

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Consumer Affairs (DCA) is proposing to amend Chapter 6 of Title 6 of the Rules of the City of New York by clarifying the Commissioner's enforcement powers after notice and hearing with respect to unlicensed activities and authority to seal a premise. The proposed rules also seek to amend the fixed penalties for violations of the consumer protection and public safety laws and establish additional fixed penalties for violations of laws and rules related to dealers of second-hand articles, debt collection agencies, carpet volatile organic compound (VOC) emissions, air conditioning, and pregnancy services centers.

When and where is the Hearing? DCA will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on Monday, June 26. The hearing will be in the Department of Consumer Affairs hearing room at 42 Broadway, 5th Floor, New York, NY 10004.

This location has the following accessibility option(s) available: Hearing room at 42 Broadway, 5th Floor, New York, NY 10004 is wheelchair accessible.

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

- **Website.** You can submit comments to DCA through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rulecomments@dca.nyc.gov.
- **Mail.** You can mail written comments to Casey Adams, Deputy Director of City Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway, New York, NY 10004.
- **Fax.** You can fax written comments to the Department of Consumer Affairs, at (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) 436-0095. You can also sign up in the hearing room before the hearing begins on Monday, June 26. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes. You must submit any written comments to the proposed rule by 5 PM on Monday, June 26.

Do you need assistance to participate in the hearing? You must tell the Office of Legislative Affairs 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) 436-0095. You must tell us by Friday, June 23.

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, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Department of Consumer Affairs to make this rule? Sections 1043, 2203(f), and 2203(h)(1) of the City Charter, Executive Order No. 18, and Sections 17-1409, 20-104, 20-105, 20-271(d), 20-275(b), 20-494, 20-703(a), 20-818(a), 20-818(b), and 20-910(e) of the Administrative Code of the City of New York authorize the Commissioner of DCA to make this proposed rule. This proposed rule was not included in the regulatory agenda of DCA for this Fiscal Year because it was not contemplated when DCA published the agenda.

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

What rules 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(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rules

Chapter 6 of Title 6 of the Rules of the City of New York contains the rules implementing Executive Order No. 18, dated June 23, 2016, which transferred DCA's adjudicatory responsibilities to the Office of Administrative Trials and Hearings (OATH). The rules provide guidance to those who want to settle their violations before appearing at OATH, including by setting fixed penalties for violations issued by the Department.

The proposed rules seek to provide additional guidance by clarifying the Commissioner's enforcement powers with respect to unlicensed activities and authority to seal premises under the Administrative Code of the City of New York and any other city, state or federal law

conferring such power upon the Commissioner. The proposed rules also seek to clarify that if a penalty is not specifically provided for a violation of law or rule that is within DCA's jurisdiction to enforce, Section 2203(h)(1), which authorizes DCA to impose civil penalties up to \$500, will apply. The proposed rules also seek to amend the fixed penalties for violations of the consumer protection and public safety laws and establish additional fixed penalties for violations of laws and rules related to dealers in second-hand articles, debt collection agencies, carpet VOC emissions, air conditioning, and pregnancy services centers.

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 agency, unless otherwise specified or unless the context clearly indicates otherwise.

Proposed Rules

Section 1. Sections 6-01, 6-11, 6-10, 6-19, 6-47, and 6-61 of chapter 6 of title 6 of the Rules of the City of New York are amended to read as follows:

§ 6-01. Delegation of Authority

- (a) Except as otherwise provided in this subchapter, the adjudicatory powers granted to the Commissioner of the Department of Consumer Affairs (“Commissioner”) under the Administrative Code of the City of New York (“Administrative Code”) and New York State law to conduct hearings, issue decisions, impose fines and civil penalties, and order any other relief are hereby delegated to the Office of Administrative Trials and Hearings (“OATH”).
- (b) Nothing in this rule shall prohibit the Commissioner from exercising powers [that] conferred upon the Commissioner [may invoke without an adjudication], including, but not limited to:
 - (1) the power to suspend a license, without an adjudication, pursuant to Administrative Code § 20-104(e)(3);
 - (2) the powers with respect to unlicensed activities pursuant to subdivisions (b)(2), (b)(3), and (b)(4) of Administrative Code § 20-105; and

(3) the power to order that a premises be sealed under the Administrative Code or any other city, state or federal law conferring such power upon the Commissioner.

