

# STATE OF NEW YORK

5998--A

2017-2018 Regular Sessions

## IN ASSEMBLY

February 21, 2017

Introduced by M. of A. KIM, GOTTFRIED, DINOWITZ, BICHOTTE, WEPRIN, MONTESANO, MOSLEY, ORTIZ, CYMBROWITZ, HARRIS, NIOU, TITONE, CRESPO, D'URSO, RIVERA, LAWRENCE, SEPULVEDA, RICHARDSON -- Multi-Sponsored by -- M. of A. DE LA ROSA, HIKIND, HYNDMAN, NOLAN -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "towing protection enforcement act".

3 § 2. Subdivision j of section 19-169.1 of the administrative code of  
4 the city of New York, as amended by local law number 41 of the city of  
5 New York for the year 2011, is amended to read as follows:

6 j. (1) Any person who violates this section shall be punished as  
7 follows: for the first violation, a fine of five hundred dollars; for  
8 the second violation within a period of twelve months of the date of the  
9 first violation, a fine of one thousand dollars; and for any additional  
10 violations within a period of twenty-four months of the date of a first  
11 violation, a fine of [~~one~~] two thousand dollars.

12 (2) In addition to the penalties prescribed by paragraph one of this  
13 subdivision, any person who knowingly or willfully violates the  
14 provisions of this section or subdivision b of section 20-515 of this  
15 code or any rules promulgated thereunder shall be guilty of a misdemea-  
16 nor punishable by a fine of not less than five hundred dollars or more  
17 than three thousand dollars, or by imprisonment for not more than ninety  
18 days, or by both such fine and imprisonment.

19 (3) Any person who knowingly or willfully violates the provisions of  
20 this section or subdivision b of section 20-515 of this code or any

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

LBD05247-03-7

rules promulgated thereunder who has been found guilty of a violation of any such provisions or such rules two times within a twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars or more than ten thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 3. 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:

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 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.

b. (1) The commissioner may by regulation establish a fund to be administered by the comptroller and authorize an applicant for a 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 regulations as are necessary for the administration of such fund including, but not limited to, regulations setting forth the conditions for participation in the fund, the contributions required to be made to the fund, including the criteria and methodology for determining the appropriate amount of the contributions, and the circumstances under which disbursements will be made from the fund.

(2) Notwithstanding any provisions of titles nineteen and twenty of this code to the contrary, any licensee who prior to the effective date of this paragraph was authorized by the commissioner to make a contribution to the fund established pursuant to paragraph one of this subdivision and who has been found guilty of a violation of sections 19-169.1 and 20-515 of this code two times within a twelve month period shall be required to furnish a surety bond in an amount determined by the commissioner.

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

e. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable any of its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted

1 of a crime which, in the judgment of the commissioner, has a direct  
2 relationship to such person's fitness or ability to perform any of the  
3 activities for which a license is required under this subchapter; or has  
4 been convicted of any other crime which, in accordance with article  
5 twenty-three-a of the correction law, would provide a justification for  
6 the commissioner to refuse to renew, or to suspend or revoke, such  
7 license; ~~[or]~~

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

12 g. the person holding a tow truck operator's license, or the person  
13 holding a license to engage in towing is the subject of at least five  
14 separate complaints within a one year period to the commissioner or the  
15 police department for failure to comply with the provisions of section  
16 19-169.1 or subdivision b of section 20-515 of this code.

17 § 5. Section 20-504.1 of the administrative code of the city of New  
18 York, as amended by local law number 41 of the city of New York for the  
19 year 2011, is amended to read as follows:

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

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

35 ~~[b.]~~ 2. in a two year period, the person holding a license to engage  
36 in towing or where applicable, any of such licensee's officers, princi-  
37 pals, directors, employees, or stockholders owning more than ten percent  
38 of the outstanding stock of the corporation, has been found by the  
39 commissioner to have committed in any combination three or more  
40 violations of sections 19-169, ~~[19-169.1 of this code or any rules~~  
41 ~~promulgated thereunder, or sections]~~ 20-507, 20-509, 20-509.1, 20-510,  
42 20-512, 20-514, 20-515, 20-516, 20-518, 20-519, 20-520, 20-520.1 or  
43 20-527 of this ~~[subchapter]~~ code or any rules promulgated thereunder;

