

**NYC Department of Consumer Affairs  
Regulatory Agenda for FY 2019**

**I. Summary of Overall Regulatory Agenda**

Pursuant to Section 1042 of the New York City Charter, the NYC Department of Consumer Affairs (“DCA”) hereby publishes its Regulatory Agenda for Fiscal Year 2019, which begins on July 1, 2018 and ends on June 30, 2019. DCA will be promulgating rules to amend sections in the following chapters of Title 6 of the Rules of the City of New York (“Rule” or “6 RCNY”):

- Chapter 1 – License Enforcement
- Chapter 2 – Licenses
- Chapter 4 – Market Regulations
- Chapter 5 – Unfair Trade Practices
- Chapter 6 – Administrative Hearings
- Chapter 7 – Office of Labor Policy and Standards

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**II. Rules to be Promulgated**

**A. Chapter 1 – License Enforcement**

**1. Rule 1-01 Fingerprinting**

- Subject: Rule requires applicants for listed licenses/permits to appear in person at DCA to be fingerprinted.
- Reason for amendment: List is outdated.
- Anticipated content: List will be updated or replaced with language that requires the rule to broadly apply to any license category that requires fingerprinting.
- Objective: Simplify and update content to help support public understanding and compliance.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-104.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-201 *et seq.*, NYS General Business Law.
- Types of individuals and entities likely to be affected: Individuals and entities seeking to be licensed for a category that requires fingerprinting.
- Approximate schedule: July-September 2018.

**2. Rule 1-01.1 Applications**

- Subject: Proposed rule would prohibit the submission of a new license application for a period of one year after an applicant has had a license revoked or denied.

- Reason for amendment: DCA receives thousands of applications each year and a repeat application is wasteful because circumstances warranting denial or revocation are unlikely to have changed. Would also deter applicants from lying on their application.
- Anticipated content: Amendment to 6 RCNY 1-01.1 to add a new subdivision (c).
- Objective: To conserve DCA's limited resources and avoid reviewing unmeritorious applications.
- Legal basis: City Charter Sections 1043 and 2203(c), Admin. Code Section 20-104(b).
- Relevant federal, state, and local laws and rules: Chapters 1 and 2 of the Admin. Code; Chapters 1 and 2 of Title 6 of the Rules of the City of New York.
- Types of individuals and entities likely to be affected: Individuals and entities that have a license application denied or revoked.
- Approximate schedule: October-December 2018.

### **3. Rule 1-20 Non-payment of Civil Penalties**

- Subject: A new rule to allow DCA to deny, suspend, terminate, or revoke a license based on unpaid civil penalties imposed by the Environmental Control Board or the Office of Administrative Trials and Hearings.
- Reason for amendment: To implement Local Law 47 of 2016
- Anticipated content: A new rule as described above.
- Objective: To implement Local Law 47 of 2016 and to help support public understanding and compliance.
- Legal basis: City Charter 2203(c), Section 3 of Local Law 47 of 2016.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-101 *et seq.*, 6 RCNY Section 1-01 *et seq.*
- Types of individuals and entities likely to be affected: DCA applicants and licensees.
- Approximate schedule: October-December 2018.

## **B. Chapter 2 – Licenses**

### **1. Subchapter B, Retail Cigarette Dealers**

#### **a. Rule 2-12 Location Requirements**

- Subject: A new rule to prohibit licenses for use at residential premises and update the Subchapter name to Tobacco Retail Dealers based on new tobacco laws, Local Laws 144, 145, and 146 of 2017.
- Reason for amendment: To ensure that licenses are only granted for authorized business premises.
- Anticipated content: A new rule and amendment as described above.
- Objective: Prevent the issuance of licenses for use at unauthorized premises.

- Legal basis: City Charter 2203(c), Admin. Code Section 20-104(b)(5).
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-201 *et seq.*, 6 RCNY Section 2-11 *et seq.*
- Types of individuals and entities likely to be affected: Individuals and entities seeking TRD licenses.
- Approximate schedule: July-September 2018.

