

New York City Department of Consumer and Worker Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer and Worker Protection (“DCWP” or “Department”) is proposing to amend its rules to implement Local Laws 80 and 99 of 2020. These proposed amendments would repeal all references to billiards, add an entry to the Department’s penalty schedules for unlicensed activity, and clarify that all references to the Department of Consumer Affairs refer to the Department of Consumer and Worker Protection. Finally, these proposed amendments would add a penalty schedule to implement Local Law 99, which creates requirements for hotels related to hotel service disruptions.

When and where is the hearing? DCWP will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on January 11, 2021. 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 0738 5522
- To participate in the public hearing via videoconference, please follow the online link:

<https://us02web.zoom.us/j/87807385522>

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

- **Website.** You can submit comments to DCWP 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 January 11, 2021. 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 January 11, 2021.

What if I need assistance to participate in the hearing? You must tell DCWP’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 January 05, 2021.

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 DCWP 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 DCWP to make this rule? Sections 1043, 2203(f) and 2203(h)(1) of the New York City Charter and Section 20-853 of the New York City Administrative Code authorize the Department of Consumer and Worker Protection to make these proposed rules. This proposed rule was not included in the Department of Consumer and Worker Protection’s regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find DCWP'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? DCWP 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 and Worker Protection (“DCWP” or “Department”) is proposing to amend its rules to implement Local Laws 80 and 99 of 2020.

Local Law 80 repealed subchapter 4 of chapter 2 of title 20 of the New York City Administrative Code (the “Code”), which previously imposed licensing requirements for billiard rooms. Following this new law, a license is no longer required to operate a billiard room. These proposed rule amendments repeal all references to billiards in the Department’s rules.

Local Law 80 also amended section 20-105 of title 20 of the Code by clarifying the penalties for unlicensed activity. These proposed rule amendments would add an entry in the Department’s penalty schedules for the section 20-105 unlicensed activity penalties.

Additionally, Local Law 80 changed the name Department of Consumer Affairs to the Department of Consumer and Worker Protection. These proposed rule amendments would add a section to clarify that all references in the Department’s rules to Department of Consumer Affairs refer to the Department of Consumer and Worker Protection. These proposed rule amendments would also change the name of title 6 of the Rules of the City of New York from “Department of Consumer Affairs” to “Department of Consumer and Worker Protection.”

Finally, these proposed amendments would add a penalty schedule to implement Local Law 99 of 2020, which creates requirements for hotels related to hotel service disruptions. More specifically, this law imposes requirements related to notice and fees if a hotel experiences a service disruption, such as construction work that disturbs a guest or the unavailability of a hotel amenity. The penalties for violations of the hotel service disruptions provisions are provided by section 20-852 of the Code.

Sections 1043, 2203(f) and 2203(h)(1) of the New York City Charter and Section 20-853 of the New York City Administrative Code authorize the Department of Consumer and Worker Protection 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. The title of title 6 of the rules of the city of New York is amended to read as follows:

Title 6: [Department of Consumer Affairs] Department of Consumer and Worker Protection

§ 2. Subdivision a of section 1-02 of chapter 1 of title 6 of the rules of the city of New York is amended as follows:

(a) The licenses and permits listed below expire on the dates indicated:

License	Date (years refer to calendar years)
Amusement Arcades	January 16 of Even Years
Auctioneer and Night Auction Sales	June 15 of Even Years

