

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 amend the existing sightseeing bus rules to implement Local Law 176 of 2018 relating to sightseeing buses and sightseeing bus drivers and to update and modernize the Department’s sightseeing bus rules.

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 October 5, 2020. The public hearing will be accessible by phone and videoconference.

- To participate in the public hearing via phone, please dial 1 646 558 8656.
 - Meeting Number: 878 8120 3148
- To participate in the public hearing via videoconference, please follow the online link: <https://us02web.zoom.us/j/87881203148>

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.
- **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 on the phone or videoconference before the hearing begins at 10:00 AM on October 5, 2020. 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 October 5, 2020.

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 may tell us by telephone at (212) 436-0345 or by email at Rulecomments@dca.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by October 2, 2020.

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 rules 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) and 20-384 of the New York City Administrative Code authorize the Department of Consumer Affairs to make these proposed rules. These proposed rules were not included in the Department of Consumer Affairs’ regulatory agenda for this Fiscal Year because they were 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 is proposing to amend the sightseeing bus rules to implement Local Law 176 of 2018 relating to sightseeing buses and sightseeing bus drivers.

Local Law 176 of 2018 (“LL 176”) requires SSB drivers to possess a valid commercial driver’s license (“CDL”) and forbids SSB businesses from employing drivers who: (1) are disqualified from driving a commercial vehicle pursuant to federal law, (2) have had their CDL suspended or revoked two or more times within the past five years, (3) have accumulated nine or more points on their driving record for acts that occurred within an eighteen month period, unless a statutory exception applies, and (4) have been convicted of any alcohol or drug-related offense pursuant to article 31 of the vehicle and traffic law or any similar offense under the laws of any other jurisdiction within the past three years. LL 176 also sets SSB business compliance terms for the company’s SSB drivers, sets accident reporting standards, and SSB driver driving record recordkeeping requirements.

Finally, the Department is proposing certain amendments to update and modernize its sightseeing bus rules. Specifically, the Department is proposing to:

- Remove an outdated provision requiring Departmental approval of advertising materials (§ 2-211(a)). This removal will ease the regulatory burden on sightseeing bus owners.
- Delete provisions requiring sightseeing bus drivers to, among other things, possess English language skills, be of “sound physique”, and have his or her “physical condition” examined by the Department. These provisions are outdated, do not increase safety, and are an unnecessary burden on drivers. (§§ 2-211(r) and (s)).
- Change the number of hours a driver may operate a sightseeing bus to better align with federal regulations. Currently, the rules prohibit a driver from operating a vehicle for more than 12 hours in any 24-hour period. Federal regulations found in 49 C.F.R. § 395.5 prohibit operating commercial passenger vehicles for more than 10 hours following 8 consecutive hours off-duty. These proposed amendments would make the Department’s rules mirror the federal standard.

Sections 1043 and 2203(f) of the New York City Charter, and Sections 20-104(b) and 20-384 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 U of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-211 Buses, Bus Owners and Drivers.

(a) [All circulars, leaflets, posters, pamphlets or any other advertising matter describing any trip, tour or excursion, except of buses exclusively hired or engaged under a contract for a special trip or excursion, must receive the approval of the commissioner prior to display or distribution to the public.] Reserved.

(b) A schedule of rates of fare for each type of trip or tour, except buses exclusively hired or engaged under a contract for a special trip or excursion, [shall] must be [filed with] made available to the Department [by the licensee] at the Department’s request.

(c) A schedule of rates charged for each trip or tour, except of buses exclusively hired or engaged under a contract for a special trip or excursion, [shall] must be conspicuously displayed at the starting point upon a sign attached to the bus as near to the entrance as practicable, prior to and during the time the passengers are

entering such vehicle and [shall]must remain thereon until the bus departs. The figures on the sign must be at least 3 inches high and the sign must be at least 13 inches long and 9 inches wide.

(d) The rate of fare (including all charges) for the particular tour about to be conducted, except of buses exclusively hired or engaged under a contract for a special trip or excursion, [shall]must be set forth in a sign prominently displayed in the forward part of the interior of the vehicle facing the passengers and [shall]must remain posted in its original position until the termination of the tour. This sign [shall]must be printed in letters and figures at least three-quarters of an inch in height and [shall]must read as follows:

"The fare for this tour (specifying tour number) including all expenses and admissions is (insert price). Report all violations to the Department of Consumer Affairs, (Insert the Department's current address and current telephone number)".