## 2. Subchapter F, Sidewalk Cafes

### b. Rule 2-43 Petition Requirements

- Subject: Rule describes requirements to submit a petition for revocable consent for a sidewalk café.
- Reason for amendment: To reduce the number of copies of the petition that must be submitted.
- Anticipated content: Repeal of requirement to submit an additional 7 copies.
- Objective: Reduce regulatory burden.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-224.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-223 *et seq.*, 6 RCNY Section 2-41 *et seq.*
- Types of individuals and entities likely to be affected: Individuals and entities seeking sidewalk café licenses.
- Approximate schedule: July-September 2018.

## 3. Subchapter K, Dealers in Second-hand Articles

### a. Rule 2-103 Second Hand Automobiles

- Subject: Rule would implement the automobile recall records law, Local Law 85 of 2017, by requiring dealers to maintain a list of all cars sold and whether recall information was provided.
- Reason for amendment: To allow for proper enforcement of the law.
- Anticipated content: Amendment to Rule 2-103(n).
- Objective: Enforce Local Law 85 of 2017.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-104, Section 3 of Local Law 85.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-264 *et seq.*, 6 RCNY Section 2-101 *et seq.*
- Types of individuals and entities likely to be affected: Second-hand automobile dealers.
- Approximate schedule: July-September 2018.

#### 4. Subchapter V, Home Improvement Business

##### a. Rule 2-221 Content and Cancellation of Contract

- Subject: Rule would make clear that the absence of each required element of a home improvement contract in 6 RCNY 2-221 is a separate and independent violation.
- Reason for amendment: To properly enforce the legal requirements of home improvement contractor contracts.
- Anticipated content: Amendment to Rule 2-221(a).
- Objective: To ensure home improvement contractor contracts comply with the law.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-104.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-385 *et seq.*, 6 RCNY Section 2-220 *et seq.*
- Types of individuals and entities likely to be affected: Home improvement contractors.
- Approximate schedule: July-September 2018.

##### b. Rule 2-224 Home Improvement Business Trust Fund

- Subject: In addition to the existing criteria, rule would allow DCA to pay consumers from the home improvement business trust fund if a license has been suspended, denied, or is not current for any other reason.
- Reason for amendment: To allow more consumers to benefit from the trust fund.
- Anticipated content: Amendment to Rule 2-224.
- Objective: To benefit consumers aggrieved by businesses.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-104.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-385 *et seq.*, 6 RCNY Section 2-220 *et seq.*
- Types of individuals and entities likely to be affected: Consumers owed restitution by home improvement businesses.
- Approximate schedule: July-September 2018.

#### 5. Subchapter BB, Storage Warehouses

##### a. Rule 2-322 Oral Disclosures

- Subject: Rule creates a maximum fee that may be charged by a warehouse operator for a written estimate based on a physical inspection.
- Reason for amendment: Update the amount of the fee.
- Anticipated content: Increase the fee to \$20 from \$10.
- Objective: Modernize the fee amount based on inflation.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-104.

- Relevant federal, state, and local laws and rules: Admin. Code Section 20-475 *et seq.*, 6 RCNY Section 2-321 *et seq.*
- Types of individuals and entities likely to be affected: Individuals and entities licensed as storage warehouse.
- Approximate schedule: July-September 2018

## 6. Subchapter EE, Towing Vehicles

### a. Rule 2-375 Tow Truck Industry Trust Fund

- Subject: In addition to the existing criteria, rule would allow DCA to pay consumers from the trust fund if a license has been suspended, denied, or is not current for any other reason.
- Reason for amendment: To allow more consumers to benefit from the trust fund.
- Anticipated content: Amendment to Rule 2-375.
- Objective: Benefit consumers aggrieved by towing businesses.
- Legal basis: City Charter 2203(c), Admin. Code Section 20-104.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-495 *et seq.*, 6 RCNY Section 2-361 *et seq.*
- Types of individuals and entities likely to be affected: Individuals aggrieved by tow truck businesses.
- Approximate schedule: July-September 2018.

## C. Chapter 4 – Market Regulations

### 1. Subchapter F, Moisture Content of Processed Meats and Meat Products

#### a. Rule 4-94 Violations

- Subject: Rule authorizes penalty of up to 10 days imprisonment upon a finding of guilt.
- Reason for amendment: Increase equity by repealing this penalty.
- Anticipated content: Imprisonment penalty will be repealed.
- Objective: Increase equity.
- Legal basis: City Charter Section 2203(d).
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-676 *et seq.*, 6 RCNY Section 4-81 *et seq.*
- Types of individuals and entities likely to be affected: Individuals and entities engaged in the business of labeling moisture content on processed meats and meat products.
- Approximate schedule: July-September 2018.

