

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2005**

No. 38

Introduced by The Speaker (Council Member Miller) and Council Members Gennaro, Yassky, Quinn, McMahon, Gerson, DeBlasio, Avella, Brewer, Clarke, Comrie, Fidler, Gioia, Gonzalez, James, Jennings, Koppell, Liu, Martinez, Nelson, Palma, Recchia, Reed, Rivera, Seabrook, Stewart, Vallone Jr., Weprin, Lopez, Monserrate, Gentile, Foster, Baez, Moskowitz, Katz, Jackson, Sanders, Barron, Perkins, Oddo, Gallagher and the Public Advocate (Ms. Gotbaum).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the city's purchase of cleaner vehicles and the repeal of sections 24-163.1 and 24-163.2 of such code.

Be it enacted by the Council as follows:

Section one. Section 24-163.1 of the administrative code of the city of New York is REPEALED and a new section 24-163.1 is added to read as follows:

§24-163.1 Purchase of cleaner light-duty and medium-duty vehicles. a. Definitions. When used in this section or in section 24-163.2 of this chapter:

(1) "Alternative fuel" means natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel which is at least eighty-five percent, singly or in combination, methanol, ethanol, any other alcohol or ether.

(2) "Alternative fuel motor vehicle" means a motor vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Average fuel economy" means the sum of the fuel economies of all motor vehicles in a defined group divided by the number of motor vehicles in such group.

(4) "Bi-fuel motor vehicle" means a motor vehicle that is capable of being operated by both an alternative fuel and gasoline or diesel fuel, but may be operated exclusively by any one of such fuels.

(5) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(6) "Equivalent carbon dioxide" means the metric measure used to compare the emissions from various greenhouse gases emitted by motor vehicles based upon their

global warming potential according to the California air resources board or the United States environmental protection agency.

(7) "Fuel economy" means the United States environmental protection agency city mileage published label value for a particular motor vehicle, pursuant to section 32908(b) of title 49 of the United States code.

(8) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(9) "Light-duty vehicle" means any motor vehicle having a gross vehicle weight rating of 8,500 pounds or less.

(10) "Medium-duty vehicle" means any motor vehicle having a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

(11) "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department or fire department.

(12) "Purchase" means purchase, lease, borrow, obtain by gift or otherwise acquire.

b. (1) Except as provided for in paragraphs two and three of this subdivision, beginning July 1, 2006, each light-duty vehicle and medium-duty vehicle that the city purchases shall achieve the highest of the following ratings, with subparagraph one of this paragraph being the highest vehicle rating, applicable to motor vehicles certified to California LEV II standards and available within the applicable model year for a light-duty vehicle or medium-duty vehicle that meets the requirements for the intended use by the city of such vehicle:

- (i) zero emission vehicle (ZEV)
- (ii) advanced technology partial zero emission vehicle (ATPZEV)
- (iii) partial zero emission vehicle (PZEV)
- (iv) super ultra low emission vehicle (SULEV)
- (v) ultra low emission vehicle (ULEV)
- (vi) low emission vehicle (LEV)

(2) The city shall not be required to purchase a zero emission vehicle or advanced technology partial zero emission vehicle in accordance with paragraph one of this subdivision if the only available vehicle or vehicles that achieve such a rating cost greater than fifty percent more than the lowest bid as determined by the applicable procurement process for a vehicle available in the next highest rating category that meets the requirements for the intended use by the city of such vehicle.

(3) Notwithstanding the requirements of paragraph one of this subdivision, such requirements need not apply to a maximum of five percent of the light-duty vehicles and medium-duty vehicles purchased within each fiscal year.

(4) For the fiscal year beginning July 1, 2005, at least eighty percent of the light-duty vehicles the city purchases in such fiscal year shall be alternative fuel motor vehicles.

c. (1) The city shall not purchase additional bi-fuel motor vehicles.

(2) Any bi-fuel motor vehicle that is owned or operated by the city shall be powered on the alternative fuel on which it is capable of operating, except that such vehicle may be operated on gasoline or diesel fuel (i) where, as of the date of enactment of this section, such vehicle is no longer mechanically able to operate on such alternative fuel and cannot be repaired, or (ii) solely for the period of time recommended by the vehicle manufacturer.

d. (1) Not later than October 1, 2005, the city shall complete an inventory of the fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, and shall calculate the average fuel economy of all such light-duty vehicles.

(2) The city shall achieve the following minimum percentage increases in the average fuel economy of all light-duty vehicles purchased by the city during the following fiscal years, relative to the average fuel economy of all such vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of this subdivision:

- (i) For the fiscal year beginning July 1, 2006, five percent;
- (ii) For the fiscal year beginning July 1, 2007, eight percent;
- (iii) For the fiscal year beginning July 1, 2008, ten percent;
- (iv) For the fiscal year beginning July 1, 2009, twelve percent;
- (v) For the fiscal year beginning July 1, 2010, fifteen percent;
- (vi) For the fiscal year beginning July 1, 2012, eighteen percent; and
- (vii) For the fiscal year beginning July 1, 2015, and for each fiscal year thereafter, twenty percent.

e. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of light-duty vehicles and medium-duty vehicles during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to, for each city agency: (i) the total number of light-duty vehicles and medium-duty vehicles and all other motor vehicles, respectively, purchased by such agency; (ii) the total number of light-duty vehicles and medium-duty vehicles, respectively, purchased by such agency that are certified to California LEV II standards in each of the six rating categories listed in subdivision b of this section, disaggregated according to vehicle model; (iii) the reason as to why each vehicle model was purchased, rather than a vehicle model rated in a higher category listed in subdivision b of this section; (iv) if an available zero emission vehicle or advanced technology partial zero emission vehicle is not purchased, in accordance with paragraph two of subdivision b of this section, specific information regarding the cost analysis that formed the basis for such decision; (v) the percentage of light-duty vehicles and medium-duty vehicles purchased within each fiscal year in accordance with paragraphs one and two of subdivision b of this section; and (vi) for the report required not later than January 1, 2007, the percentage of light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2005 that were alternative fuel motor vehicles.

