

New York City Department of Consumer Affairs

Notice of Adoption

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs (“the Department”) by section 2203(f) of the New York City Charter and section 20-546 of the New York City Administrative Code, and in accordance with the requirements of section 1043 of the New York City Charter, that the Department amends title 6 of the Rules of the City of New York.

This rule was proposed and published on October 23, 2019. A public hearing was held on November 22, 2019.

Statement of Basis and Purpose of Rule

The Department is amending title 6 of the Rules of the City of New York to clarify that mobile car wash services are subject to the license requirement for operating a car wash service. The rule sets specific application requirements for mobile car wash services as well as obligations to display licenses and keep certain records related to vehicles used for mobile car wash services. The rule also sets penalties for failure to provide the Department with updated information concerning vehicles used for mobile car wash services and failure to display the car wash license in vehicles used for mobile car wash services when the mobile car wash is in service.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Rule Amendment

Section 1. Paragraph 1 of Subdivision a of Section 2-431 of Subchapter HH of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-431 Insurance.

(a) *Liability insurance.*

(1) Every licensee must secure and maintain throughout the term of the license commercial general liability (“CGL”) insurance which [shall] must:

(i) be issued by a company that may lawfully issue the CGL policy and which has an A.M. Best rating of at least A-/VII or a Standard & Poor's rating of at least A;

(ii) insure both the licensee and the City of New York and protect the City of New York from any claims for injury (including death) or property damage that may arise from, or allegedly arises from, the construction, operation or use of the car wash;

(iii) provide coverage of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate; [and]

(iv) provide coverage at least as broad as that provided in the most recently issued edition of Insurance Services Office ("ISO") Form CG 0001 and be "occurrence" based instead of "claims made"; and

(v) name the City of New York as an additional insured with coverage at least as broad as the most recent edition of ISO Forms CG 20 12 or CG 20 26.

§ 2. Subdivision a of Section 2-433 of Subchapter HH of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-433 Damage Complaint Records.

(a) *Chronological complaint log.* Each licensee must maintain a chronological log in an electronic format documenting complaints of damage to vehicles. The log must contain the following information where applicable:

- (1) Date of complaint;
- (2) Date licensee received complaint;
- (3) Name, address, phone number and email address of individual or entity making the complaint;
- (4) Make and model number of vehicle;
- (5) Date licensee washed vehicle;
- (6) Description of complaint;
- (7) Whether individual or entity making complaint provided photos or other documents;
- (8) Resolution of complaint, including amount of compensation and method of payment;
- (9) Name and address of insurance company or third party involved in resolution, if any, and claim number;
- (10) Date of resolution; [and]
- (11) Employee or manager who handled the complaint;
- (12) License plate number of vehicle(s) used to provide Mobile Car Wash Services that are the subject of the complaint; and
- (13) Name of operator of vehicle used to provide Mobile Car Wash Services that are the subject of the complaint.

§ 3. Subchapter HH of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new Section 2-434 to read as follows:

§ 2-434 Additional Provisions Regarding Mobile Car Washes.

(a) Definitions.

Mobile Car Wash Services. The term "Mobile Car Wash Services" means any car washing services that are performed at a place other than the fixed business address of the car wash.

Mobile Car Wash. The term "Mobile Car Wash" means any individual, group of individuals, or business that provides Mobile Car Wash Services.

(b) License required. Each Mobile Car Wash is required to be licensed.

(c) Additional application requirements for Mobile Car Washes.

(1) In addition to the information and documentation required by § 20-541(d) of the Administrative Code, Mobile Car Wash applicants for a license required by this section must submit the following:

(i) The make, model, and license plate number of each vehicle used by the applicant for Mobile Car Wash Services;

(ii) Certification that all such vehicles are in compliance with all applicable laws and rules; and

(iii) Certification that all operators of such vehicles are legally allowed to operate them.

(2) An application for the renewal of a license granted pursuant to this section must include up-to-date information regarding the make, model, and license plate number of each vehicle used by the applicant for Mobile Car Wash Services.

