

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 Section 6-19 of Subchapter B of Chapter 6 of Title 6 of the Rules of the City of New York to amend the fixed penalties for the violations of the laws and rules related to dealers of second-hand automobiles.

When and where is the hearing? The Department will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on Friday, June 8, 2018. The hearing will be in the Department’s 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 Casey Adams, Director of City Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway, 8th Floor, New York, NY 10004.
- **Fax.** You can fax comments to Casey Adams, Director of City Legislative 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 10:00 AM on Friday, June 8, 2018. 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 5:00 PM on Friday, June 8, 2018.

What if I 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 or by email to cadams@dca.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 5:00 PM on Wednesday, June 6.

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 the Department of Consumer Affairs to make this rule? Sections 1043, 2203(c), 2203(f), and 2203(h)(1) of the City Charter, Sections 20-104(e) and 20-275.1 of the Administrative Code of the City of New York, Section 10 of Local Law 197 for the year 2017, and Section 3 of Local Law 198 for the year 2017 authorize the Commissioner of the Department to make this proposed rule. This proposed rule was not included in DCA's regulatory agenda for this Fiscal Year because it was not contemplated when DCA 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? The Department 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

Local Law 197 of 2017 amended the New York City Administrative Code to require that second-hand automobile dealers provide certain financing disclosures and to create an automobile contract cancellation option that may be used by consumers of second-hand automobiles.

Local Law 198 of 2017 amended the New York City Administrative Code to require second-hand automobile dealers post and distribute a bill of rights to consumers.

To implement Local Laws 197 and 198, the Department proposes to amend Section 6-19 of Subchapter B of Title 6 of the Rules of the City of New York, which establishes fixed penalties for the violations of the laws and rules related to secondhand automobile dealers.

DCA's authority for these rule is found in Sections 1043, 2203(c), 2203(f), and 2203(h)(1) of the City Charter, Sections 20-104(e) and 20-275.1 of the Administrative Code of the City of New York, Section 10 of Local Law 197 of 2017, and Section 3 of Local Law 198 of 2017.

An analysis of this proposed rule as described in Section 1043(d) of the New York City Charter was not performed because it falls under the exception in Section 1043(d)(4)(ii).

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 Rules

Section 1. Section 6-19 of Subchapter B of Chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 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.

<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>
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
Admin Code § 20-268	Failure to comply with specified restrictions pertaining to second hand dealers	\$375	\$500	\$450	\$500	\$500	\$500
<u>Admin Code § 20-268.1</u>	<u>Failure to comply with requirements related to sale and financing of second-hand automobiles</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 § 20-268.2</u>	<u>Failure to comply with requirements related to automobile contract cancellation option</u>	<u>\$750</u>	<u>\$1,000</u>	<u>\$900</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$1,000</u>

Admin Code § 20-268.3	Failure to provide certain second-hand automobile contract documents in advance	\$750	\$1,000	\$900	\$1,000	\$1,000	\$1,000
Admin Code § 20-268.4	Failure by a second-hand automobile dealer to post consumer bill of rights	\$750	\$1,000	\$900	\$1,000	\$1,000	\$1,000
Admin Code § 20-268.5	Failure to comply with requirements related to second-hand automobile records and reports	\$750	\$1,000	\$900	\$1,000	\$1,000	\$1,000
Admin Code § 20-270	Failure to comply with signage requirements	\$375*	\$500*	\$450	\$500	\$500	\$500
Admin Code § 20-271(a)	Failure to label second-hand articles as not new	\$375*	\$500*	\$450	\$500	\$500	\$500
Admin Code § 20-271(b)	Failure of dealer in second-hand automobiles to clearly and conspicuously post price of second-hand automobile or prices for add-on products	\$500*	\$500*	\$750	\$750	\$1,000	\$1,000
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 comply with requirements pertaining to 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
6 RCNY § 2-102	Failure to comply with requirements pertaining to sale of	\$375	\$500	\$450	\$500	\$500	\$500

	second-hand furniture						
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
6 RCNY § 2-103(g)(1)(i)	Sale of second-hand automobile not inspected and certified in	\$500	\$500	\$500	\$500	\$500	\$500

	accordance with Vehicle and Traffic Law						
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
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
6 RCNY § 2-103(m)(2)	Dealer in second-hand automobiles parking or allowing automobiles to encroach on a sidewalk or other public space	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-105(a)	Failure to label second-hand articles as not new	\$375*	\$500*	\$450	\$500	\$500	\$500
6 RCNY § 2-105(b)	Failure of dealer in second-hand automobiles to post price of second-hand automobile according to required specifications	\$375_	\$500_	\$675	\$750	\$1,000	\$1,000
6 RCNY § 2-105(c)	Failure of dealer in second-hand automobiles to post price of add-on products according to required specifications	\$375_	\$500_	\$675	\$750	\$1,000	\$1,000

<u>6 RCNY § 2-106</u>	<u>Failure to comply with requirements related to financing disclosures for second-hand automobiles</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 § 2-107</u>	<u>Failure to comply with requirements related to second-hand automobile contract cancellation option</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 § 2-108</u>	<u>Failure to comply with requirements related to second-hand automobile consumer bill of rights</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 § 2-109</u>	<u>Failure of second-hand automobile dealer to comply with records and reports requirements</u>	<u>\$750</u>	<u>\$1,000</u>	<u>\$900</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$1,000</u>