

The New York City Department of Transportation

Notice of Adoption

NOTICE OF ADOPTION relating to amending provisions of the Traffic Rules to conform with the requirements of the recently enacted Local Law 91 of 2017 relating to bicycles used for commercial purposes.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of 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 the Department of Transportation hereby amends Sections 3-01 of Chapter 3 and 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York.

This rule was first published on April 12, 2018 and a public hearing was held on May 16, 2018.

Statement of Basis and Purpose of Rule

The Commissioner of the New York City Department of Transportation (DOT) is authorized to issue rules regarding parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter. The rules that DOT amends are contained within Chapters 3 and 4 of Title 34 of the Rules of the City of New York, relating to its Traffic Rules.

Local Law 91 of 2017 amends sections 10-157 and 10-157.1 of the New York City Administrative Code (the “Admin. Code”) regarding bicycles used for commercial purposes. Based on these recent amendments, the following changes are made to the Traffic Rules.

- Section 4-12(p)(4)(i) is amended by adding a new definition of “bicycle operator” and revising the definition of “business using a bicycle for commercial purposes”.
- Section 4-12(p)(4)(ii) is amended by deleting the bicycle safety poster posting requirements in subparagraph (ii) and adding new registration requirements for a business using a bicycle for commercial purposes that does not have a site within the city that is open and available to the public.
- Section 4-12(p)(4)(iii) – (vi) is amended by revising the requirements for the bicycle safety poster.
- Section 3-01 is amended by adding a new penalty to the Penalty Schedule.

This rulemaking also includes plain language and other minor changes to Section 4-01 (“Words and phrases defined”) identified during the retrospective rules review conducted by the Mayor’s Office of Operations with the City’s rulemaking agencies, the Law Department, and the Office of Management and Budget.

Based on DOT’s final review of the aforementioned amendments, the new penalty set forth in Section 3-01 (for failure to register a business using a bicycle for commercial purposes with the Department) has been changed from \$250 to \$100 to be consistent with the penalty requirements of Section 10-157(g) of the Admin. Code.

New material is underlined.
[Deleted material is in brackets.]

§1. Section 3-01 of Chapter 3 of Title 34 of the Rules of the City of New York is amended by adding a new penalty to the Penalty Schedule to read as follows:

<u>34 RCNY § 4-12(p)(ii)</u>	<u>Failure to register a business using a bicycle for commercial purposes with the Department</u>	<u>100</u>	<u>100</u>
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§2. Section 4-01 of Chapter 3 of Title 34 of the Rules of the City of New York is amended to read as follows:

§ 4-01 Words and Phrases Defined.

(a) *Vehicle and Traffic Law definitions apply.* Whenever any words and phrases used in these rules are not defined herein but are defined in Article 1 of the New York State Vehicle and Traffic Law, any such definition shall be deemed to apply to such words and phrases used herein.

(b) *Definitions.* The following words and phrases, when used in these rules, shall, for the purpose of these rules, have the following meanings [respectively ascribed to them as follows]:

Bicycle. [A "bicycle" shall mean] “Bicycle” means every two- or three-wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, except that it [shall] will not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children.

Bus. [A "bus" shall mean] “Bus” means every motor vehicle having a seating capacity of more than fifteen passengers, in addition to the operator, and used for the transportation of persons, and every charter bus, school bus and sight-seeing bus, regardless of seating capacity, as defined below.

(i) *Charter bus.* [A "charter bus" shall mean] The term “charter bus” means a bus transporting passengers for compensation in a chartered party.

(ii) *School bus.* [A "school bus" shall mean] The term “school bus” means every motor vehicle regardless of seating capacity owned by a public or governmental agency or private school and operated for the transportation of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities, or privately owned and operated on a regular basis for compensation for the transportation of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

(iii) *Sight-seeing bus.* [A "sight-seeing bus" shall mean] The term "sight-seeing bus" means a bus for hire carrying passengers from a fixed point in the City of New York, at which point the passengers embark and are generally discharged to a place or places of interest or amusement in the City of New York, and including a charter bus, as defined in these rules, when engaged in a sight-seeing operation.

Chartered party. [A] The term "chartered party" means a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group.

Commercial vehicle.

