STATE OF NEW YORK

6951

2023-2024 Regular Sessions

IN ASSEMBLY

May 9, 2023

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

AN ACT to amend the vehicle and traffic law, in relation to requiring community review of all motor vehicle repair shop applicants

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

Section 1. Subdivision 1 and paragraph (a-1) of subdivision 2 of section 398-c of the vehicle and traffic law, subdivision 1 as amended by chapter 891 of the laws of 1977, and paragraph (a-1) of subdivision 2 as added by chapter 63 of the laws of 1989, are amended to read as follows:

1. Registration required. **(a)** On and after the first day of November, nineteen hundred seventy-five, no person shall operate, or cause to have operated, a motor vehicle repair shop, unless such motor vehicle repair shop is registered in accordance with the provisions of this article and unless such registration is currently valid. The commissioner may request the attorney general to commence an action to enjoin the operation of any motor vehicle repair shop in violation of this subdivision. A violation of this subdivision shall be heard and determined and shall be subject to penalties as provided in section three hundred ninety-eight-i of this [~~chapter~~] **article**.

(b) The commissioner shall consider any or all of the following in determining whether to approve an applicant's certificate of registration or renewal of a certificate of registration for the operation of a motor vehicle repair shop:

(i) any history of violations of this article or reported criminal activity at the proposed premises;

(ii) the effect of the applicant on vehicular traffic and parking in proximity to the location of the repair shop; and

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

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(iii) any other factors specified by law or regulation that are relevant to determine the public convenience and advantage, and public interest of the community.

(a-1) appropriate certification or documentation from the municipality where the repair shop is located that the facility is in compliance with applicable zoning and planning regulations, fire regulations and building codes. In the case of the city of New York, the applicant shall also include proof of notification as required under section three hundred ninety-eight-j of this article has been sent to a community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located and share any response provided by the community board. It shall be the responsibility of the applicant to provide such documentation for the commissioner. The commissioner may waive this requirement for applicants from municipalities without such codes or regulations.

§ 2. Paragraphs (k), (l) and the closing paragraph of subdivision 1 of section 398-e of the vehicle and traffic law, paragraph (k) as amended and paragraph (l) as added by chapter 527 of the laws of 2021, the closing paragraph as amended by chapter 634 of the laws of 1980, are amended and a new paragraph (m) is added to read as follows:

(k) has engaged in a course of conduct which unreasonably impedes or delays a consumer's right to a fair recovery pursuant to the provisions of an automobile insurance policy, the insurance law or regulations issued by the superintendent of financial services governing the evaluation and adjustments of claims; [~~or~~]

(l) has wilfully violated paragraph (b) of subdivision thirty-one, subdivision thirty-one-a or subdivision thirty-one-b of section three hundred seventy-five of this [~~chapter.~~] title; or

(m) demonstrated history of repeat parking violations and complaints from the municipality or community boards established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located.

For the purposes of paragraphs (g), (h), (i), (j) [~~and~~] , (k) and (m) of this subdivision, it shall be presumed that the actions of any employee of a motor vehicle repair shop shall be attributable to, and deemed to be the actions of, such motor vehicle repair shop.

§ 3. Section 398-e of the vehicle and traffic law is amended by adding a new subdivision 1-a to read as follows:

1-a. (a) The commissioner may approve or renew a certificate of registration if, after consultation with the municipality or community board, it determines that granting such certificate of registration would be in the public interest. Before it may issue any such certificate of registration, the commissioner or their designee shall conduct a hearing in accordance with section three hundred ninety-eight-f of this article and with regulations promulgated by the commissioner, upon notice to the applicant and the municipality or community board, and shall state and file in their office their reasons therefor. The hearing may be rescheduled, adjourned or continued, and the commissioner or their designee shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing.

(b) Before the commissioner or their designee issues any certificate of registration, the commissioner or their designee may, in addition to the hearing required by this subdivision, also conduct a public meeting regarding such certificate of registration, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the commissioner or their

designee shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed or electronically mailed by the commissioner or their designee to such municipality or community board at least ten business days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the commissioner or their designee, any municipality or community board may waive the ten business day notice requirement.

§ 4. The vehicle and traffic law is amended by adding a new section 398-j to read as follows:

§ 398-j. Notification to municipalities. 1. Not less than forty-five days before filing for an application for a certificate of registration or renewal of a certificate of registration an applicant shall notify the municipality in which the premises is located of such applicant's intent to file such an application with certified mail or electronic mail.

2. Such notification shall be made to the clerk of the village, town or city, as the case may be, wherein the premises is located. For purposes of this section:

(a) notification need only be given to the clerk of a village when the premises is located within the boundaries of the village; and

(b) in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given.

3. The commissioner shall require such notification to be on a standardized form that can be obtained on the internet or from the department and such notification to include:

(a) the trade name or "doing business as" name, if any, of the motor vehicle repair shop;

(b) the full name of the applicant;

(c) the street address of the motor vehicle repair shop, including the floor location or room number, if applicable;

(d) the mailing address of the motor vehicle repair shop, if different than the street address;

(e) the name, address and telephone number of the attorney or representative of the applicant, if any;

(f) a statement indicating whether the application is for:

(i) a new motor vehicle repair shop;

(ii) a transfer of an existing licensed business; or

(iii) a renewal of an existing certificate of registration;

(g) if the motor vehicle repair shop is a transfer or previously registered motor vehicle repair shop, the name of the old motor vehicle repair shop and a copy of such motor vehicle repair shop's certificate of registration number; and

(h) in the case of a renewal, a copy of the certificate of registration of the applicant.

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.