

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 amendments to the Department’s penalty schedules, including those related to electronic cigarette retail dealers, sidewalk stands, electronic stores, etching acid, motorized scooters, employment agencies, air conditioning prohibitions, and bail bond agents.

When and where is the hearing? DCA will hold a public hearing on the proposed rule via teleconference. The public hearing will take place at 10:30 AM on April 6, 2020. To participate in the public hearing via teleconference, please dial **712-770-4010, and use the access code 789 503.**

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>.
- **Fax.** You can fax written comments to the Department of Consumer 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) 436-0345. You can also sign up via teleconference before the hearing begins at 10:30 AM on April 6, 2020. You can speak for up to three minutes.
 - **To speak or listen at the public hearing via teleconference, please dial 712-770-4010 (access code 789 503).** The hearing begins at 10:00 AM on March 25, 2020.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before April 6, 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 can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0345. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by April 2, 2020.

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 DCA to make this rule? Sections 1043 and 2203(f) of the New York City Charter, sections 20-104(e), 20-487, 20-615, 20-702, and 20-833 of the New York City Administrative Code, and section 12 of Local Law 228 of 2019 authorize the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in the Department of Consumer Affairs’ regulatory agenda for this Fiscal Year because it was 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 (“DCA” or “Department”) is proposing amendments to conform the Department’s penalty schedules to other sections of the Rules and to the Administrative Code. These amendments affect the penalty schedules related to electronic cigarette retail dealers, sidewalk stands, electronic stores, etching acid, motorized scooters, employment agencies, air conditioning prohibitions, and bail bond agents. Specifically, the Department is proposing to:

- Amend the electronic cigarette retail dealer penalty schedule to implement Local Law 228 of 2019, which prohibited the sale of flavored electronic cigarettes and flavored e-liquids. The penalties for these new violations are found in section 17-716(b) of the Administrative Code. (Section 1).
- Amend the sidewalk stands penalty schedule to add violations relating to newsstands that exist in the Administrative Code and Rules but are currently missing from the penalty schedule. (Section 2).
- Reduce the penalty amounts for violations of section 20-485.5(b) of the Administrative Code relating to electronic stores. Currently, the penalty schedule in section 6-35 of the Rules provides for maximum penalties of \$500 for all 20-485.5 violations. However, 20-485.5(b) states that “the civil penalties imposed for a violation of this subdivision shall be those provided for violations of section 20-708 of this title.” The penalties for violations of section 20-708, provided by section 20-711, are a maximum of \$250. (Section 3).
- Change the recidivism period from 2 years to 1 year for violations related to etching acid. Currently, the penalty schedule in section 6-40 of the Rules provides for a recidivism period of 2 years. However, section 20-616 of the Administrative Code provides for a 1-year recidivism period. (Section 4).
- Change the recidivism period from 2 years to 1 year for violations related to motorized scooters. Currently, the penalty schedule in section 6-55 of the Rules provides for a recidivism period of 2 years. However, section 20-762(c) of the Administrative Code provides for a 1-year recidivism period. (Section 5).
- Eliminate a reference in section 6-59 of the Rules, the penalty schedule for employment agencies, to the Administrative Code containing two subchapters numbered 14 in chapter 5. The Administrative Code no longer contains this mistaken organizational structure. These proposed amendments would also add an entry for a violation of NY General Business Law section 189, the penalties for which are provided by section 189(5). (Section 6).
- Change the recidivism period of 2 years to 18 months for violations related to air conditioning prohibitions. Currently, the penalty schedule in section 6-63 of the Rules provides for a recidivism period of 2 years. However, section 20-910(e)(ii) of the Administrative Code provides for an 18-month recidivism period. (Section 7).
- Change the recidivism period of 1 year to 2 years for violations related to bail bond agents. Currently, the penalty schedule in section 6-71 of the Rules provides for a recidivism period of 1 year. The Administrative Code is silent as to the recidivism period of bail bond agent violations (see section 20-835). The Department’s default recidivism period is 2 years unless the Administrative Code provides otherwise. (Section 8).