§ 6-10. Compliance with New York City Charter

Pursuant to New York City Charter § 2203(h)(1), except to the extent that dollar limits are otherwise specifically provided, civil penalties shall apply and not exceed five hundred dollars for each violation of any laws or rules the enforcement of which is within the jurisdiction of the Department pursuant to the New York City Charter, Administrative Code or any other general, special or local law. The remedies and penalties provided for in this subchapter shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

§ 6-11. License Enforcement 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.

For the fine amounts marked by a single asterisk, if the respondent timely submits the appropriate proof of having cured a first-time violation, the respondent will not be subject to a civil penalty pursuant to Local Law 153 of 2013.

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).

| Citation | Violation Description | First Violation | First Default | Second Violation | Second Default | Third and Subsequent Violation | Third and Subsequent Default |
|---------------------|---|------------------------|----------------------|-------------------------|-----------------------|---------------------------------------|-------------------------------------|
| Admin Code § 20-109 | Improper license transfer | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-110 | Failure to obtain DCA approval of change of corporate ownership | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |

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| Admin Code § 20-111 | Failure to obtain DCA approval of change in a partnership | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-112 | Failure to comply with licensee address requirements | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-113 | Failure to comply with trade name requirements | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-114 | Failure to comply with inspection and license display requirements | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-03(a) | Failure to post the license and complaint sign | \$375* | \$500* | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-03(b) | Failure to post the sidewalk café license and complaint sign | \$375* | \$500* | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-05 | Failure to contain license number in advertisements and other printed matter | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| <u>6 RCNY § 1-13</u> | <u>Failure to comply with requirements related to responding to a consumer's complaint</u> | <u>\$375</u> | <u>\$500</u> | <u>\$450</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> |

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| 6 RCNY § 1-14 | Failure to appear to answer a Notice of Hearing or respond to Subpoena Duces Tecum | \$375 | \$375 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-15 | Failure to satisfy judgment | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-16 | Failure to comply with record and business premise inspection requirements | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-17 | Improper wearing of badge | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 1-18 | Failure to surrender identification documents issued by the department | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |

§ 6-19. Dealers in Second-Hand Articles 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.

For the fine amounts marked by a single asterisk, if the respondent timely submits the appropriate proof of having cured a first-time violation, the respondent will not be subject to a civil penalty pursuant to Local Law 153 of 2013.

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).

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.

| Citation | Violation Description | First Violation | First Default | Second Violation | Second Default | Third and Subsequent Violation | Third and Subsequent Default |
|---------------------|---|------------------------|----------------------|-------------------------|-----------------------|---------------------------------------|-------------------------------------|
| Admin Code § 20-265 | Operating as a second hand dealer without a license | \$100 per day | \$100 per day | \$100 per day | \$100 per day | \$100 per day | \$100 per day |
| Admin Code § 20-267 | Failure to report required records to police commissioner | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |

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| Admin Code § 20-268 | Failure to comply with specified restrictions pertaining to second hand dealers | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-270 | Failure to comply with signage requirements | \$375* | \$500* | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-271(a) | <u>Failure to label second-hand articles as not new</u> [Failure to comply with labeling requirements] | \$375* | \$500* | \$450 | \$500 | \$500 | \$500 |
| <u>Admin Code § 20-271(b)</u> | <u>Failure of dealer in second-hand automobiles to clearly and conspicuously post price of second-hand automobile or prices for add-on products</u> | <u>\$500</u> | <u>\$500</u> | <u>\$750</u> | <u>\$750</u> | <u>\$1000</u> | <u>\$1000</u> |
| Admin Code § 20-272 | Failure to comply with requirements pertaining to lost or stolen property | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| Admin Code § 20-273 | Failure to <u>comply with requirements pertaining to</u> [maintain] record of purchases and sales | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-101 | Failure to verify and record identity of persons who sell to second-hand dealers | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |

