

## **New York City Department of Finance**

### **Notice of Adoption**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Department of Finance (DOF) by sections 1043 and 1504 of the New York City Charter, sections 19-203 and 19-210(f) of the Administrative Code of the City of New York and sections 385-a, 1111-a, 1111-c(g)(5), and 1180-b(h) of the Vehicle and Traffic Law (VTL), DOF promulgates and adopts amendments to subdivision (d) of section 39-17 of Title 19 of the Rules of the City of New York, subdivision (d) of section 39-18 of Title 19 of the Rules of the City of New York, subdivision (d) of section 39-21 of Title 19 of the Rules of the City of New York, and adds section 39-22 of Title 19 of the Rules of the City of New York.

These Rules were published on June 10, 2022. A hearing for public comment was held on July 12, 2022. DOF received oral comments.

### **Statement of Basis and Purpose**

On December 22, 2021, the Governor signed Chapter 773 of the Laws of 2021 into law, which enacted VTL section 385-a, authorizing the City to establish a demonstration program on that portion of the BQE from the vicinity of Atlantic Avenue to the vicinity of Sands Street in Brooklyn to enforce vehicle weight restrictions imposed by VTL section 385 on that roadway by means of mobile or stationary weigh-in-motion systems.

Weigh-in-motion systems record the axle weights and gross weights of vehicles that drive over devices placed on the road without the need for vehicles to stop. A violation would be issued to vehicle owners whose vehicles are recorded as having axle or gross weights exceeding the existing legal thresholds.

Subdivision (e) of VTL section 385-a authorizes the New York City Parking Violations Bureau (PVB), a division of DOF, to promulgate a schedule of fines and penalties for violations of weight restrictions in the described area. Subdivision (g) establishes requirements for the notice of liability. Subdivision (h) authorizes the PVB to adjudicate violations noticed under VTL section 385-a.

The New York City Department of Transportation (DOT) will implement the demonstration program in accordance with VTL section 385-a and, as such, DOT will maintain the weigh-in-motion systems, send notices of liability to motorists, and transmit information relating to these violations to DOF. The amendments establish the fine and penalty for such violations, state requirements for the notice of liability, and specify that the PVB will adjudicate allegations of liability in a new section 39-22.

Three other rules in Chapter 39 of Title 19 have provisions parallel to the one in section 39-22 regarding the adjudication of liability where the PVB is similarly authorized by statute to adjudicate. However, those three provisions—in sections 39-17, 39-18, and 39-21—use outdated language that reflect a time when the PVB was housed in the DOT instead of in DOF. DOF is amending those provisions in sections 1 through 3 of this rule so that they, in conformity with the

provision on adjudication in the newly proposed section 39-22, use current language that accurately states that the PVB will adjudicate.

DOF's authority for the rule is found in sections 1043 and 1504 of the New York City Charter, sections 19-203 and 19-210(f) of the Administrative Code of the City of New York and sections 385-a, 1111-a, 1111-c(g)(5), and 1180-b(h) of the VTL.

The amendments and new Rule are as follows:

New material is underlined.

[Deleted material is in brackets.]

“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.

### **Amendments to Rules Relating to Parking Violations**

Section 1. Subdivision (d) of section 39-17 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) *[Administrative law judges.* The administrative law judges heretofore or hereinafter appointed by the Commissioner of the New York City Department of Transportation or the Commissioner of the New York City Department of Finance for the adjudication of parking violations shall preside at hearings for the adjudication of allegations of liability in accordance with § 1111-a of the vehicle and traffic law.] *Adjudication.* The Parking Violations Bureau will adjudicate liability imposed upon owners pursuant to section 1111-a of the Vehicle and Traffic Law under section 19-210 of the Administrative Code.

§ 2. Subdivision (d) of section 39-18 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) *[Administrative law judges.* The administrative law judges appointed by the Commissioner of the New York City Department of Transportation or the Commissioner of the New York City Department of Finance up to this point and moving forward for the adjudication of parking violations will preside at hearings for the adjudication of allegations of liability in accordance with § 1111-c of the vehicle and traffic law.] *Adjudication.* The Parking Violations Bureau will adjudicate liability imposed upon owners under section 1111-c of the Vehicle and Traffic Law.

§ 3. Subdivision (d) of section 39-21 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) [Administrative law judges. The administrative law judges for the adjudication of parking violations appointed by the Commissioner of the New York City Department of Transportation or the Commissioner of the New York City Department of Finance will preside at hearings for the adjudication of allegations of liability in accordance with subdivision (h) of § 1180-b of the Vehicle and Traffic Law.] Adjudication. The Parking Violations Bureau will adjudicate liability imposed upon owners under section 1180-b of the Vehicle and Traffic Law.

§ 4. Section 39-22 of Title 19 of the Rules of the City of New York is added to read as follows:

§ 39-22 Weigh-in-Motion Violation Monitoring System

(a) Liability. The liability of an owner pursuant to § 385-a of the Vehicle and Traffic Law for a violation of § 385 of such law shall be \$650.00 for each such violation.

(b) Additional penalties. If the owner fails to make payment or contest the liability within thirty days after the mailing of the notice of liability, an additional penalty of \$25.00 may be assessed pursuant to subdivision (e) of § 385-a of the Vehicle and Traffic Law.

(c) Notice of liability. The notice of liability must be in accordance with the requirements of subdivision (g) of § 385-a of the Vehicle and Traffic Law and in such form and substance as prescribed by the director of the New York City Parking Violations Bureau.

(d) Adjudication. The Parking Violations Bureau will adjudicate liability imposed upon owners under § 385-a of the Vehicle and Traffic Law.

(e) Effective dates. This section will remain in effect for as long as § 385-a of the Vehicle and Traffic Law shall remain in effect.