(d) Display of license. Licensees must conspicuously display the license or a copy of the license in every vehicle used to provide Mobile Car Wash Services while such services are being provided. The license or copy of the license must be easily visible from the outside of the vehicle through either its back window or front windshield.

§ 4. Subchapter HH of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new Section 2-435 to read as follows:

§ 2-435 Application of this Subchapter.

Unless otherwise specified, the requirements of this subchapter apply with equal force to mobile car washes and car washes operating in a fixed location.

§ 5. Section 6-67 of Chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-67 Car Washes Penalty Schedule.

All citations are to Title 20 of the Administrative Code of the City of New York or Title 6 of the Rules of the City of New York.

Unless otherwise specified, the penalties set forth for each section of law or rule shall also apply to all subdivisions, paragraphs, subparagraphs, clauses, items, or any other provision contained therein. Each subdivision, paragraph, subparagraph, clause, item, or other provision charged in the Notice of Violation shall constitute a separate violation of the law or rule.

In certain cases, the Department may ask for license suspension or revocation, as permitted by statute. If a respondent is found in violation of multiple provisions that require a suspension period, the suspension periods shall run concurrently.

Unless otherwise specified by law, a second or third or subsequent violation means a violation by the same respondent, whether by pleading guilty, being found guilty in a decision, or entering into a settlement agreement for violating the same provision of law or rule, within two years of the prior violation(s).

The parties shall be authorized to present evidence to mitigate the license revocation or suspension period within the date range marked by two asterisks (**).

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
Admin Code § 20-541(a)	Operating as a car wash without a license	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-542	Failure to comply with requirements pertaining to surety bonds	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-544	Failure to comply with requirements pertaining to records, or make records available for inspection	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
Admin Code § 20-545(c)	Knowingly submits false information as part of license application or in response to other request for information	\$750 (plus 0 to 15 day suspension)**	\$1,000 (plus 15 day suspension)	\$900 (plus 0 to 30 day suspension)**	\$1,000 (plus 30 day suspension)	\$1,000 (plus revocation)	\$1,000 (plus revocation)
6 RCNY § 2-431(a)	Failure to comply with requirements pertaining to liability insurance	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-431(b)	Failure to comply with requirements pertaining to workers' compensation insurance	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-431(c)	Failure to comply with requirements pertaining to disability benefits insurance	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-	Failure to comply with requirements	\$375 (plus 0 to 15 day	\$500 (plus 15 day	\$450 (plus 0 to 30 day	\$500 (plus 30 day	\$500 (plus revocation)**	\$500 (plus revocation)

431(d)	pertaining to unemployment insurance	suspension)**	suspension)	suspension)**	suspension)		
6 RCNY § 2-431(e)	Failure to notify DCA of insurance cancellation or termination	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-431(f)	Failure to furnish proof of continued coverage and/or copy of required policy upon request	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-432, except for 6 RCNY § 2-432(e)	Failure to comply with requirements pertaining to surety bonds	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-432(e)	Failure to maintain surety bond in amount required throughout license term	\$375 (plus 0 to 15 day suspension)**	\$500 (plus 15 day suspension)	\$450 (plus 0 to 30 day suspension)**	\$500 (plus 30 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-433	Failure to comply with requirements pertaining to damage complaint records	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-434(c)	<u>Failure to comply with requirements pertaining to providing updated information to the Department concerning vehicles used for mobile car wash services</u>	<u>\$375 (plus 0 to 15 day suspension)**</u>	<u>\$500 (plus 15 day suspension)</u>	<u>\$450 (plus 0 to 30 day suspension)**</u>	<u>\$500 (plus 30 day suspension)</u>	<u>\$500 (plus revocation)**</u>	<u>\$500 (plus revocation)</u>
6 RCNY § 2-434(d)	<u>Failure to comply with requirements to display license in vehicle used for mobile car wash services</u>	<u>\$375</u>	<u>\$500</u>	<u>\$450</u>	<u>\$500</u>	<u>\$500</u>	<u>\$500</u>