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| 6 RCNY § 2-102 | Failure to comply with requirements pertaining to sale of second-hand furniture | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(a) | Failure to maintain documents recording transfer of title in sale of second-hand automobile | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(b) | Failure to comply with requirements pertaining to deferred payment, collateral and financing terms in sale of second-hand automobile | \$500 | \$500 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(c) | Covering or concealing of motor or serial number in sale of second-hand automobile or motorcycle | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(d) | Failure of dealer in second-hand automobiles to meet deferred payment commitments in purchase of second-hand automobile from private person | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(e) | Improper statements, representations, promises or acts by dealer in second-hand automobiles or agents | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(f) | Failure of dealer in second-hand automobiles to disclose all terms of undertaking or agreement with purchaser | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |

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| 6 RCNY § 2-103(g)(1)(i) | Sale of second-hand automobile not inspected and certified in accordance with Vehicle and Traffic Law | \$500 | \$500 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(g)(1)(ii) | Failure to provide required Notice to Buyer with contract for sale of second-hand automobile | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(g)(1)(iii) | Contract for sale of second-hand automobile containing prohibited limitations | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(g)(1)(iv) | Failure of dealer in second-hand automobiles to submit form contracts with license application | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(g)(1)(v) | Failure of dealer in second-hand automobiles to display required sign at place of business | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(g)(2) | Misrepresentation of vehicle mileage | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(h) | Failure of dealer in second hand automobiles to investigate previous use of vehicle or to maintain record of vehicle's previous use and odometer reading | \$500 | \$500 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(i) | Sale of second-hand automobile at price other than advertised | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |

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| 6 RCNY § 2-103(j) | Sale of second-hand automobile from licensed place of business by any person other than licensed dealer in second-hand automobiles | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(k)(1) | Improperly accepting deposit in sale of second hand automobile | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(k)(2) | Deposit receipt fails to contain required information | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(k)(3) | Failure to keep proper record of deposits in sales of second hand automobiles | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(l)(1) | Failure of dealer in second hand automobiles to keep proper records of income and expenses | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| 6 RCNY § 2-103(l)(2) | Failure of dealer in second hand automobiles to maintain proper record of cash receipts and cash disbursements | \$375 | \$500 | \$450 | \$500 | \$500 | \$500 |
| <u>6 RCNY § 2-103(m)(2)</u> | <u>Dealer in second-hand automobiles parking or allowing automobiles to encroach on a sidewalk or other public space</u> | <u>\$375</u> | <u>\$500</u> | <u>\$450</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> |
| <u>6 RCNY § 2-105(a)</u> | <u>Failure to label second-hand articles as not new</u> | <u>\$375*</u> | <u>\$500*</u> | <u>\$450</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> |
| <u>6 RCNY § 2-105(b)</u> | <u>Failure of dealer in second-hand automobiles to post price of</u> | <u>\$375</u> | <u>\$500</u> | <u>\$675</u> | <u>\$750</u> | <u>\$1000</u> | <u>\$1000</u> |

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| | <u>second-hand automobile according to required specifications</u> | | | | | | |
| <u>6 RCNY § 2-105(c)</u> | <u>Failure of dealer in second-hand automobiles to post price of add-on products according to required specifications</u> | <u>\$375</u> | <u>\$500</u> | <u>\$675</u> | <u>\$750</u> | <u>\$1000</u> | <u>\$1000</u> |

§ 6-47. Consumer Protection Law 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.

For the fine amounts marked by a single asterisk, if the respondent timely submits the appropriate proof of having cured a first-time violation, the respondent will not be subject to a civil penalty pursuant to Local Law 153 of 2013.