(i) For purposes of parking, standing and stopping rules, a vehicle [shall] will not be deemed a commercial vehicle or a truck unless:

(A) it bears commercial plates; and

(B) it is permanently altered by having all seats and seat fittings, except the front seats, removed to facilitate the transportation of property, except that for vehicles designed with a passenger cab and a cargo area separated by a partition, the seating capacity within the cab [shall] will not be considered in determining whether the vehicle is properly altered; and

(C) it displays the registrant's name and address permanently affixed in characters at least three inches high on both sides of the vehicle, with such display being in a color contrasting with that of the vehicle and placed approximately midway vertically on doors or side panels.

(ii) For the purposes of rules other than parking, stopping and standing rules, a vehicle designed, maintained, or used primarily for the transportation of property, or for the provision of commercial services and bearing commercial plates [shall] will be deemed a commercial vehicle.

(iii) Vehicles bearing commercial or equivalent registration plates from other states or countries [shall] will not be deemed trucks or commercial vehicles unless they are permanently altered and marked as required in (i)(B) and (C) of this definition, above.

Commissioner. [The] "Commissioner" [shall mean] means the Commissioner of the New York City Department of Transportation or his/her authorized designee.

Commuter Van. [A van,] The term "commuter van" means a van which: (i) is used as part of a commuter van service as defined in section 19-502(q) of the New York City Administrative Code; (ii) has a seating capacity of at least nine passengers but not more than twenty passengers or such greater capacity as the New York City Taxi and Limousine Commission may establish by rule; (iii) carries passengers for hire in the City; (iv) is duly licensed as a commuter van by the New York City Taxi and Limousine Commission; and (v) is not permitted to accept hails from prospective passengers in the street.

Crosswalk.

(i) *Marked crosswalk.* [That] The term “marked crosswalk” means that part of a roadway defined by two parallel lines or highlighted by a pattern of lines (perpendicular, parallel or diagonal used either separately or in combination) that is intended to guide pedestrians into proper crossing paths.

(ii) *Unmarked crosswalk.* [That] The term “unmarked crosswalk” means that part of a roadway, other than a marked crosswalk, [which] that is included within the extensions of the sidewalk lines between opposite sides of the roadway at an intersection, provided that (A) the roadway crosses through the intersection rather than ending at the intersection, and/or (B) all traffic on the opposing roadway is controlled by a traffic control device.

Cruising. [The term "cruising" shall mean] “Cruising” means the movement of any vehicle on any street in search of prospective passengers who may wish to hire the vehicle.

Department. [The term "Department" shall mean] “Department” means the New York City Department of Transportation.

Designated Activities. The term "Designated Activities" [shall mean] means commercial activities, entertainment or performances by individuals or groups, posing for or taking photographs or videos, and vending expressive matter, where any form of compensation, donation, or gratuity is requested or accepted.

Designated Activity Zone. The term "Designated Activity Zone" [shall mean] means an area in a pedestrian plaza designated as such by the Department by signage and/or markings in which individuals conduct Designated Activities.

Driveway. [Every] “Driveway” means every entrance or exit authorized pursuant to applicable law and used by vehicular traffic to or from lands or buildings abutting a roadway.

D/S Decals. "D/S Decals" [shall mean] means valid non-transferable service vehicle decals or delivery vehicle decals issued by the City of New York that are affixed to the inside of the operator's side of the windshields of vehicles bearing "A", "C" or "D" series license plates issued by the U.S. Department of State.

Electronic communication device. [An] The term “electronic communication device” [shall mean] means any electronic equipment approved by the Department capable of transmitting information via telephone, cable, fiber, satellite or antenna to the Department for payment at parking spaces where payment for such space is requested. This includes but is not limited to mobile or vehicle mounted computers with an on-line connection, mobile or cellular phones, personal digital assistants, or any other electronic communication device approved by the Department. [ALP S-012]

Emergency vehicle (authorized). [An] The term "emergency vehicle (authorized)" [shall mean] means every police vehicle, fire vehicle, emergency ambulance service vehicle, and every other emergency vehicle as defined in § 101 of the Vehicle and Traffic Law.

