

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 is proposing new rules to implement Subchapter 34, added to Title 20 by Local Law 80 for the Year 2016, relating to the Department's licensing and regulation of ticket sellers.

When and where is the Hearing? The Department of Consumer Affairs will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on Monday October 2, 2017. 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 rules by:

- **Website.** You can submit comments to the Department of Consumer Affairs 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, 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) 436-0095. You can also sign up in the hearing room before the hearing begins on Monday, October 2, 2017. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any written comments to the proposed rule by 5 PM on Monday, October 2, 2017.

Do you need assistance to participate in the Hearing? You must tell the Department'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) 436-0095. Advance notice is requested

to allow sufficient time to arrange the accommodation. Please tell us by Wednesday, September 27, 2017.

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, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Department of Consumer Affairs, External Affairs Division.

What authorizes DCA to make this rule? Sections 1043, 2203(c) and 2203(h)(1) of the New York City Charter and Sections 20-105(b), 20-555(a), and 20-559(c) of the New York City Administrative Code authorize DCA to make these proposed rules. These proposed rules were not included in the regulatory agenda of the Department of Consumer Affairs for this Fiscal Year because they were not contemplated when the Department published the agenda.

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

What rules govern the rulemaking process? The Department of Consumer Affairs 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 Rule

The City Council enacted Local Law 80 for the Year 2016, adding Subchapter 33 to Title 20 of the New York City Administrative Code to require ticket sellers in New York City to be licensed and regulated by the Department of Consumer Affairs (“DCA”).

These proposed rules establish requirements to implement the Law. Specifically, the rules establish:

- Record-keeping requirements.
- A schedule of fixed penalties for violations of the ticket seller law and rules.

New material is underlined.

[Deleted material is in brackets.]

“Shall,” “must” and “will” 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 Amendment

Section 1. Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new Subchapter II titled “Ticket Sellers” to read as follows:

Subchapter II: Ticket Sellers

§ 2-441 Records.

(a) *Transactions Log.* Each licensee must maintain a log in a form prescribed by the Department documenting every instance the licensee received a ticket or set of tickets for vending. The log must contain the following information, which must be entered legibly and in English:

- (1) the date the licensee received the ticket or set of tickets for vending;
- (2) the name, address, and ticket seller license number, if any, of the individual and/or company that provided the ticket or set of tickets;
- (3) the place of entertainment, mode of transportation, or guided tour for which the ticket or set of tickets was intended to be vended;
- (4) the price that the licensee paid for the ticket or set of tickets, if any; and
- (5) if the licensee sold the ticket or set of tickets:
 - (i) whether the ticket or set of tickets were sold to a consumer or another ticket seller;
 - (ii) if the ticket or set of tickets were sold to a ticket seller, his or her name, address, and ticket seller license number;
 - (iii) the price the consumer or ticket seller paid for the ticket or set of tickets; and
 - (iv) the location of the sale (e.g., nearest block face, place of entertainment, plaza, or pedestrian plaza).

(b) *Receipts.* Each licensee must retain a copy of every receipt it provides to a consumer pursuant to § 5-32 of these Rules.

(c) *Preservation and Production of Records.* Each licensee must retain all records required by this section for three years and must produce such records to the Department upon the Department’s request.

§ 2. Subchapter B of Chapter 6 of Title 6 of the Rules is amended by adding new Section 6-66 to read 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 (**).

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

	<u>taxi stand</u>								
<u>Admin Code § 20-556(d)</u>	<u>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</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin Code § 20-556(e)</u>	<u>Failure to comply with DOT rules pertaining to vending in a pedestrian plaza</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin Code § 20-556(f)</u>	<u>Failure to comply with restrictions pertaining to vending on a median strip of a divided roadway</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin Code § 20-556(g)</u>	<u>Failure to comply with restrictions pertaining to vending in areas under Parks jurisdiction or control</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin Code § 20-556(h)</u>	<u>Failure to comply with restrictions pertaining to vending in the area bounded by Broadway, Liberty, West and Vesey Streets</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin Code § 20-556(i)</u>	<u>Failure to obey notice to temporarily move and/or stop vending at a location due to exigent circumstances</u>	<u>\$38 (plus 0 to 15 day suspension)**</u>	<u>\$50 (plus 15 day suspension)</u>	<u>\$90 (plus 0 to 30 day suspension)**</u>	<u>\$100 (plus 30 day suspension)</u>	<u>\$250 (plus revocation)**</u>	<u>\$250 (plus revocation)</u>	<u>\$500 (plus revocation)**</u>	<u>\$500 (plus revocation)</u>

<u>Admin Code § 20-556(j)</u>	<u>Failure to comply with restrictions pertaining to use of equipment, stands, vehicles, racks, or displays</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin Code § 20-556(k)</u>	<u>Making fraudulent, misrepresentative, or false statements in connection with vending</u>	<u>\$38 (plus 0 to 15 day suspension)**</u>	<u>\$50 (plus 15 day suspension)</u>	<u>\$90 (plus 0 to 30 day suspension)**</u>	<u>\$100 (plus 30 day suspension)</u>	<u>\$250 (plus revocation)**</u>	<u>\$250 (plus revocation)</u>	<u>\$500 (plus revocation)**</u>	<u>\$500 (plus revocation)</u>
<u>6 RCNY § 2-441</u>	<u>Failure to comply with requirements pertaining to records</u>	<u>\$38</u>	<u>\$50</u>	<u>\$90</u>	<u>\$100</u>	<u>\$250</u>	<u>\$250</u>	<u>\$500</u>	<u>\$500</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: Licensing of Ticket Sellers

REFERENCE NUMBER: DCA-60

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) No cure period is provided as the authorizing statute for the rules does not provide a cure period; and/or violations pose significant risks to public health and safety.

/s/ Casimir Peters
Mayor's Office of Operations

August 24, 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: *Licensing of Ticket Sellers*

REFERENCE NUMBER: *2017 RG 049*

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 21, 2017