Sections 1043 and 2203(f) of the New York City Charter, sections 20-104(e), 20-487, 20-615, 20-702, and 20-833 of the New York City Administrative Code, and section 12 of Local Law 228 of 2019 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. Section 6-12.1 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-12.1 Electronic Cigarette Retail Dealer Penalty Schedule.

All citations are to Title 20 of the Administrative Code of the City of New York, Title 17 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.

Unless otherwise specified by law, a second or third or subsequent violation shall mean 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 three years of the prior violation(s).

For sections of law marked by a single asterisk (*), a second, third or subsequent violation means a violation of Subdivision (b) of § 17-704.1 or Subdivision (a-1) of § 17-706 of Title 17 of the Administrative Code, or any combination of such provisions, whether by admitting to the violation, being found in violation in a decision, or entering into a settlement agreement for violating the provision of law or rule, at the same place of business within a three-year period.

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 § 20-561(a)(1)	Unlicensed electronic cigarette retail dealer	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin. Code § 20-561(a)(2)	Permitting premises under person's control to be used as unlicensed electronic cigarette retail dealer	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin. Code § 17-704.1(b)*	Unlawful delivery of electronic cigarettes	\$1,000	\$1,000	\$2,000 (plus revocation)	\$2,000 (plus revocation)	\$2,000 (plus revocation)	\$2,000 (plus revocation)
Admin Code § 17-706(a-1)*	Unlawful sale of electronic cigarettes to an individual under 21	\$1,000	\$1,000	\$2,000 (plus revocation)	\$2,000 (plus revocation)	\$2,000 (plus revocation)	\$2,000 (plus revocation)
Admin Code § 17-706(c)	No minimum age sign violation or missing information on sign	\$500	\$500	\$500	\$500	\$500	\$500
<u>Admin. Code § 17-715(b)</u>	<u>Unlawful sale of flavored electronic cigarettes or flavored e-liquids</u>	<u>\$1,000</u>	<u>\$1,000</u>	<u>\$2,000</u>	<u>\$2,000</u>	<u>\$5,000 (plus 1 to 90 day suspension)**</u>	<u>\$5,000 (plus one year suspension)</u>

§ 2. Section 6-16 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-16 Sidewalk Stands 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.

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
Admin Code § 20-229	Operating an unlicensed newsstand	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-231	Failure to comply with restrictions and size requirements	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-233(a)	Operating an unlicensed stoop line stand	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-233(b)	Improper use of a stoop line stand	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-237(a) (food items)	Failure to comply with stoop line height, location and size restrictions displaying any food items	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-237(b) (food items)	Failure to comply with specific stoop line stand length and width restrictions on stands displaying any food items	\$375*	\$500*	\$450	\$500	\$500	\$500
Admin Code § 20-237(a) (non-food items)	Failure to comply with stoop line stand location and size restrictions on stands displaying only non-food items	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-237(b) (non-food items)	Failure to comply with specific stoop line stand length and width restrictions on stands displaying only non-food items	\$375*	\$500*	\$450	\$500]	\$500	\$500
Admin Code § 20-237(c)	Unlawfully leasing to or permitting another person to use adjacent sidewalk space to display or sell merchandise	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-240	Unlawfully sleeping in stoop line stand	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-241.1	Failure to comply with newsstand franchise requirements	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-64(d)	Improper alteration or enlargement of newsstand	\$375	\$500	\$450	\$500	\$500	\$500

6 RCNY § 2-65	Failure to comply with newsstand site requirements	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-66	Improper operation of a newsstand	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-68	Failure to comply with procedures for review, approval, replacement or relocation of newsstand	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-69	Failure to comply with newsstand obligations	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 2-70.2	Failure to comply with stoop line stand requirements	\$375	\$500	\$450	\$500	\$500	\$500

§ 3. Section 6-35 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-35 Electronic Stores 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.

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.

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
Admin Code § 20-485	Operating without an electronic store license	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day	\$100 per day
Admin Code § 20-485.3	Engaging in prohibited practices	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-485.4	Improper transfer of license	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-485.5(a), (c), and (d)	Failure to comply with the duties of a licensee	\$375	\$500	\$450	\$500	\$500	\$500
Admin Code § 20-485.5(b)	Failure to display selling price	\$185	\$250	\$225	\$250	\$250	\$250
6 RCNY § 2-341	Failure to comply with regulations pertaining to gray market merchandise	\$375	\$500	\$450	\$500	\$500	\$500

§ 4. Section 6-40 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-40 Etching Acid 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.

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] one year of the prior violation(s).

§ 5. Section 6-55 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-55 Motorized Scooters Penalty Schedule.

All citations are to Title 20 of the Administrative Code 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.

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] one year of the prior violation(s).

§ 6. Section 6-59 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-59 Employment Agency Penalty Schedule.

All citations are to Chapter 20, Article 11 of the New York General Business Law, 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 Section 189(5) of the New York General Business Law.

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).

[Title 20, Chapter 5 of the Administrative Code contains two subchapters numbered 14 that include § 20-770, § 20-771, § 20-772, § 20-773, and § 20-774.]

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
NY Gen Bus § 172	Unlicensed activity	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 175	Failure to notify the Department of changes in license or ownership of the agency	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 176	Improper assignment or transfer of license, change of location, or addition of a location	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 179	Failure to maintain adequate registers and other records	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 181	Failure to maintain adequate contracts or receipts	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 182	Failure to provide identification card to nurse or maintain records of investigation and verification of nurses	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 184	Failure to comply with requirements pertaining to recruitment of domestic or household employees who are residents of other states	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 184-a	Failure to comply with requirements pertaining to recruitment of domestic or household employees from outside the continental United States	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 185	Charging or accepting an unlawful fee	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 185-a	Failure to comply with requirements pertaining to domestic dayworkers who are transported to the place of employment	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 186	Failure to comply with the requirements pertaining to the return of fees	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 187	Engaging in prohibited activities or conduct	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 188	Failure to post the required copies of law	\$750*	\$1,000*	\$4,500	\$5,000	\$5,000	\$5,000
NY Gen Bus § 189	Failure to comply with requirements including inspection of books and records	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
Admin Code § 20-771	Failure to provide a statement of employee rights and employer obligations under city, state and federal law	\$375	\$500	\$450	\$500	\$500	\$500

Admin Code § 20-772	Failure to provide a statement of job conditions or maintain required records	\$375	\$500	\$450	\$500	\$500	\$500
6 RCNY § 5-241	Improper financial records	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-242	Failure to comply with corporate applicant requirements	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-243	Failure to comply with trade name and partnership certificate requirements	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-245	Failure to comply with premises requirements	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-246	Failure to comply with referral card requirements	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-247	Improper recruitment of domestic or household employees	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-248	Engaging in prohibited practices	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-250	Failure to display sign in required form	\$750*	\$1,000*	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-251	Improper display of license	\$750*	\$1,000*	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-252	Failure to comply with the notice of hearing and subpoena duces tecum requirement	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-253	Failure to comply with change of address requirement	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-254	Failure to comply with judgment requirements	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-255	Failure to respond to consumer complaints	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-257	Failure to comply with lost or mutilated license requirements	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000
6 RCNY § 5-259	Failure to provide the “Terms and Conditions” document	\$750	\$1,000	\$4,500	\$5,000	\$5,000	\$5,000

§ 7. Section 6-63 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-63 Air Conditioning System Penalty Schedule.

All citations are to Title 20 of the Administrative Code 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.

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] 18 months of the prior violation(s).

§ 8. Section 6-71 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-71 Bail Bond Agents 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.

Unless otherwise specified by law, a second or third or subsequent violation shall mean 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 [one year] two years of the prior violation(s).

**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 Consumer Affairs Penalty Schedule

REFERENCE NUMBER: 2020 RG 015

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: February 20, 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 Consumer Affairs Penalty Schedule

REFERENCE NUMBER: 2020 RG 015

RULEMAKING AGENCY: Department of Consumer Affairs

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) A cure period is not provided for the new prohibitions on selling flavored electronic cigarettes 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

February 21, 2020
Date