Expressive Matter. The term "expressive matter" [shall mean] means materials or objects with expressive content, such as newspapers, books, or other similar written matter and visual art such as paintings, prints, photography, or sculpture.

For-hire vehicle. [A] The term "for-hire vehicle" [shall mean] means a motor vehicle, licensed by the New York City Taxi and Limousine Commission, for hire in the City, used for the carriage of passengers by prearrangement only and designed to carry fewer than nine passengers, including but not limited to livery vehicles, and excepting taxis or wheelchair accessible vans.

High Occupancy Vehicle (HOV). [HOV] The term "HOV" [shall mean] means a vehicle, except a truck as defined in 34 RCNY § 4-13(a)(1) of these rules, with two or more occupants, the number of which is specified by signs placed on express lanes on highways or bridges, pursuant to 34 RCNY § 4-07(k) of these rules.

Holidays. [A "holiday,"] "Holiday" when used on traffic control devices[, shall mean] means the days on which the following holidays are officially celebrated: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Horse drawn vehicle. [A] The term "horse drawn vehicle" [shall mean] means a vehicle drawn by a horse and used for the carriage of passengers for compensation. Where signs limit parking to horse drawn vehicles, only those vehicles licensed by the New York City Department of Consumer Affairs will be permitted.

Impounded vehicle. A vehicle is considered "impounded" when the City of New York takes it into custody by taking any action [inconsistent with] preventing the free use of the vehicle by the motorist, including, but not limited to, beginning to attach to the vehicle an immobilization device such as a "boot" or a hook on a Department of Transportation tow truck [to the vehicle].

Intercity bus. [An] The term "intercity bus" means a bus that transports the general public between the City of New York and any location outside the City of New York in scheduled bus service. Such term does not include a school bus, a bus providing public transportation, or a charter bus.

Law enforcement officer. [A] The term "law enforcement officer" [shall mean] means a police officer or any authorized agent of the Department of Transportation.

Limited use vehicle. [A] The term "limited use vehicle" [shall mean] means a motor vehicle, other than a motorcycle, which has a maximum performance speed of [not more than] forty miles per hour.

Marginal street. [A] The term "marginal street" [shall mean] means any street, road, place, area or way adjoining or adjacent to waterfront property and designated as a marginal street, wharf or place on a plan or map adopted pursuant to law.

Motor vehicle. [A] The term "motor vehicle" [shall mean] means every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except as otherwise provided in § 125 of the Vehicle and Traffic Law.

Official time standard. The term "official time standard" [shall mean] means, whenever certain hours are named in these rules or on traffic control devices, [they shall mean] standard time or daylight-saving time, whichever may be in current use in [this city] the City of New York.

Parking. "Parking" [shall mean] means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

Parking meter. [A "parking meter" shall mean] The term "parking meter" means an electronic parking meter that dispenses timed receipts that must be displayed on the dashboard of a motor vehicle or in a visible and secure place on a motorcycle or as otherwise described within these rules. [ALP S-012]

Passenger car. The term "passenger car" when used on traffic control devices[, shall mean] means a motor vehicle designed and used for conveying not more than eight people and [shall include] includes motorcycles designed and used only for conveying people.

Pedestrian countdown display. [A] The term "pedestrian countdown display" [shall mean] means any automated digital reading used in a crosswalk that displays, at the beginning of the flashing upraised hand signal, the number of seconds remaining until the termination of such signal.

Pedestrian Flow Zone. The term "Pedestrian Flow Zone" [shall mean] means an area designated as such by the Department by signage and/or markings for the safe and continuous movement of pedestrian traffic.

Pedestrian Plaza. The term "pedestrian plaza" [shall mean] means an area designated by the Department as such for pedestrian circulation, use and enjoyment on property under the jurisdiction of the Department including, but not limited to, property mapped as a public place or property within the bed of a roadway, and which may contain amenities such as tables, seating, trees, plants, lighting, bike racks, or public art.

Pedestrian Plaza Partner. The term "pedestrian plaza partner" [shall mean] means an organization selected by the Department to assist with functions related to pedestrian plazas pursuant to a non-exclusive agreement with the Department, which may include, but is not limited to, a maintenance agreement or concession agreement.

