

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(a) and 1049-a of the New York City Charter and Chapter 4-D of Title 16 of the Administrative Code of the City of New York. The ECB has amended its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY). The amendments create penalties for new Administrative Code sections pertaining to the bulk collection of recyclable containers. These rules have created penalties for offenses that are heard and decided by ECB pursuant to Sections 1048, and 1049-a of the New York City Charter and Chapter 3 of Title 48 of the RCNY. The rule was published in The City Record on March 18, 2014 and a public hearing was held on April 22, 2014.

Statement of Basis and Purpose of Final Rule

On August 12, 2013, Mayor Bloomberg signed into law Intro. No. 893-A, also referred to as Local Law No. 57 of 2013. This law created a new chapter in Title 16 of the Administrative Code of the City of New York, Chapter 4-D, which establishes several new violations related to the bulk collection of recyclable containers using motor vehicles.

The ECB held a public hearing on April 22, 2014 regarding amendments to its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. A representative from the NYC Department of Health and Mental Hygiene (“DOHMH”) attended the April 22, 2014 public hearing. Neither written comments nor oral testimony were presented at the April 22, 2014 public hearing concerning the Proposed Rule regarding amendments to ECB’s Sanitation Penalty Schedule.

The law prohibits the use of a motor vehicle to accept, receive, or collect recyclable containers in bulk from more than one person on streets and in public areas, except for by authorized city employees or agents or private carters licensed or registered pursuant to section 16-505 of the Administrative Code. It also restricts the transfer of recyclable containers in bulk from one vehicle to another on or in any street where one or more of the vehicles involved in the transfer has a commercial license plate. The use of city streets for this activity creates significant health and safety risks for pedestrians and drivers. Any owner of a motor vehicle used in violation of this law is also liable unless he or she can show that the vehicle was used without his or her knowledge.

On private property, if individuals wish to accept, receive, or otherwise collect recyclable containers in bulk from more than two persons, or to transfer recyclable containers in bulk from one motor vehicle to another, they must register with the Department of Sanitation. They must also ensure that they do not create nuisances or hazardous conditions by maintaining clean

sidewalks and roadways around their sites. They also must satisfy annual reporting requirements, as specified in Administrative Code 16-473.

Pursuant to Sections 1048 and 1049-a of the New York City Charter and Chapter 3 of Title 48 of the RCNY, the New York City Environmental Control Board (ECB) hears and decides notices of violation issued for violations of the Administrative Code requirements pertaining to the acceptance of recyclable containers in bulk using motor vehicles. These requirements can be found in Chapter 4-D of Title 16 of the Administrative Code, enacted by Local Law 57 of 2013. The rule sets forth the penalties for these violations, which can result in fines of \$250 to \$1000 and/or an owner’s vehicle being impounded.

ECB’s authority for these rules is found in Chapter 4-D of Title 16 of the Administrative Code of the City of New York and Sections 1043(a) and 1049-a of the New York City Charter.

New material is underlined.

Section 1. The Environmental Control Board has amended its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding 8 new entries after the entry in the penalty schedule for Section 16-463(d)***, “Unlawful receipt of refrigerant-containing item” to read as follows:**

SECTION/RULE	DESCRIPTION	OFFENSE	PENALTY	DEFAULT
<u>16-471(a)</u>	<u>Use of motor vehicle to unlawfully accept, receive, or collect recyclable containers in bulk from more than one person on or in any street (Vehicle Operator)</u>		<u>\$1000</u>	<u>\$1000</u>
<u>16-471(a)</u>	<u>Use of motor vehicle to unlawfully accept, receive, or collect recyclable containers in bulk from more than one person on or in any street (Vehicle Owner)</u>		<u>\$1000</u>	<u>\$1000</u>

<u>16-471(b)</u>	<u>Unlawful transfer of recyclable containers in bulk from one vehicle to another on or in any street where one or more of the vehicles has a commercial license plate (Vehicle Owner)</u>		<u>\$1000</u>	<u>\$1000</u>
<u>16-471(b)</u>	<u>Unlawful transfer of recyclable containers in bulk from one vehicle to another on or in any street where one or more of the vehicles has a commercial license plate (Vehicle Operator)</u>		<u>\$1000</u>	<u>\$1000</u>
<u>16-472</u>	<u>Failure to register with the Department of Sanitation</u>		<u>\$500</u>	<u>\$500</u>
<u>16-473</u>	<u>Failure to file an annual report to the Department of Sanitation</u>		<u>\$250</u>	<u>\$250</u>
<u>16-474</u>	<u>Operating at a location other than that specified in registration</u>		<u>\$250</u>	<u>\$250</u>
<u>16-474</u>	<u>Failure to keep location specified in registration in a safe and sanitary manner</u>		<u>\$250</u>	<u>\$250</u>