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).

| Citation | Violation Description | First Violation | First Default | Second Violation | Second Default | Third and Subsequent Violation | Third and Subsequent Default |
|---------------------|--|-----------------|---------------|------------------|----------------|--------------------------------|------------------------------|
| Admin Code § 20-700 | Engaged in an unlawful deceptive or unconscionable trade practice | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-23 | Failure to meet the requirement(s) for layaway plans | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-24 | Failure to meet requirement(s) for credit card limitations | \$260* | \$350* | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-32 | Failure to meet the requirement(s) for documentation of transactions | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-36 | Failure to meet the requirement(s) for sale of used items | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-37 | Failure to comply with disclosure of refund policy requirements | \$260* | \$350* | \$315 | \$350 | \$350 | \$350 |

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| 6 RCNY § 5-39 | Failure to meet the requirements for cancellation of home appointment | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-40 | Improper limit or disclaimer of liability for negligence | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-40(e) | Improper posting of sign that business is not liable for negligence | \$260* | \$350* | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-46 | Failure to meet the requirement(s) for a car rental business | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-46(d) | Failure to post notice of consumer protection law | \$260* | \$350* | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-47 | Failure to meet the requirement(s) for jewelry sellers and appraisers | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-51 | Failure to meet the requirement(s) for retail sale of gasoline | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-54 | Failure to meet the requirement(s) for repairs of consumer goods | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-55 | Failure to meet the requirement(s) for meat and poultry advertising | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-56 | Failure to meet the requirement(s) for window gates | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-57 | Failure to meet the requirement(s) for utility bill payments | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-58 | Improper offer of sale of food in damaged containers | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-59 | Improper imposition of restaurant surcharges | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-60 | Failure to meet the requirement(s) for franchises | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-61 | Failure to meet the requirement(s) for public performance seats | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |

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| 6 RCNY § 5-63 | Failure to meet the requirement(s) for catering contracts | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-68 | Failure to meet the requirements for dealers at flea markets | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-69 | Failure to meet the requirements of blood pressure reading services | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-70 | Failure to meet the requirements for retail service establishments | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |
| 6 RCNY § 5-73 | Failure to meet the requirement(s) for the sale of box cutters | \$350 | \$350 | [\$315] <u>\$350</u> | \$350 | \$350 | \$350 |
| 6 RCNY § 5-75 | Failure to post the Buyer's Guide when selling or offering to sell any used automobile | \$260 | \$350 | \$315 | \$350 | \$350 | \$350 |

§ 6-61. Public Safety Penalty Schedule

All citations are to Title 10 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.

Unless otherwise specified by law, a second or third or subsequent violation shall mean 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 premise sealing 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 § 10-131(g) | Unlawful sale of a toy or imitation firearm | \$5,000 | \$5,000 | \$8,000 | \$8,000 | \$8,000 (plus 0 to 5 day sealing)** | \$8,000 (plus 5 day sealing) |
| NYC Admin Code § 10-160(b) | Failure to comply with required security measures at ATM facilities | \$250 | \$250 | \$250 | \$250 | \$250 | \$250 |
| Admin Code § 10-134.2 | Failure to comply with the requirements pertaining to the sale of laser pointers | \$300 | \$300 | \$500 | \$500 | \$1,000 | \$1,000 |
| 6 RCNY § 4-10 | Improper sign content regarding laser pointers | \$300 | \$300 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 4-11 | Improper size of sign regarding laser pointers | \$300 | \$300 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 4-12 | Improper posting of sign regarding laser pointers | \$300 | \$300 | \$500 | \$500 | \$500 | \$500 |
| 6 RCNY § 4-15 | Improper number of signs regarding laser pointers | \$300 | \$300 | \$500 | \$500 | \$500 | \$500 |

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| 6 RCNY § 4-16 | Sign not in required language | \$300 | \$300 | \$500 | \$500 | \$500 | \$500 |
| [6 RCNY § 5-73 | Failure to comply with requirements pertaining to the sale of box cutters | \$350 | \$350 | \$500 | \$500 | \$500 | \$500] |

§2. Chapter 6 of title 6 of the Rules of the City of New York is amended by adding new sections 6-62, 6-63, 6-64, and 6-65 to read as follows:

§ 6-62. Debt Collection Agency 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.

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).