(e) The owner, or his or her agent, [shall]must deliver to all passengers upon payment of fare, a printed receipt indicating the amount of fare paid, the description or designated number of the trip and the time scheduled for the bus to leave the starting point. This receipt [shall] becomes the property of the passenger and [shall]must not be collected or taken from him or her. Unless the bus leaves as scheduled, the fare paid by the passenger must be refunded immediately upon request. This provision [shall]does not apply to buses exclusively hired or engaged under a contract for a special trip or excursion.

(f) The owner, his or her agent, operator, sightseeing bus driver, sightseeing bus guide or lecturer, [shall]must not charge or attempt to charge, any passengers a sum greater than set forth in the rate schedule. No additional charges [shall]must be made, solicited, collected or permitted to be made, for entering any building or premises or for any purposes whatsoever, during the trip or tour or the termination thereof.

(g) No vending of any articles of merchandise or literature to the passengers [shall be]is permitted in the bus.

(h) Each bus, except buses exclusively hired or engaged under a contract for a special trip or excursion, [shall]must have two conspicuously displayed signs, showing the time the bus is scheduled to leave; one such sign [shall]must be hung on the windshield in the interior and the other on the outside at a conspicuous point near the door where the passengers enter, which signs [shall]must be removed upon the departure of the bus. These signs [shall]must read as follows:

"This bus leaves (specifying time) sharp or money refunded upon request."

The figures on the signs must be at least 3 inches high and the signs must be at least 13 inches long and 9 inches wide.

(i) No passengers, other than on buses exclusively hired or engaged under a contract for a special trip or excursion, may be received or discharged at the start or termination of any trip on any public highway within the city except at locations designated by the commissioner. Where such stops are permitted, they [shall]must not [be made for a period longer than is actually necessary to expeditiously receive or discharge such passengers, but in no case to]exceed 10 minutes.

(j) A sightseeing bus, except buses exclusively hired or engaged under a contract for a special trip or excursion, after leaving its starting point, [shall]must not receive additional passengers between such place of starting and its ultimate destination, and [shall]must operate on a prescribed route when one is so designated.

(k) The owner or his or her agent [shall]must keep a permanent daily record in a separate book of each trip, tour or excursion made, or in which such owner acts as intermediary. Such book [shall]must be kept on the owner's premises and [shall]must be available at all times for inspection and [shall]must contain the following information:

(1) Date and time of the start and termination of the trip, tour or excursion.

(2) Location of the starting point, and a description of the specific trip, tour or excursion made.

(3) Name (and license number, if any) of the person, firm or corporation who contracted or solicited the passengers or who contracted for the specific trip, tour or excursion.

(4) The name and license number of the person acting as the guide or lecturer during the trip, tour or excursion.

(5) The name and New York State commercial driver's license number of the driver.

(6) The sightseeing bus license number of the vehicle.

(7) Whenever such owner or agent transfers any person, or persons, who have contracted for any trip, tour or excursion, to another owner, or agent, for the purpose of having the latter conduct such trip, tour or excursion,

an entry [shall] must be made of the total number of passengers affected and the name of the person, firm or corporation receiving them. A record [shall] is not [be] required of special trips or excursions in buses exclusively hired or engaged under a contract for such a purpose.

(l) Owners [shall] must keep accurate books and records of:

(1) Receipts from operations.

(2) Payments from drivers.

(3) Corporation tax.

(4) Social Security Tax.

(5) Disbursements and receipts.

(6) Mileage[run].

(7) Accidents incurred and Public Liability claims paid.

(8) Any information that this department may prescribe from time to time by written notification to the licensee relating to the licensee and his or her sightseeing bus operations. Such books and records [shall] must be available at all times for inspection.

(m) An owner [shall] must not permit any one driver to operate a vehicle or vehicles more than [12] 10 hours [in any continuous 24 hour period, except the driver of a bus exclusively hired or engaged for a special trip or excursion] following 8 consecutive hours off duty.

(n) Each vehicle and its equipment [shall] must be inspected at least once each day.

(o) Each vehicle must be kept clean, sanitary, and in good mechanical condition, with brakes, lights and signaling devices in good working order.

(p) Each vehicle [shall] must be equipped with efficient windshield wipers.

(q) Any person employed by the owner to operate a sightseeing bus [shall] must possess a New York State commercial driver's [chauffeur's] license which permits the person to operate a sightseeing bus [and a sightseeing bus driver's license].