Pedicab. [A "pedicab" shall mean] "Pedicab" means a bicycle as defined in the vehicle and traffic law or other device that is designed and constructed to transport or carry passengers, that is solely propelled by human power, and that is operated to transport passengers for hire. [ALP S-012]

Public transportation. The term "Public transportation" means:

(i) mass transportation services provided to the general public by any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of a state, or a subsidiary thereof, directly or through a contract with another entity; or

(ii) mass transportation services provided to the general public by any county, city, town or village directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law, or provided to the general public by another state or any county, city, town or village in a state other than New York directly or through a contract with another entity pursuant to a similar law of such other state.

Service vehicle. [A term "Service vehicle" [shall mean] means a commercial vehicle used for providing commercial services other than making pickups and deliveries, but [shall] does not include a vehicle bearing "A", "C" or "D" series license plates issued by the U.S. Department of State and displaying a valid non-transferable service vehicle decal issued by the City of New York that is affixed to the inside of the operator's side of the windshield.

Sidewalk. [A "sidewalk" shall mean] "Sidewalk" means that portion of a street, whether paved or unpaved, between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians. Where it is not clear which section is intended for the use of pedestrians, the sidewalk will be deemed to be that portion of the street between the building line and the curb.

Standing. [The term "standing" shall mean] "Standing" means the stopping of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

Stopping. [The term "stopping" shall] "Stopping" means any halting, even momentarily of a vehicle, whether occupied or not.

Taxi. A "taxi" [shall mean] means a motor vehicle used for the carriage of passengers for compensation, equipped with a taxi meter, painted yellow and displaying a current medallion issued by the New York City Taxi and Limousine Commission.

Transitway. A "transitway" [shall mean] means any roadway or series of roadways designated for the exclusive use of buses or taxis or such other designated high occupancy vehicles as may be permitted, during certain hours of the day, with access to such roadway(s) limited to one block thereof to other vehicles for the purpose of delivery of goods or services or the picking up or dropping off of passengers.

Truck. For the purposes of parking, standing and stopping rules, a "truck" is a commercial vehicle, as defined in paragraph (i) of the definition of commercial vehicle, above, except that, for the purposes of parking, standing and stopping rules in the area bounded by 35th Street on the south, 41st Street on the north, Avenue of the Americas on the east, and 8th Avenue on the west, all inclusive, in the Borough of Manhattan, between the hours of 7 a.m. to 7 p.m., a vehicle [shall] is not be deemed a truck unless it complies with the provisions of 34 RCNY § 4-13(a)(1) of these rules.

Vehicle. A "vehicle" [shall mean] means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Waterfront property. The term "waterfront property" [shall mean] means all waterfront property, [city] City or privately owned, between salt water and the next adverse owner. An adverse owner is the first private owner of property not designated as waterfront property.

Wharf property. The term "wharf property" [shall mean] means all wharves, piers, decks and bulkheads and structures thereon and slips and basins, the land beneath any of the foregoing, and all rights, privileges and easements appurtenant thereto and land under water in the port of the City of New York, and such upland or made land adjacent thereto owned by the City of New York as is vested in or may be assigned to the Department of Small Business Services of the City of New York.

§3. The title of paragraph 4 and subparagraph (i) of such paragraph 4 of subdivision (p) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York are amended to read as follows:

(4) [Bicycle safety poster.] Business using a bicycle for commercial purposes.

(i) Definitions. For purposes of this [subsection, a] paragraph, the following terms have the following meanings:

(A) “[business] **Business using a bicycle for commercial purposes**” [shall mean] means a person, firm, partnership, joint venture, association, corporation, or other entity that [engages in the course of its business], either on behalf of itself or others, [in delivering] delivers packages, parcels, papers or articles of any type by bicycle.

(B) **“Bicycle operator”** means a person who delivers packages, parcels, papers, or articles of any type by bicycle on behalf of a business using a bicycle for commercial purposes and who is paid by such business.

§2. Subparagraph (ii) of paragraph 4 of subdivision (p) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(ii) [Every business using a bicycle for commercial purposes shall post one or more bicycle safety posters at each business site using the bicycle for commercial purposes.]

