



Public Works & Transportation Meeting Agenda

Committee Chair: Erika Pierce

800 Michaelian Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, April 17, 2023

1:00 PM

Committee Room

CALL TO ORDER

Joint with Legislation committee.

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

Chairwoman Catherine Borgia will be participating remotely from Clear View School and Day Treatment Center, 480 Albany Post Road, Briarcliff, NY, 10510

MINUTES APPROVAL

Wednesday, April 12, 2023 at 10:00 a.m.

I. ITEMS FOR DISCUSSION

1. 2023-147 PH - For-Hire Vehicle Law Amendment

A RESOLUTION to set a Public Hearing on a "LOCAL LAW amending Chapter 270 of the Laws of Westchester County to delete provisions in subdivision (3) of section 270.124 with respect to base station owners and a vehicle immobilization program to enforce the provisions of the Westchester County For-Hire Vehicle Law." [Public Hearing set for _____, 2023 at _____ .m.]. LOCAL LAW INTRO: 2023-149.

Guests: Law Dept.: Loren Zeitler, Senior Assistant County Attorney and Stacey Dolgin-Kmetz, Chief Deputy County Attorney; Taxi & Limousine Commission: Leandra Eustache, Chairperson

2. 2023-149 LL - For-Hire Vehicle Law Amendment

A LOCAL LAW amending Chapter 270 of the Laws of Westchester County to delete provisions in subdivision (3) of section 270.124 with respect to base station owners and a vehicle immobilization program to enforce the provisions of the Westchester County For-Hire Vehicle Law.

Guests: Law Dept.: Loren Zeitler, Senior Assistant County Attorney and Stacey Dolgin-Kmetz, Chief Deputy County Attorney; Taxi & Limousine Commission: Leandra Eustache, Chairperson

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT



George Latimer
County Executive

John M. Nonna
County Attorney

March 21, 2023

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached Local Law amending Chapter 270 of the Laws of Westchester County to delete certain provisions in subdivision (3) of section 270.124, regarding a Vehicle Immobilization Program to enforce the provisions of the Westchester County For-Hire Vehicle Law. Specifically, the proposed amendment would delete references to the owner of the base station in the Vehicle Immobilizer Program (“VIP”). As a result, the Taxi and Limousine Commission (“Commission”) would discontinue booting and seizing vehicles that, while affiliated with a base station, are owned and operated by a vehicle owner or driver who has not violated the For-Hire Vehicle Law, where the basis for booting is solely the base station owners’ violations of the For-Hire Vehicle Law.

With New York State authorization, Westchester County enacted Local Law No. 9-1998, which established a For-Hire Vehicle Law and a Taxi and Limousine Commission (“Commission”) to handle the day-to-day enforcement of the statutory provisions regarding taxicabs and limousine licensing. *See*, Chapter 270, et. seq. of the Laws of Westchester County (“LWC”). Pursuant to this law, the Commission licenses individual drivers, for-hire vehicles and base station owners and is vested with the authority to issue summonses and notices of appearance to anyone alleged to have violated the provisions of the laws regulating for-hire vehicles. *See*, LWC § 270.117. In the normal course of operation, when someone is cited for violating a provision of the For-Hire Vehicle Law, a summons will be issued for the alleged violator to appear before an administrative law judge, who will, after a hearing, make findings of fact and recommendations regarding such violation to the Commission. Thereafter, if the individual is found to have violated the law, the Commission will assess penalties and fines against said individual.

When an individual voluntarily pays fines, the matter is closed; however, a problem began to arise in or around 2006, when the fines assessed by the Commission

were reduced to judgments, and an individual still refused to pay the judgment. Accordingly, in 2006, in an effort to effectively enforce the provisions of the For-Hire Vehicle Law and to ensure prompt compliance with the Commission's orders, this Honorable Board enacted Local Law No. 12-2006, which amended the For-Hire Vehicle Law to add a new subdivision (3) to section 270.124 of the LWC establishing a VIP. Such program provided that any vehicle owner who has failed to pay civil penalties resulting from violations of the For-Hire Vehicle Law against the owner himself, the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, which exceeded \$1,000, or any vehicle owner with a total of five or more outstanding summonses from violations of the For-Hire Vehicle Law against the owner of the vehicle himself, the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, could be subject to placement of a vehicle immobilizer or boot to an owner's vehicle.