## **D. Chapter 5 – Unfair Trade Practices**

### **1. Subchapter A, Consumer Protection Law**

#### **a. Rule 5-32 Documentation of Transactions**

- Subject: Rule to clarify the definition of “retail purpose” as used in the subchapter.
- Reason for amendment: To clarify the definition of a term used in the subchapter.
- Anticipated content: Amendment to 5-32 to include a test purchase made by DCA in the definition of “retail purpose.”
- Objective: To clarify terms used and allow proper enforcement of the law.
- Legal basis: City Charter 2203(f), Admin. Code Section 20-702.
- Relevant federal, state, and local laws and rules: City Charter 2203(f), Admin. Code Section 20-700 *et seq.*, 6 RCNY Section 5-01 *et seq.*
- Types of individuals and entities likely to be affected: Entities failing to provide receipts as required by the law.
- Approximate schedule: October-December 2018.

#### **b. Rule 5-41 Unlawful Sales Tax**

- Subject: Rule to clarify that it is deceptive to represent that sales tax may be collected when the good or service is not subject to such tax.
- Reason for amendment: Protect against abusive practices.
- Anticipated content: Amendment to 5-41 to include representations that sales tax may be collected.
- Objective: Protect against abusive practices.
- Legal basis: City Charter 2203(f), Admin. Code Section 20-702.
- Relevant federal, state, and local laws and rules: City Charter 2203(f), Admin. Code Section 20-700 *et seq.*, 6 RCNY Section 5-01 *et seq.*
- Types of individuals and entities likely to be affected: Entities improperly charging sales tax.
- Approximate schedule: October-December 2018.

#### **c. Rule 5-73 Sale of Box Cutters**

- Subject: Rule amendment to prohibit the sale of box cutters to people under twenty-one years of age. Currently, the rule prohibits the sale to people under eighteen years of age.
- Reason for amendment: Section 10-134.1 of the Admin. Code prohibits the sale of box cutters to people under the age of twenty-one.
- Anticipated content: Amendment to 5-73(b)(1) to change the age from eighteen to twenty-one.

- Objective: Maintain consistency with the other provisions of the Admin. Code, including Title 10 Public Safety provisions.
- Legal basis: City Charter 2203(f), Admin. Code Section 20-702.
- Relevant federal, state, and local laws and rules: City Charter 2203(f), Admin. Code Section 20-700 *et seq.*, 6 RCNY Section 5-46 *et seq.*
- Types of individuals and entities likely to be affected: Businesses selling box cutters.
- Approximate schedule: October-December 2018.

## 2. Subchapter L, Collateral Loan Brokers

### a. Rule 5-227 Papers in Which Collateral Loan Brokers Can Advise Auction Sales

- Subject: Rule requires collateral loan broker (i.e., pawnbrokers) to post advertisements related to the sale of unredeemed pawns or pledges in listed newspapers.
- Reason for amendment: List is outdated.
- Anticipated content: DCA will eliminate the list of papers from the rule and replace it with language referring collateral loan brokers to access a list on DCA's website, where the list will be updated periodically.
- Objective: Update content to help support public understanding and compliance.
- Legal basis: City Charter 2203(f).
- Relevant federal, state, and local laws and rules: City Charter 2203(f), Article 5 of the NYS General Business Law Section 40 *et seq.*, Admin. Code Section 20-276 *et seq.*, 6 RCNY Section 5-221 *et seq.*
- Types of individuals and entities likely to be affected: Individuals and entities licensed as collateral loan brokers (i.e., pawnbrokers).
- Approximate schedule: July-September 2018.

## E. Chapter 6 – Administrative Hearings

### 1. Subchapter B, Penalties

#### a. Rule 6-35 Electronic Stores Penalty Schedule

- Subject: The existing penalty schedule has the incorrect penalty listed for violations of Admin. Code Section 20-485.5(b).
- Reason for amendment: To correct the erroneous violation amount.
- Anticipated content: Rule will be amended to include the correct violation amount.
- Objective: Update content to help support public understanding and compliance.
- Legal basis: City Charter 2203(f); Admin. Code Section 20-418.