(r) [A sightseeing bus driver must be

(1) A citizen of the United States or a declarant.

(2) At least 21 years of age.

(3) Of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind, which might render him unfit for the safe operation of the vehicle.

(4) Able to speak, read or write the English language.

(5) Licensed as a chauffeur or operator for at least 3 years.

(6) The holder of a New York State chauffeur's license.

(7) Be clean in dress and not addicted to the use of drugs or intoxicating liquors.] Reserved.

(s) [(1) *Examination of drivers.* Each applicant for a driver's license under the provisions of this section shall be examined by a person or persons designated by the Commissioner as to his physical condition, as to his knowledge of the provisions hereof, the traffic regulations, and the geography of the city, and if the result of the examination or examinations are unsatisfactory, he shall be refused a license.

(2) *Photograph of driver.* Each applicant for a driver's license must file with his application two recent photographs of himself, 1 1/2 inches square, one of which shall be attached to the license when issued; the other shall be filed with the application.] Reserved.

(t) Sightseeing bus drivers [shall] must thoroughly search the interior of the vehicle after termination of each trip for any article left or lost in the vehicle. The driver [shall] must immediately take any such property to the stationhouse in the police precinct where the passenger or passengers were discharged.

(u) A sightseeing bus company must submit to the Department, on a form provided for such purpose by the Department, a written report of every accident involving one of the company's sightseeing buses pursuant to subdivision c of section 20-376.2 of the Administrative Code of the City of New York. Such completed form must be signed by the sightseeing bus company owner or his or her agent and by the sightseeing bus driver involved in the accident. [A sightseeing bus driver shall report all accidents as required by the Vehicle and Traffic Law and report all accidents to the owner.]

(v) A sightseeing bus driver [shall] must not smoke while the vehicle is carrying passengers.

(w) A sightseeing bus driver [shall] must not operate the vehicle for more than [12] 10 hours [of any continuous 24 hour period] following 8 consecutive hours off duty. [This provision [shall] must not apply to the driver of a bus exclusively hired or engaged for a special trip or excursion.]

(x) A sightseeing bus driver [shall]must not solicit or recommend patronage for restaurants, nightclubs, cabarets, dance halls, hotels, or like places, nor solicit for or recommend any place maintained in violation of law.

(y) A sightseeing bus driver [shall]must shut off the engine in the vehicle when the vehicle is parked or standing. A sightseeing bus driver [shall]must not run the engine while the vehicle is standing unless it is necessary to warm the engine in cold weather.

(z) A sightseeing bus driver [shall]must keep the interior of the vehicle clean.

(aa) A sightseeing bus driver must[shall be required to] inspect the vehicle to determine that the vehicle is mechanically fit, with brakes, lights and signaling devices in good working order.

(bb) A sightseeing bus driver [shall]must carry his or her New York State commercial driver's license [chauffeur's license and his license as a sightseeing bus driver]at all times while engaged in his or her employment.

(cc) A sightseeing bus driver [shall]must not abandon his or her vehicle nor permit another to drive it for him or her.

§ 2-211.1 Records Pertaining to the Operation and Maintenance of Sightseeing Bus[s]es.

(a) The owner of each vehicle licensed to operate as a sightseeing bus [shall]must maintain the following records pertaining to the operation and maintenance of each such bus:

(1) Records containing the following information about each of the specified components of each sightseeing bus:

(i) The total time in service of each licensed bus, each major component of the drive train, and all pollution control equipment required to be installed on such vehicle;

(ii) The current status of "life-limited" parts of the drive train and pollution control equipment installed in a vehicle. All parts on the vehicle that are not "life-limited" by the original equipment manufacturer [shall]must be deemed "on-condition" replacement;

(iii) The time since the last overhaul of all items installed in the vehicle which are required to be overhauled on a specified time basis; and

(iv) The current inspection status of the vehicle, drive train and pollution control equipment, including the time since the last inspection required by the inspection program under which the vehicle and its components are maintained.

(2) Records of the maintenance, preventative maintenance, and alterations, and records of the scheduled inspections to be performed pursuant to the manufacturer's recommended inspection and maintenance schedule for the vehicle, drive train and pollution control equipment. Such records [shall]must include:

(i) A description of the work performed.

(ii) The date of completion of the work performed.

(iii) The signature and printed name and employee identification number of the person approving the satisfactory completion of the required maintenance and/or inspection.

