

Environmental Control Board

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) in accordance with Sections 1043 and 1049-a of the New York City Charter and Sections 19-190 and 19-191 of the New York City Administrative Code, that the ECB has amended its Department of Transportation (DOT) Penalty Schedule. This schedule is found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. It contains penalties for violations of provisions of Titles 10 and 19 of the New York City Administrative Code and Title 34 of the Rules of the City of New York that are heard and decided by ECB. The rule was published in The City Record on December 5, 2014 and a public hearing was held on January 6, 2015.

Statement of Basis and Purpose of Final Rule

On February 18, 2014, Mayor de Blasio launched the Vision Zero action plan – an ambitious plan to reduce traffic fatalities in New York City. Vision Zero accepts no traffic fatality as inevitable. Vision Zero allows government agencies, industry groups, key transportation stakeholders and the public to understand traffic crashes as the result of a series of actions that can be changed or prevented through enforcement, education and design. As part of Mayor de Blasio’s Vision Zero Action Plan, several pieces of legislation have been enacted that are intended to reduce fatalities resulting from motor vehicle accidents. Among this legislation are two new laws, Local Law No. 29 and Local Law No. 50 of 2014, which establish civil penalties for certain traffic-related offenses, and which provide for adjudication by the Environmental Control Board. This rule amends ECB’s DOT Penalty Schedule to implement these new laws.

The ECB held a public hearing on January 6, 2015 regarding amendments to its Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. A representative from the NYC Police Department attended the January 6, 2015 public hearing. Neither written comments nor oral testimony were presented at the January 6, 2015 public hearing.

Section One: Right of Way

Local Law No. 29 of 2014 added a new Section 19-190 to the Administrative Code, entitled “Right of way.” Subdivision (a) provides that if a motor vehicle driver fails to yield to a pedestrian or bicyclist who has the right of way, the driver shall be subject to a civil penalty of not more than \$100, in addition to or as an alternative to the penalties that can be imposed for committing a traffic infraction as provided in the law. Subdivision (b) of Section 19-190 provides that if a driver violates subdivision (a) and the vehicle causes contact with the pedestrian or bicyclist, and thereby causes physical injury, the driver shall be subject to a civil

penalty of not more than \$250, in addition to or as an alternative to the penalties that can be imposed for committing a misdemeanor as provided in the law.

Section Two: Civil Penalties for Leaving the Scene of an Incident without Reporting

Local Law No. 50 of 2014 added a new Section 19-191 to the Administrative Code, entitled “Civil penalties for leaving the scene of an incident without reporting.” The civil penalties contemplated by the law relate to a violation of Vehicle and Traffic Law Section 600, which obligates motor vehicle operators, who know or have cause to know that property damage or personal injury has been caused due to an incident involving their vehicle, to stop and share their identifying information with the person sustaining the damage or injury and/or with a police officer, the nearest police station, or a judicial officer, as applicable.

Administrative Code Section 19-191 sets forth four levels of civil penalties associated with a motor vehicle operator’s failure to comply with Vehicle and Traffic Law Section 600, as follows:

- If an incident involves property damage, the operator is liable for a civil penalty of not more than \$500;
- If an incident involves physical injury, the operator is liable for a civil penalty of not less than \$1,000 and not more than \$2,000;
- Notwithstanding the limits on civil penalties where an incident involves physical injury, if an incident involves serious physical injury, the operator is liable for a civil penalty of not less than \$2,000 and not more than \$10,000; and
- Notwithstanding the limits on civil penalties where an incident involves physical injury, if an incident involves death, the operator is liable for a civil penalty of not less than \$5,000 and not more than \$10,000.

Penalties

The default penalties for these sections are the maximum penalty amounts pursuant to the respective sections.

The rule adds six new entries to the Department of Transportation Penalty Schedule in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY), setting forth civil penalties for the enforcement of Sections 19-190 and 19-191 of the Administrative Code. In recognition of the seriousness of the offenses articulated by these two new laws, no cure periods are provided and the civil penalties are set at the maximum authorized by Local Law Nos. 29 and 50, respectively.

ECB’s authority for these rules is found in Sections 1043 and 1049-a of the New York City Charter and Sections 19-190 and 19-191 of the New York City Administrative Code.

New material is underlined.

“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.

Section 1. The Environmental Control Board has amended its Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding two new entries after the entry in that schedule for Admin. Code 19-176(c) “Riding bicycle on sidewalk in manner which endangers any person or property and causes physical contact with a person – SECOND OFFENSE” to read as follows:

SECTION/RULE	DESCRIPTION	PENALTY	DEFAULT
<u>Admin. Code 19-190(a)</u>	<u>Right of way – failure to yield</u>	<u>\$100</u>	<u>\$100</u>
<u>Admin. Code 19-190(b)</u>	<u>Right of way – failure to yield, physical injury</u>	<u>\$250</u>	<u>\$250</u>

§ 2. The Environmental Control Board has amended its Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding four new entries after the entry in that schedule for Admin. Code 19-190(b) “Right of way – failure to yield, physical injury,” as added by section one of this rule, to read as follows:

SECTION/RULE	DESCRIPTION	PENALTY	DEFAULT
<u>Admin. Code 19-191(a)</u>	<u>Leaving the scene – property damage</u>	<u>\$500</u>	<u>\$500</u>
<u>Admin. Code 19-191(b)</u>	<u>Leaving the scene – physical injury</u>	<u>\$2,000</u>	<u>\$2,000</u>
<u>Admin. Code 19-191(b)</u>	<u>Leaving the scene – serious physical injury</u>	<u>\$10,000</u>	<u>\$10,000</u>
<u>Admin. Code 19-191(b)</u>	<u>Leaving the scene – death</u>	<u>\$10,000</u>	<u>\$10,000</u>