Registration information. A business using a bicycle for commercial purposes that does not have a site within the City of New York that is open and available to the public must register with the Department and provide, upon a form prescribed by the Department, the following information:

(A) the name under which such business is authorized to do business in the State, pursuant to the Business Corporation Law;

(B) the name of the owner of such business;

(C) the registered agent upon whom process against such business may be served and the address of such agent, or, if the business has designated the Secretary of State as its agent for receiving such process, the post office address to which the Secretary of State may mail a copy of such process;

(D) the list of entities such business is providing services for;

(E) the roster with such business's bicycle operator information as required by §10-157(d) of the New York City Administrative Code, and

(F) any other information requested by the Department.

§4. Subparagraphs (iii) through (vi) of paragraph 4 of subdivision (p) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York are amended to read as follows:

(iii) **Bicycle safety poster or notice.** Every business using a bicycle for commercial purposes must post at least one bicycle safety poster at each business site using a bicycle for commercial purposes; provided, however, that if such business has only a post office address within the City, such business must provide a written notice to each of its bicycle operators.

(A) The bicycle safety poster [shall] or notice must be in English, Spanish and any other language spoken predominately by any bicycle operator utilized by the business. [It shall] The poster must be clear, prominent, and large enough to be visible to the bicycle operators and patrons of the business[.]; however, [at a minimum] the size of the poster must be [in size] printed in at least 10 point font and on paper that is at least 11 inches x 17 inches [size paper].

[(iv)] (B) The poster [shall] must be printed in a manner so as to be legible even to [the] people who are colorblind.

[(v)] (C) An example of the type of poster [shall] required to be posted must be made available on the Department's website.

[(vi)] (D) The poster [shall] must consist of a header or title, which [shall] will appear at the top of the poster, Sections 1 through 4, and a footer, which [shall] will appear at the bottom of the poster, as more fully described below:

[(A)] 1. Header/Title: Commercial Bicyclist Safety

[(B)] 2. Section 1: This poster must be displayed where delivery cyclists will easily see it. Sections [§]10-157 and [§]10-157.1 of the New York City Administrative Code regulate businesses using a bicycle for commercial purposes. The responsibilities listed below are imposed by law. Failure to comply with these requirements may subject violators to legal sanctions.

[(C)] 3. Section 2: Commercial bicyclists must obey all traffic laws and rules. These laws include, but are not limited to, the following requirements:

- Yield to pedestrians.
- Ride in the direction of traffic
- Stay off the sidewalk

- Stop at all red lights and stop signs
- Do not wear more than one earphone while riding
- Use a white headlight and red taillight at night

[(D)] 4. Section 3: Commercial bicyclists must:

- Wear retro-reflective outermost upper body apparel with the business's name and bicyclist's 3 -digit ID number on the back in lettering at least 1 inch high.
- Wear a bicycle helmet that is in good condition
 - o Every business using a bicycle for commercial purposes must provide or ensure the availability of protective headgear for each of its bicycle operators at no cost to such operators.
- Carry a business ID card at all times when [riding] making deliveries or operating a bicycle on behalf of the business, which includes the information below:
 - o Business name, address and phone number
 - o Bicycle operator's name, photo and 3 -digit ID number
- [Business owners] Every business using a bicycle for commercial purposes must provide the above items.

[(E)] 5. Section 4: [Business owners who employ commercial bicyclists] Every business using a bicycle for commercial purposes must:

- Equip each commercial bicycle with the following, in addition to the items required above:
 - o A bell or other audible device
 - o White headlight and red taillight
 - o Reflex reflectors
 - o Brakes
 - [o Metal or plastic sign in good condition at least 3 inches by 5 inches with the business's name and a unique bicycle ID number for each bicycle in lettering at least 1 inch high. The sign must be affixed to the rear or both sides of the bicycle.]
- [Make available at the site] Maintain a roster [to include] of its bicycle operators, which includes each [cyclist's] bicyclist's:
 - o Name, [residence] home address, employment start date [of employment] and, where applicable, date of discharge [from employment]
 - o Unique 3-digit ID number

- o [Confirmation of cyclist's completed review] Date of completion
of DOT Commercial Bicyclist Safety course

[(F)] 6. Footer: For more information, please visit nyc.gov/bikes