

Submitted by the County Executive and Introduced by Presiding Officer Richard Nicoletto

LOCAL LAW NO. 5-2018

A LOCAL LAW TO INCREASE THE PROTECTION OF THE CONSUMERS OF NASSAU COUNTY BY AMENDING THE COUNTY CHARTER AND THE ADMINISTRATIVE CODE IN RELATION TO COMBINING THE TAXI AND LIMOUSINE COMMISSION WITH THE OFFICE OF CONSUMER AFFAIRS TO CREATE A DEPARTMENT OF CONSUMER AFFAIRS AND DEFINING THE DUTIES OF THAT DEPARTMENT.

Passed by the Nassau County Legislature on March 26, 2018
Voting: ayes: 14, nays: 0, abstained: 0
Became a law on April 2, 2018 with the approval of the County Executive.

APPROVED AS TO FORM

Deputy County Attorney

WHEREAS, the Nassau County Board of Supervisors enacted Local Law 9-1967 creating the office of Commissioner of Consumer Affairs and endowed that office with various duties and responsibilities designed to protect the people of Nassau County from dishonest, unprincipled and unscrupulous businesses; and

WHEREAS, over the past sixty years the sphere of responsibility of that office has grown, with the Board of Supervisors and this Legislature assigning to the Commissioner the power to oversee and/or license various types of business; and

WHEREAS, the Nassau County Legislature enacted Local Law 18-2014, establishing the Nassau County Taxi & Limousine Commission as a separate and distinct entity from the Office of Consumer Affairs; and

WHEREAS; the Nassau County Taxi & Limousine Commission was established to regulate the for-hire vehicle industry, including unlicensed, unregistered bandit cabs, as well as those vehicles being operated without local licensing authority, now known as Transportation Network Company vehicles, and

WHEREAS; the State of New York has enacted Chapter 59 of the Laws of 2017 which establishes state regulation of those vehicles now known as Transportation Network Company vehicles, and

WHEREAS, the growth of the responsibility of the Office of Consumer Affairs should be recognized by this Legislature by elevating it to the dignity of a department of county government; and

WHEREAS, the assets of both the Office of Consumer Affairs and the Taxi & Limousine Commission would be more and better utilized if used cooperatively as part of a single department; now therefore,

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. § 2102 of the County Government Law of Nassau County (the County Charter) is hereby repealed.

Section 2. §21-10.0 of the Nassau County Administrative Code is hereby repealed.

Section 3. Article XXI-B of the County Government Law of Nassau County (the County Charter) is amended to read as follows:

ARTICLE XXI-B DEPARTMENT OF CONSUMER AFFAIRS

Section	2157	Department Established.
	2158	Powers and Duties.
	2159	Commissioner's Discretion.
	2160	Taxi and Limousine Board

§2157. Department Established.

There shall be a department of county government known as the Department of Consumer Affairs, which shall be headed by a Commissioner of Consumer Affairs who shall be appointed by the County Executive, subject to confirmation by the County Legislature. Except

where inconsistent with this act, the Commissioner shall have all the powers and duties heretofore or hereafter conferred or imposed upon sealers or directors of weights and measures by the laws of the state, and such other powers and duties as may be prescribed by ordinance. The Commissioner shall continue to have such powers and duties as conferred upon him by the Nassau County Administrative Code. The Commissioner may appoint a Deputy Commissioner and such other officers and employees of the Department, within the appropriation therefor, as are necessary to effectuate the purposes of the Department. The Commissioner may, in addition to such other duties as he or she shall find appropriate, designate the Deputy Commissioner to act for and in place of the Commissioner in the exercise of his or her powers. Where the term "Commissioner" is used in any local law, ordinance or resolution in reference to a taxi and limousine commission, it shall be deemed to mean and refer to the Commissioner of the Department of Consumer Affairs.

§2158. Powers and Duties. The Department of Consumer Affairs shall have the power and duty:

- a. To receive and investigate complaints and initiate its own investigation of frauds or unfair dealings against consumers: to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith require the production of any evidence relating to any manner under investigation or in question before the Department. At any hearing a witness shall have the right to be advised by counsel present during such hearing.
- b. To assess and collect such fines and penalties as may be authorized by statute, local law, ordinance or regulation.
- c. To represent the interest of consumers before administrative and regulatory agencies and legislative groups.
- d. To assist, advise and cooperate with local, state and federal agencies and officials to protect and promote the interests of the Nassau County consumer public.
- e. To conduct investigations, research studies and analyses of matters affecting the interests of Nassau County consumers.
- f. To study the operation of state and local laws for consumer protection and to recommend amendments of such laws for the protection of consumers.
- g. To report to the appropriate law enforcement officers any information concerning violations of any consumer protection laws.
- h. To assist, develop and conduct programs of consumer education and consumer information through publications and other informational and educational material prepared for dissemination to the consumer public of Nassau County in order to increase the competence of consumers and to raise the general standard of living.
- i. To undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services, and to permit licensees and others in good standing with the Department of Consumer Affairs to place advertisements on the

website maintained on behalf of the Department and to make rules and charge fees for such advertisements per year.

