

Proposed Int. No. 417-A

By The Speaker (Council Member Miller) and Council Members Gennaro, Yassky, Quinn, McMahon, Avella, Boyland, Brewer, Clarke, Comrie, Fidler, Gentile, Gerson, Gioia, Gonzalez, James, Jennings, Koppell, Liu, Martinez, Nelson, Palma, Recchia Jr., Reed, Rivera, Sanders Jr., Stewart, Vallone Jr., Weprin, DeBlasio, Lopez, Monserrate, Foster, Baez, Moskowitz, Jackson, Barron, Perkins and Reyna

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to reducing the emission of pollutants from sight-seeing buses.

Be it enacted by the Council as follows:

Section 1. Chapter one of Title 24 of the administrative code of the city of New York is amended by adding thereto a new section 24-163.6 to read as follows:

§24-163.6 Use of best available retrofit technology by sight-seeing buses. a. Definitions.

When used in this section:

(1) “Best available retrofit technology” means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) “Reasonable cost” means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in

subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(3) “Sight-seeing bus” means a motor vehicle designed to comfortably seat and carry eight or more passengers operating for hire from a fixed point in the city of New York to a place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a specific or special trip or excursion from a starting point within the city of New York.

b. Beginning January 1, 2007, any diesel fuel-powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code and that is equipped with an engine that is over three years old shall utilize the best available retrofit technology.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered sight-seeing bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No owner or operator of a diesel fuel-powered sight-seeing bus licensed pursuant to the provisions of subchapter 21 of chapter 2 of title 20 of the administrative code shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with

Level 4 being the highest classification level:

- i. Level 4 – strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;
- ii. Level 3 – strategy reduces diesel particulate matter emissions by between 50 and 84 percent;
- iii. Level 2 – strategy reduces diesel particulate matter emissions by between 25 and 49 percent;
- iv. Level 1 – strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered sight-seeing bus where the department of consumer affairs makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such bus shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years.

f. The requirements of subdivision b of this section shall not apply to a diesel-fuel powered sight-seeing bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section

86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

g. Not later than January 1, 2008, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of the best available retrofit technology by diesel fuel-powered sight-seeing buses during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered sight-seeing buses licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code; (ii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iii) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision f of this section; (v) the locations where such buses that utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; (vi) the age of the engine with which each bus that did not utilize the best available retrofit technology is equipped; and (vii) all waivers issued pursuant to subdivision e of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of consumer affairs or the owner or operator of a diesel fuel-powered sight-seeing bus upon which such waivers are based and the

type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

h. Any owner or operator of a diesel fuel-powered sight-seeing bus who violates any provision of this section, except as provided in subdivision i of this section, shall be liable for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such owner or operator for failure to comply with this section.

i. Where an owner or operator of a diesel fuel-powered sight-seeing bus has been found to have made a false claim with respect to the provisions of this section, such owner or operator shall be liable for an additional civil penalty of twenty thousand dollars.

§2. Subparagraph (i) of paragraph 5 of subdivision b of section 24-178 of the administrative code of the city of New York is amended by inserting the following lines in the Table of Civil Penalties, immediately following the line regarding civil penalties for a violation of section 24-163.5 of this chapter:

<u>24-163.6; plus twice the amount of money</u>		
<u>saved by the owner or operator of a sight-</u>		
<u>seeing bus for failure to comply with such</u>		
<u>section; provided that such \$1,000 - \$10,000</u>		
<u>penalty and additional penalty shall not apply</u>		
<u>to 24-163.6(i).....</u>	<u>10,000</u>	<u>1,000</u>
<u>24-163.6(i).....</u>	<u>20,000</u>	<u>20,000</u>

§3. Subdivision c and subdivision d of section 20-376 of the administrative code of the city of New York are amended to read as follows:

c. The commissioner shall refuse a license to any sight-seeing bus not in compliance with the requirements of this section, any rules promulgated thereunder or with any other laws or rules governing sight-seeing buses, or which is otherwise found to be unfit for operation. Grounds for refusal to issue a license shall include, but not be limited to, installation of an engine which does not meet the requirements of subdivision b of this section, failure to submit a bus or records pertaining to the operation and maintenance of such bus for inspection, installation of an engine not covered by a certificate of conformity in a vehicle which was originally manufactured with such an engine [and], installation of an engine of any model year preceding the year of manufacture in a vehicle which was originally manufactured with an engine covered by a certificate of conformity and being found to have violated the requirements for diesel fuel-powered sight-seeing buses contained in section 24-163.6 of the administrative code.

d. The commissioner may adopt rules (1) requiring the inspection by the department of sight-seeing buses and/or records pertaining to the operation and maintenance of such buses to determine compliance with the requirements of subdivision b of this section and section 24-163.6 of the administrative code; (2) delegating the performance of such inspections to the department of environmental protection; and (3) authorizing the acceptance of the results of inspections consistent with paragraph one of this subdivision conducted by a state or federal agency authorized to conduct such inspections on such buses.

§ 4. Subdivision a of section 20-383 of the administrative code of the city of New York is amended to read as follows:

§ 20-383 Suspensions and revocations. a. After notice and opportunity to be heard, the commissioner may suspend or revoke any sight-seeing bus license where the holder has failed to comply with any provisions of this subchapter or of the rules promulgated thereunder, or with

any other laws or rules governing sight-seeing buses, or which sight-seeing bus is otherwise found to be unfit for operation. Such suspension shall remain in effect until compliance and fitness have been established by the licensee and accepted by the department. Grounds for suspension or revocation shall include, but not be limited to, installation of an engine which does not meet the requirements of subdivision b of section 20-376 of this subchapter, being found to have violated the requirements for diesel fuel-powered sight-seeing buses contained in section 24-163.6 of the administrative code, failure to submit a bus for inspection, installation of an engine not covered by a certificate of conformity in a vehicle which was originally manufactured with such an engine and installation of an engine of any model year preceding the year of manufacture in a vehicle which was originally manufactured with an engine covered by a certificate of conformity.

§ 5. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 6. This local law shall take effect six months after its enactment, except that the commissioners of consumer affairs and environmental protection shall take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect. The commissioners shall publish proposed rules no later than ninety days from the date of enactment of this section.

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