- Relevant federal, state, and local laws and rules: Admin. Code Section 20-418 *et seq.*, 6 RCNY Section 2-251 *et seq.*, 6 RCNY Section 6-35.
- Types of individuals and entities likely to be affected: Electronic or home appliance service dealers.
- Approximate schedule: October-December 2018.

**b. Rule 6-42 Sales of Petroleum Products Penalty Schedule**

- Subject: The existing penalty schedule has the incorrect penalty listed for violations of 6 RCNY 5-51. There are also amounts listed for violations of the following provisions that have been repealed or do not exist: 1 NYCRR Section 220.8, 1 NYCRR Section 220.9, 1 NYCRR Section 224.18.
- Reason for amendment: To correct the erroneous violation amounts.
- Anticipated content: Rule will be amended to include the correct violation amounts and eliminate the amounts for nonexistent provisions.
- Objective: Update content to help support public understanding and compliance.
- Legal basis: City Charter 2203(f); Admin. Code Section 20-702.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-700 *et seq.*, 6 RCNY Section 5-51, 6 RCNY Section 6-42.
- Types of individuals and entities likely to be affected: Businesses that sell petroleum products.
- Approximate schedule: July-September 2018.

**c. Rule 6-47 Consumer Protection Law Penalty Schedule**

- Subject: The existing penalty schedule has the incorrect penalty listed for violations of 6 RCNY 5-73 relating to the sale of box cutters.
- Reason for amendment: To correct the erroneous violation amount.
- Anticipated content: Rule will be amended to include the correct violation amount.
- Objective: Update content to help support public understanding and compliance.
- Legal basis: City Charter 2203(f); Admin. Code Section 20-702.
- Relevant federal, state, and local laws and rules: Admin. Code Section 20-700 *et seq.*, 6 RCNY Section 5-73, 6 RCNY Section 6-47.
- Types of individuals and entities likely to be affected: Businesses that sell box cutters.
- Approximate schedule: July-September 2018.

**F. Chapter 7 – Office of Labor Policy and Standards**

**1. Subchapter B. Earned Sick Time**

**a. Rules 7-201 through 7-215**



- Subject: Rules relating to the implementation of the Earned Safe and Sick Time Act, which provides safe time for victims of family offense matters, sexual offenses, stalking and human trafficking, and their family members.
- Reason for amendment: Earned Sick Time Act amendments effective in May 2018 that permit use of accrued sick time for purposes related to family offense matters, sexual offenses, stalking and human trafficking.
- Anticipated content: Expand existing “sick time” protections to “safe and sick time” protections throughout the subchapter.
- Objective: Amend the existing rules to conform to the Earned Safe and Sick Time Act and provide guidance to covered employers and protected workers.
- Legal basis: Local Law 199 for the Year 2017.
- Relevant federal, state, and local laws and rules: Earned Sick Time Act (Chapter 8 of Title 20 of the Admin. Code) and existing rules found in Chapter 7 of Title 6.
- Types of individuals and entities likely to be affected: Employees who work at least 80 hours in New York City and their employers.
- Approximate schedule: July 2018-September 2018.

## **2. Subchapter H. Temporary Leave**

- Subject: Rules relating to the implementation of Admin. Code Section 20-1261 et seq. (Temporary Leave Law), which provides workers the right to a temporary change in their work schedule relating to a caregiving or sick/safe leave personal event.
- Reason for rulemaking: The law is effective on July 18, 2018 and requires agency rulemaking to implement the law successfully.
- Anticipated content: Rules to clarify provisions of the law and provide guidance to covered employers and protected employees.
- Objective: Assist employers understand and comply with the law.
- Legal basis: Admin. Code Section 20-1261 et seq.
- Relevant federal, state, and local laws and rules: N/A.
- Types of individuals and entities likely to be affected: Employers and their employees who request a temporary change to their schedule relating to a caregiving or sick/safe leave personal event.
- Approximate schedule: July 2018-September 2018.