterial highways by an arterial tow permittee who has  
11 been authorized by the commissioner of transportation or the police  
12 commissioner to provide tow service on such segment.

13 S 6. Within one hundred eighty days after the effective date of this  
14 act, the tow advisory board, established pursuant to section 20-526 of  
15 the administrative code of the city of New York, shall conduct at least  
16 one public hearing in each borough of the city of New York to solicit  
17 and receive public comments on the problem of predatory towing. Upon  
18 completion of the hearings, the tow advisory board, in consultation with  
19 the interagency advisory council, shall make recommendations to address  
20 this growing problem.

21 S 7. This act shall take effect immediately.