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

50 ~~[d.]~~ 4. in a two year period, the person holding a tow truck opera-  
51 tor's license has been found by the commissioner to have committed in  
52 any combination three or more violations of the provisions of sections  
53 19-169 ~~[and 19.169.1 of this code and any rules promulgated thereunder,~~  
54 ~~or sections]~~, 20-510, 20-512, 20-514, 20-515, 20-518, 20-519, 20-520,  
55 20-520.1 or 20-527 of this ~~[subchapter]~~ code or any rules promulgated  
56 thereunder;

1 ~~[e-]~~ 5. the person holding a tow truck operator's license has been  
2 found to have operated any motor vehicle in violation of section eleven  
3 hundred ninety-two of the vehicle and traffic law during the license  
4 term, or has been found to have operated a tow truck in violation of  
5 section eleven hundred eighty-two of the vehicle and traffic law.

6 b. Notwithstanding the provisions of paragraph two of subdivision a of  
7 this section, the commissioner, after due notice and opportunity to be  
8 heard, shall refuse to renew, or shall suspend or revoke a license  
9 required under this subchapter upon a finding that, in a one year peri-  
10 od, the person holding a license to engage in towing or where applica-  
11 ble, any of such licensee's officers, principals, directors, employees,  
12 or stockholders owning more than ten percent of the outstanding stock of  
13 the corporation, committed any combination of two or more violations of  
14 section 19-169.1 or subdivision b of section 20-515 of this code.

15 § 6. The opening paragraph of section 20-510 of the administrative  
16 code of the city of New York is designated subdivision a and a new  
17 subdivision b is added to read as follows:

18 b. A tow truck operator is forbidden from using spotters or spotting  
19 techniques, such as waiting and targeting drivers at parking lots, to  
20 tow vehicles on private or commercial property and must obtain the writ-  
21 ten consent of the owner or manager of the private or commercial proper-  
22 ty to conduct towing pursuant to section 19-169.1 of this code.

23 § 7. Subdivision b of section 20-515 of the administrative code of the  
24 city of New York, as amended by local law number 94 of the city of New  
25 York for the year 1997, is amended to read as follows:

26 b. soliciting or offering any inducements or making representations:  
27 (i) at the scene of a vehicular accident for the towing of any vehicle  
28 involved in an accident, (ii) at or near the scene of the removal of a  
29 vehicle pursuant to section 19-169.1 of this code, or (iii) for the  
30 performance of any repairs on any vehicle involved in an accident except  
31 as may be reasonable and necessary at the scene of an accident for the  
32 towing of an accident vehicle on a segment of the arterial highways by  
33 an arterial tow permittee who has been authorized by the commissioner of  
34 transportation or the police commissioner to provide tow service on such  
35 segment.

36 § 8. Within one hundred eighty days after the effective date of this  
37 act, the tow advisory board, established pursuant to section 20-526 of  
38 the administrative code of the city of New York, shall conduct at least  
39 one public hearing in each borough of the city of New York to solicit  
40 and receive public comments on towing issues. Upon completion of the  
41 hearings, the tow advisory board, in consultation with the interagency  
42 advisory council, shall make recommendations to address this growing  
43 problem including how to improve enforcement of section 19-169.1 of such  
44 administrative code and the laws or rules prohibiting the soliciting or  
45 making representations at or near the scene of the towing or removal of  
46 a vehicle by a tow truck operator.

47 § 9. Severability. If any clause, sentence, paragraph, section or part  
48 of this act shall be adjudged by any court of competent jurisdiction to  
49 be invalid and after exhaustion of all further judicial review, the  
50 judgment shall not affect, impair or invalidate the remainder thereof,  
51 but shall be confined in its operation to the clause, sentence, para-  
52 graph, section or part of this act directly involved in the controversy  
53 in which the judgment shall have been rendered.

54 § 10. This act shall take effect immediately.