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.

| <u>Citation</u> | <u>Violation Description</u> | <u>First Violation</u> | <u>First Default</u> | <u>Second Violation</u> | <u>Second Default</u> | <u>Third and Subsequent Violation</u> | <u>Third and Subsequent Default</u> |
|------------------------------------|---|--|---|---|---|---|---|
| <u>Admin Code § 20-490</u> | <u>Acting as a debt collection agency without a DCA license</u> | <u>\$750, plus \$100 per day & \$100 per instance of contact</u> | <u>\$1,000, plus \$100 per day, & \$100 per instance of contact</u> | <u>\$900, plus \$100 per day, & \$100 per instance of contact</u> | <u>\$1,000, plus \$100 per day, & \$100 per instance of contact</u> | <u>\$1,000, plus \$100 per day, & \$100 per instance of contact</u> | <u>\$1,000, plus \$100 per day, & \$100 per instance of contact</u> |
| <u>Admin Code § 20-493.1(a)(i)</u> | <u>Failure to provide a call back number answered by a natural person</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |

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|--------------------------------------|--|--------------|----------------|--------------|----------------|----------------|----------------|
| <u>Admin Code § 20-493.1(a)(ii)</u> | <u>Failure to provide the name of the debt collection agency</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-493.1(a)(iii)</u> | <u>Failure to provide the originating creditor of the debt</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-493.1(a)(iv)</u> | <u>Failure to provide the name of the person to call back</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-493.1(a)(v)</u> | <u>Failure to provide the amount of the debt at the time of communication</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-493.1(b)</u> | <u>Failure to provide written confirmation to the consumer within 5 business days of any debt payment schedule or settlement agreement</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-493.2(a)</u> | <u>Attempting to collect or contact a consumer about a debt after failing to provide adequate verification of the debt upon request</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-493.2(b)</u> | <u>Contacting a consumer about a debt for which the statute of limitations has expired without first providing required notice</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>6 RCNY § 2-190</u> | <u>Failure to provide specified written documentation verifying the debt</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |

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| <u>6 RCNY § 2-191</u> | <u>Failure to provide specified statute of limitations disclosure regarding the debt</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>6 RCNY § 2-192</u> | <u>Failure to provide specified written confirmation of the debt payment schedule or settlement agreement</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>6 RCNY § 2-193</u> | <u>Failure to comply with debt collection agency record-maintenance requirements</u> | <u>\$375</u> | <u>\$500</u> | <u>\$450</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> |
| <u>6 RCNY § 2-194</u> | <u>Failure to comply with call-back number requirements</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>6 RCNY § 5-77(a)</u> | <u>Failure to comply with requirements pertaining to acquisition of location information</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |
| <u>6 RCNY § 5-77(b)</u> | <u>Failure to comply with requirements pertaining to communicating in connection with the collection of a debt</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |
| <u>6 RCNY § 5-77(c)</u> | <u>Engaging in harassment or abuse in connection with the collection of a debt</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |
| <u>6 RCNY § 5-77(d)</u> | <u>Making a false, deceptive, or misleading representation in connection with the collection of a debt</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |

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| <u>6 RCNY § 5-77(e)</u> | <u>Using an unfair or unconscionable means to collect or attempt to collect a debt</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |
| <u>6 RCNY § 5-77(f)</u> | <u>Failure to comply with the validation procedures for debt collectors who are creditors or who are employed by creditors</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |
| <u>6 RCNY § 5-78</u> | <u>Designing, compiling, or furnishing a form to create false consumer belief that a third party is participating in the collection of a debt</u> | <u>\$260</u> | <u>\$350</u> | <u>\$315</u> | <u>\$350</u> | <u>\$350</u> | <u>\$350</u> |

§ 6-63. Air Conditioning System Penalty Schedule

All citations are to Title 20 of the Administrative Code 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.

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).

| <u>Citation</u> | <u>Violation Description</u> | <u>First Violation</u> | <u>First Default</u> | <u>Second Violation</u> | <u>Second Default</u> | <u>Third and Subsequent Violation</u> | <u>Third and Subsequent Default</u> |
|-------------------------------|--|------------------------|----------------------|-------------------------|-----------------------|---------------------------------------|-------------------------------------|
| <u>Admin Code § 20-910(b)</u> | <u>Business keeps door or window open while using air conditioner to cool the area adjacent to the door or window</u> | <u>\$250</u> | <u>\$250</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> |
| <u>Admin Code § 20-910(b)</u> | <u>Chain store keeps door or window open while using air conditioner to cool the area adjacent to the door or window</u> | <u>\$500</u> | <u>\$500</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |
| <u>Admin Code § 20-910(f)</u> | <u>Failure to post open door or window complaint sign</u> | <u>\$375</u> | <u>\$500</u> | <u>\$450</u> | <u>\$500</u> | <u>\$500</u> | <u>\$500</u> |