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the fuel economy of light-duty vehicles purchased by the city during the immediately preceding fiscal year. The information contained in this report shall also be

included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the average fuel economy of all light-duty vehicles purchased by the city during the preceding fiscal year; and (ii) the percentage increase in the average fuel economy of all such light-duty vehicles, relative to the average fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of subdivision d of this section, that this total amount represents.

f. (1) Beginning July 1, 2006, for each fiscal year, the city shall measure the amount of fuel consumed by the city's fleet of motor vehicles and the equivalent carbon dioxide emitted by such vehicles, for each type of fuel consumed by such vehicles.

(2) For the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, the department shall publish on its website by October 1 following the close of each fiscal year and the mayor shall include in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year the estimated total amount of fuel consumed by the city's fleet of motor vehicles and the estimated total amount of equivalent carbon dioxide emitted by such vehicles, disaggregated according to fuel type. For the purposes of this subdivision, the city's fleet of motor vehicles shall include vehicles specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department or fire department.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter; or

(3) except for subdivision f of this section, to diesel fuel-powered motor vehicles subject to section 24-163.4 of this chapter.

h. To the extent not prohibited by law, alternative fuel motor vehicles may be purchased by the city in concert with any public or private entity.

§2. Section 24-163.2 of the administrative code of the city of New York is REPEALED and a new section 24-163.2 is added to read as follows:

§24-163.2 *Alternative fuel buses and sanitation vehicles.* a. *Definitions.* When used in this section:

(1) "Alternative fuel bus" means a bus that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(2) "Alternative fuel sanitation vehicle" means a sanitation vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Alternative fuel street sweeping vehicle" means a vehicle used by the department of sanitation for street cleaning purposes that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(4) "Bus" means a motor vehicle that is designed to transport more than twenty individuals.

(5) "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

(6) "Sanitation vehicle" means a vehicle used by the department of sanitation for street cleaning purposes or for the collection of solid waste or recyclable materials.

(7) "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

b. For the fiscal year commencing July 1, 2005, and for each fiscal year thereafter, at least twenty percent of the buses the city purchases in such fiscal year shall be alternative fuel buses.

c. (1) Beginning no later than March 1, 2006, the commissioner of sanitation shall implement a program for testing the mechanical reliability and operational feasibility of alternative fuel street sweeping vehicles. Such program shall include a pilot project regarding the exclusive utilization of alternative fuel street sweeping vehicles in at least four sanitation districts, to be identified at the discretion of the commissioner of sanitation. At least one such district shall be located in an area where high rates of asthma are found and the commissioner shall consider asthma rates in his or her determination of where such other districts will be located.

(2) The department of sanitation shall collect and analyze data to further develop its initiatives for and assess the feasibility of incorporating new alternative fuel sanitation vehicles and technology into its fleet.

d. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the purchase of alternative fuel buses during the immediately preceding fiscal year. This report shall be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (1) the total number of buses purchased by the city in the preceding fiscal year; and (2) the number of such buses that are alternative fuel buses, disaggregated according to bus model and type of alternative fuel used.

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner of sanitation shall report to the mayor, the comptroller and the speaker of the council on the department of sanitation's alternative fuel street sweeping vehicle pilot project and all testing, analyses and assessments completed pursuant to subdivision c of this section. Such report shall include, but not be limited to: (i) a description of all testing, analyses and assessments, respectively, completed pursuant to that subdivision and all conclusions based upon such testing, analyses and assessments, including specific information regarding efforts made by the department of sanitation to further develop initiatives for the incorporation of alternative fuel sanitation vehicles into its fleet, in addition to specific information regarding the feasibility of incorporating such vehicles into such fleet; (ii) the number of alternative fuel street sweeping vehicles included in the pilot project required pursuant to paragraph one of that subdivision, the districts where such vehicles are located and the type of alternative fuel used by such vehicles; and, (iii) the total number of alternative fuel sanitation vehicles owned or operated by the department of sanitation, disaggregated according to vehicle model and type of alternative fuel used.

e. Purchases of alternative fuel buses that exceed the minimum mandatory purchase requirements of subdivision b of this section for a particular fiscal year may be used to satisfy such applicable requirements for the immediately succeeding fiscal year.

f. To the extent not prohibited by law, alternative fuel buses and alternative fuel sanitation vehicles may be purchased by the city in concert with any public or private entity.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

h. The commissioner may by rule require periodic testing of alternative fuel buses and the submission of information concerning the operation and maintenance of such buses purchased or newly operated in the city to ensure compliance with this section and to collect information for reports required by this section.

i. The commissioner may order the owner or operator of a bus to which this section applies to conduct such tests, or the department may conduct such tests, as are necessary in the opinion of the commissioner to determine whether such bus is in compliance with this section.

j. The department may inspect at a reasonable time and in a reasonable manner any equipment, apparatus, fuel, matter or thing that affects or may affect the proper maintenance or operation of an alternative fuel bus to which this section applies.

§3. 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.

§4. This local law shall take effect three months after its enactment, except that the commissioner of 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 CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on April 20, 2005, and approved by the Mayor on May 9, 2005.

VICTOR L. ROBLES, City Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 38 of 2005, Council Int. No. 414-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on April 20, 2005: 49 for, 0 against, 0 not voting.

Was signed by the Mayor on May 9, 2005.

Was returned to the City Clerk on May 11, 2005.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel