

Notice of Adoption of Final Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Department of Transportation (DOT) by Sections 1043 and 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, that DOT has adopted rules relating to the implementation of the Dangerous Vehicle Abatement Program, adding a Section 4-18 to Chapter 4 of Title 34 of the Rules of the City of New York.

This rule was first published on September 17, 2021 and a public hearing was held on October 20, 2021. DOT did not receive any written or oral comments from the public either prior to or during the hearing. The changes in the rule since its publication are attributable to internal agency comments and comments received from City agencies, as described below.

Statement of Basis and Purpose of Adopted Rule

The Commissioner of the New York City Department of Transportation (“DOT” or “Department”) is authorized to promulgate rules regarding parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter. This rule is added to Chapter 4 of Title 34 of the Rules of the City of New York.

More than 200 people in New York City are killed each year in traffic crashes. Being struck by a vehicle is the leading cause of injury-related death for children under 14, and the second leading cause for senior citizens. In a DOT analysis, vehicles with the most school speed camera violations per year or the most red light camera violations per year were more likely to be involved in injury crashes than vehicles with few or no violations. The City Council established a safety education program to educate registered vehicle owners who had received multiple red light camera and school speed camera violations regarding the dangers of exceeding speed limits and failing to comply with traffic signals. As a result, Local Law 36 was enacted on February 26, 2020 and the Dangerous Vehicle Abatement Program was established. The law provides that registered owners of vehicles with five or more finally adjudicated red light camera violations or 15 or more finally adjudicated speed camera violations within any 12-month period may be required to complete a safe vehicle operation course. On October 26, 2020, DOT began to issue notices about the program, which contained warnings that failure to enroll in and complete a safe vehicle operation course may result in the seizure and impoundment of such vehicle.

This rule sets forth details of the Dangerous Vehicle Abatement Program as authorized by Local Law 36 of 2020. Specifically, a new Section 4-18 is added to describe the requirements of the Dangerous Vehicle Abatement Program by providing timeframes for completing a safe vehicle operation course, the procedure for contesting notices of violation, and certifying completion of such course.

Based on DOT’s and other City agencies final review of the aforementioned amendments, more specific details regarding the procedure for contesting notices and timeframes were added to subdivision (c) of this rule and new paragraphs describing the vehicle seizure procedure were added to subdivision (d).

New material is underlined.

Section 1. Section 4-18 of Chapter 4 of Title 34 of the Rules of the City of New York is added to read as follows:

§ 4-18 Dangerous Vehicle Abatement Law.

(a) Definitions. For purposes of this section, the following terms have the following meanings:

Covered vehicle. The term “covered vehicle” means any motor vehicle that, in accordance with the records of the department of finance, has accumulated five or more finally adjudicated red light camera violations as determined by the department, or 15 or more finally adjudicated school speed camera violations as determined by the department, within any 12-month period. Such term shall not include any vehicle owned or leased by the United States government or any state or local government.

Person. The term “person” means a natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

Predicate violation. The term “predicate violation” means a red light camera violation or school speed camera violation.

Red light camera violation. The term “red light camera violation” means the notice of liability issued for failure of a vehicle operator to comply with section 1111-a of the Vehicle and Traffic Law or section 19-210 of the Administrative Code of the City of New York.

School speed camera violation. The term “school speed camera violation” means the notice of liability issued for failure of a vehicle operator to comply with section 1180-b of the vehicle and traffic law.

Safe vehicle operation course. The term “safe vehicle operation course” means a course approved by the Department that educates vehicle owners about the dangers resulting from vehicle operators exceeding posted speed limits and failing to comply with traffic signals, including the potential to cause injury or death, by utilizing a skilled facilitator to actively engage participants in self-reflection and discussion to identify and commit to specific safe driving practices. The goal of such course is to prevent vehicles from becoming dangerous instruments by educating owners about responsible vehicle ownership.

(b) Notice to vehicle owners. The Department will send by first-class mail, to all persons receiving a red light camera violation or a school speed camera violation, a notice that pursuant to subchapter 4 of title 19 of the New York City Administrative Code, a vehicle that incurs five or more red light camera violations or 15 or more school speed camera violations within any 12-month period may be determined to be a covered vehicle, and that such vehicle’s registered owner may be required to enroll in and complete a safe vehicle operation course pursuant to the

aforementioned subchapter and this section. Such notice shall also contain a warning that failure to enroll in and complete such course may result in the seizure and impoundment of such vehicle, pending completion of such course.

(c) *Safe vehicle operation course.*

(1) The Department will serve a safe vehicle operation course notice on the registered owner of a vehicle determined by the Department to be a covered vehicle. Such notice must be served by first-class mail.

(2) The registered owner of a vehicle who receives the safe vehicle operation course notice, or other person designated by the owner in accordance with paragraph (6) of this subdivision, must enroll in and complete an approved safe vehicle operation course within forty-five days from the date of such notice unless within such time such owner requests review of such notice by the Department in accordance with paragraph (3) or commences a proceeding to contest the notice before the Office of Administrative Trials and Hearings in the manner set forth in such notice. The method of enrollment in such course will be set forth in such notice or as indicated on the website of the Department. The registered owner must certify completion of the safe vehicle operation course to the Department within ten days from the date of the completion of such course in the manner set forth in such notice.

(3) Where the registered owner believes there was a mistake in the issuance of the notice including, but not limited to, the claimed number of predicate violations or the identification of the ownership of the vehicle, they may request a review of the notice's issuance by the Department within forty-five days after the issuance of the safe vehicle operation course notice, in the manner set forth in such notice. The Department will review and respond in writing to such owner's request within forty-five days. If the Department finds that such notice was issued properly and denies the registered owner's request, the registered owner or person designated pursuant to paragraph (6) of this subdivision must take the course within forty-five days after such denial unless within such time such owner chooses to contest the safe vehicle operation course notice before the Office of Administrative Trials and Hearings, in the manner set forth in the denial letter. If after such review the Department agrees with the registered owner's request, it will notify such owner in writing within forty-five days that they are not required to take the safe vehicle operation course.

(4) The registered owner who timely enrolls in a safe vehicle operation course may request the Department to reschedule such course upon showing a good cause as determined by the Department.

(5) If the Office of Administrative Trials and Hearings finds that such registered owner must complete the safe vehicle operation course, such registered owner must complete such course within forty-five days from such determination or as otherwise provided in such determination. The determination of the Office of Administrative Trials and Hearings shall be a final determination for purposes of review, pursuant to article 78 of the Civil Practice Law and Rules.

(6) A registered owner may designate the person that operated the vehicle when the predicate violations were committed and who has agreed to take the safe vehicle operation course on behalf of the owner or, with respect to a registered owner that is not a natural person, the person who operated or was in charge of the vehicle when the predicate violations were committed, by submitting a form in the manner set forth in the safe vehicle operation course notice or as indicated on the Department's website. Such form must be submitted prior to the date that a respondent is required to complete the safe vehicle operation course in accordance with paragraphs (2), (3) and (5) of this subdivision.

(d) *Seizure and impoundment.* Where a registered owner or a person designated by such registered owner fails to complete the safe vehicle operation course in accordance with this section, the covered vehicle may be subject to impoundment.

(1) The Department shall serve an order by first-class mail upon the registered owner of such covered vehicle. Such order shall require the owner to complete the safe vehicle operation course and certify to the Department completion of such course within a period of time to be set forth in such order, or appear at a hearing before the Office of Administrative Trials and Hearings at a time and place set forth in such order, at which such registered owner may present reasons why their covered vehicle should not be seized and impounded until such registered owner completes the safe vehicle operation course. The determination of the Office of Administrative Trials and Hearings shall be a final determination for purposes of review, pursuant to article 78 of the Civil Practice Law and Rules.

(2) If the Office of Administrative Trials and Hearings sustains the order of seizure and impoundment, the Department shall issue a warrant of seizure directing the City Sheriff, after twenty days have passed from the date of such final determination, to seize and impound the covered vehicle. The procedure for such seizure and impoundment by the Sheriff shall be the same procedure as that provided by law for seizure and impoundment pursuant to an execution under a judgment of a court. Such covered vehicle shall not be released until the owner provides certification of completion of the safe vehicle operation course and pays the amount of the City's expenses for the seizure and impoundment of such covered vehicle in accordance with the schedule of fees set forth in 34 RCNY section 4-07 (i) (3).

(3) If the vehicle is not claimed within thirty days it will be considered abandoned and may be disposed of by the Sheriff in the manner provided pursuant to section 1224 of the Vehicle and Traffic Law.

(4) If within six months after completing a safe vehicle operation course a vehicle does not accumulate any additional predicate violations, any red light camera or school speed camera violations accrued prior to the completion of such course will not be counted as predicate violations for purposes of this section.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

I hereby find and represent to the Mayor that there is a substantial need for the implementation, immediately upon its final publication in the City Record, of the New York City Department of Transportation (“DOT”) rule setting forth details of the Dangerous Vehicle Abatement Program (the “DVAP”), which was enacted by Local Law 36 of 2020. The rule provides timeframes for completing a safe vehicle operation course, the procedure for contesting notices and certifying completion of such course. The rule reflects the law’s mandate that owners of vehicles that have incurred five or more finally adjudicated red light camera violations or fifteen or more finally adjudicated speed camera violations, within any 12-month period, may be required to complete a safe vehicle operation course or risk having their vehicle seized.

More than 200 people in New York City are killed each year in traffic crashes. Being struck by a vehicle is the leading cause of injury-related death for children under 14, and the second leading cause for senior citizens. To date, 2021 has been exceptionally deadly with respect to traffic fatalities compared with previous years in which Vision Zero has been City policy. Over one thousand vehicles have already exceeded the DVAP threshold of accumulated red light and speed camera violations, adding to the urgency of beginning DVAP as soon as possible.

In order for DOT to offer safe vehicle operation courses without delay, this rule must take effect immediately upon its final publication in the City Record. Therefore, I find that pursuant to Section 1043(f)(1)(c) of the New York City Charter there is a substantial reason for its earlier implementation.

/s/ _____

Henry Gutman, Commissioner
New York City Department of Transportation

APPROVED:

/s/ _____

Bill de Blasio
Mayor