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| | <u>or not provided in written form</u> | | | | | | |
| <u>24 RCNY 30-03(c)</u> | <u>Required documentation establishing compliance with volatile organic compound (VOC) standards not provided within three (3) business days of request</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> |
| <u>24 RCNY 30-03(d)</u> | <u>Required receipt not provided to consumer or required receipt does not meet specifications</u> | <u>\$150</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> |
| <u>24 RCNY 30-04(a)</u> | <u>Posted sign does not meet required specifications</u> | <u>\$150</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> |
| <u>24 RCNY 30-04(b)</u> | <u>Notice text does not conform to wording requirement</u> | <u>\$150</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> |

§ 6-65. Pregnancy Services Centers 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.

Unless otherwise specified by law, a second or third or subsequent violation shall mean 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 premise sealing period within the date range marked by two asterisks (**).

| <u>Citation</u> | <u>Violation Description</u> | <u>First Violation</u> | <u>First Default</u> | <u>Second Violation</u> | <u>Second Default</u> | <u>Third and Subsequent Violation</u> | <u>Third and Subsequent Default</u> |
|----------------------------------|---|-------------------------------|-----------------------------|--------------------------------|------------------------------|--|--|
| <u>Admin Code § 20-817</u> | <u>Failure to comply with requirements pertaining to confidentiality of health and personal information</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$2,250</u> | <u>\$2,500</u> | <u>\$2,500</u> | <u>\$2,500</u> |
| <u>Admin Code § 20-818(b)(5)</u> | <u>Sealing order mutilated or removed</u> | <u>\$187</u> | <u>\$250</u> | <u>\$225</u> | <u>\$250</u> | <u>\$250</u> | <u>\$250</u> |
| <u>Admin Code § 20-818(b)(5)</u> | <u>Intentional disobedience or resistance to sealing order</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$900</u> | <u>\$1,000</u> | <u>\$1,000</u> | <u>\$1,000</u> |

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|-----------------------|--|--------------|----------------|----------------|----------------|--|-------------------------------------|
| <u>6 RCNY § 5-268</u> | <u>Failure to comply with requirements pertaining to displaying disclosure signs</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$2,250</u> | <u>\$2,500</u> | <u>\$2,500 (plus 0 to 5 day sealing)**</u> | <u>\$2,500 (plus 5 day sealing)</u> |
| <u>6 RCNY §5-269</u> | <u>Failure to comply with requirements pertaining to disclosures in advertising</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$2,250</u> | <u>\$2,500</u> | <u>\$2,500 (plus 0 to 5 day sealing)**</u> | <u>\$2,500 (plus 5 day sealing)</u> |
| <u>6 RCNY § 5-270</u> | <u>Failure to comply with requirements pertaining to oral disclosures</u> | <u>\$750</u> | <u>\$1,000</u> | <u>\$2,250</u> | <u>\$2,500</u> | <u>\$2,500 (plus 0 to 5 day sealing)**</u> | <u>\$2,500 (plus 5 day sealing)</u> |

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 Consumer Affairs Penalty Schedule

REFERENCE NUMBER: DCA-56

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) The penalty schedule for dealers in second-hand articles permits a respondent to timely submit appropriate proof of having cured certain curable first-time violations in order to avoid a civil penalty, as authorized by Local Law 153 of 2013. Cure periods/mechanisms do not apply to the penalty schedules for debt collection agencies, carpet VOC emissions, air conditioning, and pregnancy services centers because the rule's authorizing statute does not provide a cure period, the violations cannot be corrected or undone, and certain violations pose significant risks to public health and safety.

/s/ Francisco X. Navarro

Mayor's Office of Operations

May 18, 2017

Date

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 Consumer Affairs Penalty Schedule

REFERENCE NUMBER: 2016 RG 068

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

Date: May 18, 2017

Acting Corporation Counsel