- j. To cooperate with other agencies, public and private, in the development of standards and quality grades for consumer goods and services.
- k. To examine into the qualifications and fitness of applicants for licenses.
- l. To keep records of all licenses issued, suspended or revoked.
- m. To adopt such rules and regulations not inconsistent with the provisions of any law as may be necessary with respect to the form and content of applications for licenses, the receipt thereof, the investigation and examination of applicants and their qualifications, and the other matters incidental or appropriate to the powers and duties of the Department and for the proper administration and enforcement of the provisions of consumer protection laws, and to amend or repeal any of such rules and regulations:
- n. To issue temporary licenses to aid in the recovery from natural or other disasters.
- o. To suspend the license of any person pending payment of any fine, penalty or pending compliance with any order of the Department.
- p. To arrange for the redress of injuries or damage caused by any violation of this article and may otherwise provide for compliance with the provisions and purposes of this article.
- q. To regulate and supervise for-hire vehicles within the County by the issuance, revocation and regulation of registrations and licenses.
- r. To exercise and perform such other functions, powers and duties as may be deemed necessary or appropriate to protect and promote the welfare of Nassau County consumers.
- s. To render each year to the County Executive a written report of the activities and recommendations of the Department.

§ 2159. Commissioner's Discretion. In lieu of instituting or continuing an administrative action or proceeding, the Commissioner may accept written assurance of discontinuance of any act or practice in violation of any provision of the Administrative Code enforceable by the Commissioner. Such assurance may include a stipulation for the payment by the violator of the costs of investigation, a fine, and/or a stipulation for the restitution by the violator to consumers of money, property or other things received from such consumers in connection with a violation of such provisions. An assurance entered into pursuant to this section shall not be deemed an admission of a violation unless it does so by its terms. Violation of an assurance entered into pursuant to this section shall be treated as a violation and shall be subject to all the penalties provided. Any civil penalty authorized by any provision of the Administrative Code enforceable by the Commissioner may be waived or compromised by the Commissioner. Any license requirement provided for by the Administrative Code may be temporally suspended in the interest of justice or for administrative convenience. An amnesty to encourage voluntary compliance may be granted by the Commissioner to violators of any

provision of the Administrative Code enforceable by the Commissioner upon such terms as to the Commissioner seem just.

§ 2160. Taxi and Limousine Board.

(a) There shall be a Taxi and Limousine Board, which shall have the duty to devise and propose regulations for the regulation of for-hire vehicles in the County.

(b) The Board shall consist of nine voting members appointed by the County Executive and subject to approval by the Nassau County Legislature. Two members shall be appointed upon the recommendation of the Presiding Officer of the Nassau County Legislature; two members upon the recommendation of the Minority Leader of the Nassau County Legislature and one member upon the recommendation of the Long Island Taxi Operators Association (“LITOA”), or any successor organization to LITOA.

(c) Term:

i. The five members initially appointed by the County Executive shall serve terms varying from three to five years, with one member serving from January 1, 2015 to December 31, 2019; three members serving from January 1, 2015 to December 31, 2018; and one member serving from January 1, 2015 to December 31, 2017. All successive appointments by the County Executive shall serve five year terms.

ii. The two members initially appointed by the County Executive upon the recommendation of the Presiding Officer shall serve terms varying from three to five years, with one member serving from January 1, 2015 to December 31, 2019, and one member serving from January 1, 2015 to December 31, 2017. All successive appointments by the County Executive upon the recommendation of the Presiding Officer shall serve five year terms.

iii. The two members initially appointed by the County Executive upon the recommendation of the Minority Leader shall serve terms varying from three to five years, with one member serving from January 1, 2015 to December 31, 2019, and one member serving from January 1, 2015 to December 31, 2017. All successive appointments by the County Executive upon the recommendation of the Minority Leader shall serve five year terms.

(d) Members shall not be entitled to any compensation but shall be entitled to reimbursement for ordinary and reasonable expenses incurred while conducting the business of the Board. All requests for reimbursement shall be approved by the Commissioner who shall make a final determination as to what expenses are ordinary and reasonable.

(e) The Board shall hold meetings at a location so designated by the Commissioner on a quarterly basis or as often as is necessary to conduct Board business.

(f) The Board shall recommend any rules and regulations needed to effectuate the purpose of this Ordinance to the Commissioner for adoption by the Office of Consumer Affairs, and the Commissioner may adopt all rules and regulations necessary to effectuate the purpose of this Ordinance.

Section 4. There shall be a new Title D-25 of Chapter XI of the Nassau County Administrative Code which shall read as follows:

TITLE D-25

FOR-HIRE VEHICLES

§21-19.0 **Definitions.**

- (a) "For-hire vehicle" shall mean a taxicab, limousine or private livery vehicle carrying passengers for hire. It shall not mean a vehicle in strict compliance with Article 44-B of the Vehicle and Traffic Law.
- (b) "Limousine" shall mean a chauffeured for-hire vehicle seating not fewer than seven nor more than fourteen persons, including the driver, used solely for hire in connection with funerals, weddings, proms, social events, sports and similar functions on a prior agreement, fixed-rate basis.
- (c) "Private Livery Vehicle" shall mean a for-hire vehicle seating five or six persons, including the driver, operating only by prior arrangement.
- (d) "Taxicab" shall mean a for-hire vehicle, other than a private livery vehicle, having a seating capacity of not more than eight persons, including the driver.
- (e) "Transportation Network Company" or "TNC" vehicle is defined at Vehicle and Traffic Law section 1691.

§21-19.1 **Regulation of for-hire vehicles.** The Commissioner of Consumer Affairs shall

- (a) register, license and regulate for-hire vehicles as authorized by statute, local law or ordinance;
- (b) issue licenses as authorized by Vehicle and Traffic Law section 498, General Municipal Law section 181, and other laws;
- (c) prevent the unlicensed and/or unregistered operation of for-hire vehicles within the County; and
- (d) monitor and enforce Transportation Network Company's strict compliance with Vehicle and Traffic Law Article 44-B.

Section 5. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm,

partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

Section 7. This local law shall take effect immediately.

APPROVED

Laura Curran

County Executive

DATE

4/2/14