[Billiard Room]	[August 1 of Odd Years]
Booting of Motor Vehicles	December 31 of Odd Years
Debt Collection Agency	January 31 of Odd Years
Electronic or Home Appliance Service Dealers	June 30 of Even Years
Electronic Stores	December 31 of Even Years
Employment Agency	May 1 of Even Years
Garage, Parking Lot	March 31 of Odd Years
Home Improvement Contractor	February 28 of Odd Years
Home Improvement Salesperson	February 28 of Odd Years
Horse Drawn Cab	March 31 of Even Years
Horse Drawn Cab Driver	May 31 of Even Years
Laundry – Retail, Industrial, and Industrial Delivery	December 31 of Odd Years
Locksmith; Locksmith Apprentice	May 31 of Odd Years
Process Server	February 28 of Even Years
Products-for-the-Disabled Dealer	March 15 of Odd Years
Secondhand Dealer	July 31 of Odd Years
Sightseeing Bus	March 31 of Even Years
Sightseeing Guide	March 31 of Even Years
Stoop Line Stand	March 31 of Even Years
Storage Warehouse	April 1 of Odd Years
Towing Vehicles Company	April 30 of Even Years
Towing Vehicles Driver	October 31 of Even Years

§ 3. Chapter 1 of title 6 of the rules of the city of New York is amended by adding a new section 1-23 to read as follows:

§ 1-23 References to the Department of Consumer Affairs.

Any reference to the Department of Consumer Affairs in this title shall be deemed to be a reference to the Department of Consumer and Worker Protection.

§ 4. Section 6-11 of subchapter B of chapter 6 of title 6 of the rules of the city of New York is amended as follows:

§ 6-11 License Enforcement 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].

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 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).

For violations of Section 20-105, each day of unlicensed activity constitutes a distinct and independent violation. Except as otherwise expressly provided, fines imposed for Section 20-105 violations shall be in addition to, and shall not be offset or modified by, any fines or civil penalties prescribed by Chapter 2 of Title 20 of the Administrative Code or provisions of state law governing businesses licensed by the department.

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
Admin Code § 20-105	Unlicensed Activities	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-109	Improper license transfer	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-110	Failure to obtain [DCA] Department approval of change of corporate ownership	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-111	Failure to obtain [DCA] Department approval of change in a partnership	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-112	Failure to comply with licensee address requirements	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-113	Failure to comply with trade name requirements	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-114	Failure to comply with inspection and license display requirements	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-01.1	Failure to provide truthful information on application	\$375	\$500	\$450	\$500	\$500	\$500

6 RCNY § 1-03(a)	Failure to post the license sign	\$375*	\$500*	\$450	\$500	\$500	\$500
6 RCNY § 1-03(b)	Failure to post the sidewalk cafe license and complaint sign	\$375*	\$500*	\$450	\$500	\$500	\$500
6 RCNY § 1-04	Making false representations and altering or falsifying Department documents or providing or using falsified documents	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-05	Failure to contain license number in advertisements and other printed and electronic matter	\$375*	\$500*	\$450	\$500	\$500	\$500
6 RCNY § 1-13	Failure to comply with requirements related to responding to a consumer's complaint	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-14	Failure to appear for or respond to a request for documents, subpoena, request for interrogatories, or notice of deposition	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-15	Failure to satisfy judgment	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-16	Failure to comply with record and business premise inspection requirements	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-17	Improper wearing of badge	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-18	Failure to destroy identification documents issued by the department	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 1-21	Injurious conduct committed by a licensee	\$500	\$500	\$500	\$500	\$500	\$500

§ 5. Section 6-14 of subchapter B of chapter 6 of title 6 of the rules of the city of New York is hereby repealed.

§ 6. Subchapter B of chapter 6 of title 6 of the rules of the city of New York is amended by adding a new section 6-73 to read as follows:

§ 6-73 Hotel Service Disruptions 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, or fourth and 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).

<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 § 20-851</u>	<u>Violation of hotel service disruption provisions</u>	<u>\$500</u>	<u>\$500</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$2,500</u>	<u>\$2,500</u>	<u>\$5,000</u>	<u>\$5,000</u>

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: Miscellaneous rule amendments

REFERENCE NUMBER: 2020 RG 097

RULEMAKING AGENCY: Department of Consumer and Worker Protection

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 L. GOULDEN
Acting Corporation Counsel

Date: 11/23/2020

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: Miscellaneous rule amendments

REFERENCE NUMBER: DCWP-119

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

November 23, 2020
Date