

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The New York City Department of Finance (“DOF”) is proposing an amendment to DOF’s rules concerning the Bus Lane Restriction Program. The proposed rule would amend the applicable monetary penalties for violations of the New York City Bus Lane Restriction Program as established by New York State Vehicle and Traffic Law (“VTL”) section 1111-c.

When and where is the hearing? DOF will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 am on September 9, 2019. The hearing will be in the DOF hearing room at 375 Pearl Street, 30th Floor, Room 30D, New York, NY 10038.

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

- **Website.** You can submit comments to DOF through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to loewenbergerj@finance.nyc.gov.
- **Mail.** You can mail written comments to NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038, Attn: Jeremy Loewenberger.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Jeremy Loewenberger at (212) 748-6981.
- **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 Joan Best at (718) 488-2007, or you can sign up in the hearing room before the hearing begins on September 9, 2019. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is September 9, 2019.

What if I need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation based on a disability, and if you need an American Sign Language (ASL) interpreter or other assistance. Materials in alternative formats, ASL interpreters, real-time captioning and other accommodations will be available upon request. Please provide at least 72 hours’ notice prior to the hearing to ensure availability. Please contact Joan Best by telephone, by calling (718) 488-2007; TTY (212) 639-9675 or by email, at bestj@finance.nyc.gov, to make your accommodation requests.

The hearing will be held at 375 Pearl Street, 30th Floor, Room 30D, New York, NY 10038.

In order to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public hearings are requested to refrain from using perfume, cologne, and other fragrances.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. In addition, copies of all submitted comments concerning the proposed rule and a summary of oral comments from the hearing will be available to the public a few days after the hearing at NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038.

What authorizes DOF to make this rule? VTL sections 237 and 1111-c, section 19-203 of the Administrative Code of the City of New York, and New York City Charter (“Charter”) sections 1043 and 1504 authorize DOF to make this proposed rule.

Where can I find DOF’s rules? DOF’s rules can be found in Title 19 of the Rules of the City of New York at <http://rules.cityofnewyork.us>.

What laws govern the rulemaking process? DOF must meet the requirements of section 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of section 1043 of the Charter. This proposed rule was not included in DOF’s regulatory agenda for this Fiscal Year because it was not contemplated when DOF published the agenda.

STATEMENT OF BASIS AND PURPOSE

Section 19-203(b) of the Administrative Code of the City of New York authorizes DOF to provide for penalties for parking violations. VTL section 1111-c authorizes the City of New York to establish a bus lane restriction program in which the fines and penalties for such violations are set by DOF. DOF’s rule in 19 RCNY section 39-18 (“Rule 39-18”) codifies all fines and penalties pertaining to bus lane restriction violations as set forth in the VTL.

On June 24, 2019, the Governor signed into law Chapter 39 of the Laws of 2019. Part D of this act amends VTL section 1111-c (e) by reducing the monetary penalty for driving in a restricted bus lane. This State law since its inception has been read in tandem with the New York City Department of Transportation’s (“DOT”) rule 34 RCNY section 4-12(m), which sets forth allowable exceptions to its rules regarding driving in restricted bus lanes. The new law reduces the maximum allowable penalty from \$115.00 to \$50.00 for a first offense, to \$100 for a second offense within a twelve-month period, \$150 for a third offense within a twelve-month period, \$200 for a fourth offense within a twelve-month period and \$250 for each subsequent offense within a twelve-month period.

Section 3 of Part D provides that the act shall take effect immediately and that “[e]ffective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the

implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.”

On June 26, 2019, DOF Commissioner Jacques Jiha and Mayor Bill de Blasio promulgated a rule on an emergency basis that reduces the monetary penalty for each violation of VTL section 1111-c from \$115.00 to \$50.00 as set forth in Rule 39-18(a), to conform to the amendment to VTL section 1111-c (e) as described above. The emergency rule was published in the City Record on July 1, 2019.

Rule 39-18(a) is now being amended by non-emergency rulemaking to replace the emergency rule. This proposed rule would establish a set of penalties for driving in a restricted bus lane in a manner inconsistent with DOT’s rule 34 RCNY section 4-12(m), which penalties are increased with the number of violations within a twelve-month period, as permitted by the amendment to VTL section 1111-c (e).

The City Administrative Procedure Act provides that an emergency rule is effective for 60 days and may be extended for an additional 60 days to provide an opportunity to adopt a final rule replacing the emergency rule on a non-emergency basis. DOF hereby provides notice that the emergency rule promulgated on June 26, 2019 is extended for an additional 60 days.

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.

Amendment to Rule Relating to Parking Violations

Section 1. Subdivision (a) of section 39-18 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

§ 39-18 Bus Lane Restriction Program.

(a) *Liability.* The liability of an owner pursuant to § 1111-c of the vehicle and traffic law shall be \$50.00 for a first offense within a twelve-month period, \$100.00 for a second offense within a twelve-month period, \$150.00 for a third offense within a twelve-month period, \$200.00 for a fourth offense within a twelve-month period, and \$250.00 for each subsequent offense within a twelve-month period. For the purposes of this subdivision, the twelve-month period is defined as the twelve months going backwards from the date of the most recent offense.

**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 penalty for bus lane violations

REFERENCE NUMBER: 2019 RG 050

RULEMAKING AGENCY: Department of Finance

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: July 22, 2019

**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 penalty for bus lane violations

REFERENCE NUMBER: DOF-48

RULEMAKING AGENCY: Department of Finance

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) Cure periods are not provided for traffic or parking violations.

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

July 22, 2019
Date