

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.

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

7 § 3. Subdivisions a and b of section 20-499 of the administrative code
8 of the city of New York, subdivision a as amended and subdivision b as
9 added by local law number 11 of the city of New York for the year 1989,
10 are amended to read as follows:

11 a. As a condition of the issuance of a license to engage in towing,
12 each applicant shall furnish to the commissioner a surety bond in the
13 sum of [~~five~~] twenty-five thousand dollars, payable to the city of New
14 York, executed by the applicant and a surety approved by the commission-
15 er. Such bond shall be conditioned upon the applicant's compliance with
16 the provisions of this subchapter and any rules or regulations promul-
17 gated hereunder, and upon the further condition that the applicant will
18 pay to the city any fine, penalty or other obligation within thirty days
19 of its imposition, or any final judgment recovered by any person who
20 received towing services from a licensee thereunder and was damaged
21 thereby. The commissioner may in his or her discretion, after a public
22 hearing, five days notice of which shall be published in the City
23 Record, increase the amount of the surety bond required by this section
24 to an amount not to exceed [~~twenty-five~~] two hundred fifty thousand
25 dollars. The commissioner may by regulation authorize an applicant to,
26 in lieu of a bond, deposit cash to satisfy the requirements of this
27 section in an amount equal to the sum of the surety bond required by
28 this section.

29 b. (1) The commissioner may by regulation establish a fund to be
30 administered by the comptroller and authorize an applicant for a license
31 to engage in towing to, in lieu of a bond or cash equivalent, make
32 contributions to such fund to satisfy the requirements of subdivision a
33 of this section. The commissioner may promulgate such rules or regu-
34 lations as are necessary for the administration of such fund including,
35 but not limited to, regulations setting forth the conditions for partic-
36 ipation in the fund, the contributions required to be made to the fund,
37 including the criteria and methodology for determining the appropriate
38 amount of the contributions, and the circumstances under which disburse-
39 ments will be made from the fund.

40 (2) Notwithstanding any provisions of titles nineteen and twenty of
41 this code to the contrary, any licensee who prior to the effective date
42 of this paragraph was authorized by the commissioner to make a contrib-
43 ution to the fund established pursuant to paragraph one of this subdivi-
44 sion and who has been found guilty of a violation of sections 19-169.1
45 and 20-515 of this code two times within a twelve month period shall be
46 required to furnish a surety bond in an amount determined by the commis-
47 sioner.

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

53 e. the person holding a tow truck operator's license, or the person
54 holding a license to engage in towing or where applicable any of its
55 officers, principals, directors or stockholders owning more than ten
56 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.