(3) A copy of the manufacturer's written recommendations prescribing the schedule for the maintenance to be performed, and for conducting periodic inspections and performing periodic maintenance and repair to keep the vehicle, drive train and pollution control equipment operating at normal operating efficiency.

(b) The records for each licensed sightseeing bus [shall]must be kept in a paginated volume, with the vehicle identification number and the license number included on the first page. All entries [shall]must be dated and included in chronological order.

(c) The required records [shall]must be retained for at least three years after earliest entry in the record on each bus. The records [shall]must be kept at the office of business which holds the license to the bus, and [shall]must be made available on demand to personnel of the Department at such office, or [shall]must be produced at the office of the Department within five days after demand therefore is received by such owner.

Section 2. Chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-28 Sight-seeing Buses, Horse-drawn Cabs and Drivers 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.

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 § 20-373	Operating sight-seeing bus or horse-drawn cab without a license	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-374	Improper transfer of license for operation of sight-seeing bus; improper transfer of license for operation of horse-drawn cab	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-375	Failure to display license plate or replaceable date tag on sight-seeing bus or horse-drawn cab	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-376	Failure to submit sight-seeing bus for inspection	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)
Admin Code § 20-376.1	Failure to equip sight-seeing bus with headphone-limited sound reproduction system	\$550 per day (plus revocation)**	\$750 per day (plus revocation)	\$675 per day (plus revocation)**	\$750 per day (plus revocation)	\$750 per day (plus revocation)**	\$750 per day (plus revocation)
Admin Code § 20-376.2(a)	Failure to comply with sight-seeing bus driver requirements	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**
Admin Code § 20-376.2(c)	Failure to notify DCA of accident or alcohol or drug-related offenses	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-376.2(d)	Failure to register a driver in the New York state license event notification service	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**
Admin Code § 20-376.2(e)	Failure to comply with recordkeeping requirements	\$375	\$500	\$450	\$500	\$500	\$500

Admin Code § 20-376.2(f)	Failure to comply with recordkeeping requirements	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-377.1(b)	Failure of horse-drawn cab licensee to report modification, amendment, cancellation or substitution of required insurance policy	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-378	Failure to submit all licensed sight-seeing buses for periodic inspection	\$500 (plus suspension)**	\$500 (plus suspension)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**	\$500 (plus revocation)**
Admin Code § 20-380	Collection of fare for use of horse-drawn cab in excess of specified amounts	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-381(a)	Unlicensed operation of horse-drawn cab	\$100 per day					
Admin Code § 20-381(e)	Operation of horse-drawn cab by person who is not licensed driver or apprentice or holder of probationary license	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-381.1	Operating horse-drawn cab at prohibited time or location	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-381.1(d)	Operating horse-drawn cab in violation of notice given by authorized enforcement officer	\$500 (plus revocation)					
Admin Code § 20-381.2(b)	Failure to equip horse drawn cab with emergency brake system	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)
Admin Code § 20-382	Unlawful agreement between owner of horse-drawn cab and any hotel, apartment house, restaurant or [cafe]café	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-211	Violation of requirements applicable to owners and drivers of sightseeing buses	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-211(c)	Failure to post schedule of rates charged for each sightseeing bus trip	\$375*	\$500*	\$450	\$500	\$500	\$500
6 RCNY § 2-211(m)	Operation of sightseeing bus by single driver for more than 12 hours in any 24 hour period	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-211.1	Failure to comply with recordkeeping requirements applicable to owners of sightseeing buses	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-212	Violation of requirements applicable to owners and drivers of horse-drawn cabs	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-212(q)(3)	Operation of horse-drawn cab by single driver for more than 12 hours in any 20 hour period	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)
6 RCNY § 2-212(q)(6)	Operating horse-drawn cab under influence of intoxicating liquor or drugs	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)	\$500 (plus revocation)**	\$500 (plus revocation)

**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 Rule Governing Operations of Sightseeing Buses

REFERENCE NUMBER: 2020 RG 042

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 25, 2020

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 Rule Governing Operations of Sightseeing Buses

REFERENCE NUMBER: DCA-109

RULEMAKING AGENCY: Department of Consumer and Worker Protection

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/mechanism is provided because the authorizing statute for the rule does not provide a cure period. However, respondents are afforded notice and an opportunity to be heard with respect to all notices of violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

August 25, 2020
Date