

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer Affairs (“DCA” or “Department”) is proposing to add a new rule requiring ticket sellers to disclose on tickets for trips to the Statue of Liberty that the trip cannot land at Ellis Island. Additionally, the Department is proposing a new rule that would prohibit ticket sellers from representing that a tour or trip includes any destination the tour or trip does not include or that consumers must pay for a tour or trip that can otherwise be taken for free.

When and where is the hearing? DCA will hold a public hearing on the proposed rule. The public hearing will take place at 10:30 AM on Monday, September 16, 2019. The hearing will be in the DCA hearing room at 42 Broadway, 5th Floor, New York, NY 10004.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DCA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **Mail.** You can mail comments to Carlos Ortiz, Director of Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway, 8th Floor, New York, NY 10004.
- **Fax.** You can fax written comments to the Department of Consumer Affairs, (646) 500-5962.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 436-0345. You can also sign up in the hearing room before the hearing begins at 10:30 AM on Monday, September 16, 2019. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before 5:00 PM on Monday, September 16, 2019.

What if I need assistance to participate in the hearing? You must tell DCA’s External Affairs division if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0345. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 5:00 PM on Wednesday, September 12, 2019.

This location has the following accessibility option(s) available: wheelchair accessible.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, all comments received by DCA on the proposed rule will be made available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What authorizes DCA to make this rule? Sections 1043 and 2203(f) of the New York City Charter, and Sections 20-104(b), 20-558, and 20-702 of the New York City Administrative Code authorize the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in the Department of Consumer Affairs’ regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find DCA's rules? The Department's rules are in Title 6 of the Rules of the City of New York.

What laws govern the rulemaking process? DCA must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Consumer Affairs (“DCA” or “Department”) is proposing to add a new rule requiring ticket sellers to disclose on tickets for trips to the Statue of Liberty that the trip will not land at Ellis Island. Additionally, the Department is proposing a new rule that would prohibit ticket sellers from representing that a tour or trip includes any destination the tour or trip does not include or that consumers must pay for a tour or trip that can otherwise be taken for free.

The Department has learned of ticket sellers misrepresenting to consumers that a trip to the Statue of Liberty will also stop at Ellis Island when the trip has no intent to do so. A disclosure on tickets for trips to the Statue of Liberty will ensure that consumers receive proper information about the trip destination. Likewise, the Department has learned of ticket sellers misrepresenting the destination of trips and selling tickets for trips that are otherwise free, such as the Staten Island Ferry. This conduct is deceptive and harmful to consumers.

Finally, the Department is proposing to add entries to the penalty schedule for ticket sellers in Chapter 6 of Title 6 of the Rules of the City of New York for these new proposed rules. Penalties for violations would be based on Section 20-559 of the New York City Administrative Code.

Sections 1043 and 2203(f) of the New York City Charter, and Sections 20-104(b), 20-558, and 20-702 of the New York City Administrative Code authorize the Department of Consumer Affairs to make these proposed rules.

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.

Proposed Rule Amendments

Section 1. Subchapter II of Chapter 2 of Title 6 of the Rules of the City of New York is amended to add the following:

§ 2-442 Required Disclosure. A ticket seller must not vend or possess any tickets for a trip or tour to the Statue of Liberty unless the ticket contains the following disclosure, printed so as to be legible to the consumer: “This trip or tour does not land at Ellis Island.” This subdivision does not apply if the trip or tour does land at Ellis Island.

§ 2-443 Restrictions on Ticket Sellers.

(a) A ticket seller must not represent or imply that a trip or tour includes any destination that will not be included in the trip or tour.

(b) A ticket seller must not represent or imply that a consumer must pay for any trip or tour that the consumer could otherwise obtain for free, including, but not limited to, the Staten Island Ferry.

§ 2. Section 6-66 of Subchapter B of Chapter 6 of Title 6 of the Rules of the City of New York is amended as follows:

§ 6-66 Ticket Sellers 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, third, fourth 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 Violation	Third Default	Fourth and Subsequent Violation	Fourth and Subsequent Default
Admin Code § 20-551(a)(1)	Vending without a ticket seller license	\$50	\$50	\$100	\$100	\$250	\$250	\$500	\$500
Admin Code § 20-551(a)(2)	Knowingly selling, giving, or transferring, for vending, tickets to an unlicensed ticket seller	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500
Admin Code § 20-551(d)	Improper transfer of license	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500
Admin Code § 20-551(f)	Failure to notify DCA within 10 days of changes to application	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500
Admin Code § 20-554	Failure to comply with requirements pertaining to display of license and required apparel	\$38	\$50	\$90	\$100	\$250 (plus 0 to 15 day suspension)**	\$250 (plus 15 day suspension)	\$500 (plus revocation)**	\$500 (plus revocation)
Admin Code § 20-555	Failure to comply with requirements pertaining to duties of ticket sellers regarding written records and inspections	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500
Admin Code § 20-556(a)	Vending aggressively	\$38 (plus 0 to 15 day suspension)**	\$50 (plus 15 day suspension)	\$90 (plus 0 to 30 day suspension)**	\$100 (plus 30 day suspension)	\$250 (plus revocation)**	\$250 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)
Admin Code § 20-556(b)	Failure to comply with restrictions pertaining to vending within a bus stop	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500
Admin Code	Failure to comply with restrictions pertaining to	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500

§ 20-556(c)	vending within a taxi stand									
Admin Code § 20-556(d)	Failure to comply with restrictions pertaining to vending in the bed of a road or vending in a manner that restricts a clear passageway for pedestrians or vehicles	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
Admin Code § 20-556(e)	Failure to comply with DOT rules pertaining to vending in a pedestrian plaza	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
Admin Code § 20-556(f)	Failure to comply with restrictions pertaining to vending on a median strip of a divided roadway	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
Admin Code § 20-556(g)	Failure to comply with restrictions pertaining to vending in areas under Parks jurisdiction or control	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
Admin Code § 20-556(h)	Failure to comply with restrictions pertaining to vending in the area bounded by Broadway, Liberty, West and Vesey Streets	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
Admin Code § 20-556(i)	Failure to obey notice to temporarily move and/or stop vending at a location due to exigent circumstances	\$38 (plus 0 to 15 day suspension)**	\$50 (plus 15 day suspension)	\$90 (plus 0 to 30 day suspension)**	\$100 (plus 30 day suspension)	\$250 (plus revocation)**	\$250 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	
Admin Code § 20-556(j)	Failure to comply with restrictions pertaining to use of equipment, stands, vehicles, racks, or displays	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
Admin Code § 20-556(k)	Making fraudulent, misrepresentative, or false statements in connection with vending	\$38 (plus 0 to 15 day suspension)**	\$50 (plus 15 day suspension)	\$90 (plus 0 to 30 day suspension)**	\$100 (plus 30 day suspension)	\$250 (plus revocation)**	\$250 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	
6 RCNY § 2-441	Failure to comply with requirements pertaining to records	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
6 RCNY § 2-442	Failure to provide required disclosure	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	
6 RCNY § 2-443	Failure to comply with restrictions	\$38	\$50	\$90	\$100	\$250	\$250	\$500	\$500	

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Ticket Sellers Rules

REFERENCE NUMBER: 2019 RG 43

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose;
and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: August 7, 2019

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Ticket Sellers Rules

REFERENCE NUMBER: DCA-95

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because a cure period is not practicable under the circumstances.

Aaron Strauss
Mayor's Office of Operations

August 8th, 2019
Date