Other provisions of VIP required prior notification to the owner of the vehicle or the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, that a vehicle immobilizer may be attached to their vehicle(s) if the outstanding civil penalties are not paid within thirty (30) days or if the unanswered summonses are not finally satisfied within thirty (30) days. No later than two business days after a vehicle immobilizer has been attached to a vehicle, the owner of the vehicle and the base station owner to which the vehicle is affiliated, if any, shall be provided with the procedure by which the outstanding civil penalties or unanswered summonses shall be satisfied and the vehicle immobilizer removed. The law also provides that in the event that a vehicle is immobilized in a location where it cannot legally remain, said vehicle may be towed to a location designated by the Commission. Your Committee is informed that many of the vehicles that have immobilizers attached, are also towed for legal, public safety and safety considerations.

According to Chapter 270 of the LWC, base stations, defined as "a central facility which dispatches affiliated vehicles licensed by the Commission." may have hundreds or thousands of affiliated vehicles (any for-hire vehicle licensed by the commission and dispatched by a particular base station). The LWC Section 270.124 requires the Commission to "notify the owner of the vehicle, the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, that a vehicle immobilizer may be attached to their vehicle(s) if the outstanding civil penalties are not paid within thirty (30) days or if the unanswered summonses are not finally satisfied within thirty (30) days." Nothing in the LWC Chapter 270, however, requires any prior notice to vehicle owners where the driver or the base station owner has incurred the fines or failed to respond to summonses to appear for a hearing.

In practice, the Commission may, without providing notice to an owner/driver of a vehicle affiliated with a base station, in accordance with the For-Hire Vehicle Law, attach a vehicle immobilizer and then tow vehicles where neither the owner nor the driver owes (or is claimed to owe) the County any civil penalty and has not failed to answer any summonses. The Commission has the right to take this action even where the base station owner with which the vehicle is affiliated—and only the base station owner—is claimed

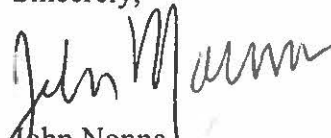
to owe a civil penalty or has unanswered summonses as opposed to the owner/driver of a vehicle. Accordingly, vehicle owners/drivers may have a vehicle immobilizer attached to their vehicle, have their vehicle towed and pay fines for the return of their vehicle, when the owner/driver has not violated any provision of the LWC Chapter 270 but their vehicle is associated with a base station that has amassed fines.

The County is currently in litigation with several owners/drivers affiliated with base stations, whose vehicles were immobilized and towed by the Commission despite the owner/driver not owing any fines or penalties to the Commission or having missed any hearings but rather, due to the base station owner owing the fines. In light of the pending litigation, the Commission is not currently enforcing that part of the VIP that authorizes application of vehicle immobilizer and towing of an owner's vehicle affiliated with a base station that owes fines or penalties.

I therefore recommend amending the law to delete certain provisions with regard to attaching a vehicle immobilizer to and towing of vehicles affiliated with a base station based upon repeated violations by the base station owner, rather than the owner of a vehicle affiliated with the base station, who has not violated the For-Hire Vehicle Law. Specifically, the proposed amendment to the VIP would delete references to owner of the base station in any part of the VIP in subdivision 3 of Section 270.124 of the LWC. By this amendment, the Commission would cease the practice of booting and seizing vehicles affiliated with a base station, based upon the failure of the base station owner to pay fines or respond to summonses from the Commission, and where the driver or owner of the vehicle affiliated with the base station has not been fined based on any violations of the For-Hire Vehicle Law. The VIP would still apply to any vehicle owner or driver who has failed to pay civil penalties resulting from violations of the For-Hire Vehicle Law against the owner himself or the driver of the vehicle which exceed \$1,000. The VIP would also still apply to any vehicle owner who has a total of five or more outstanding summonses from violations of the For-Hire Vehicle Law as against the owner of the vehicle himself or the driver of the vehicle.

In light of the aforementioned, I respectfully urge that your Honorable Board adopt the attached Local Law amending Chapter 270 of the Laws of Westchester County to delete certain provisions in subdivision (3) of section 270.124, regarding a Vehicle Immobilization Program to enforce the provisions of the Westchester County For-Hire Vehicle Law.

Sincerely,


John Nonna
County Attorney

JN/nn
Enclosure

RESOLUTION NO. ____ – 2023

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2023, entitled “A LOCAL LAW amending Chapter 270 of the Laws of Westchester County to delete certain provisions in subdivision (3) of section 270.124 regarding a vehicle immobilization program to enforce the provisions of the Westchester County For-Hire Vehicle Law.”

The public hearing will be held at __.m. on the ____ day of _____, 2023 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a communication from the County Executive urging the adoption of “A LOCAL LAW amending Chapter 270 of the Laws of Westchester County to delete certain provisions in subdivision (3) of section 270.124 regarding a vehicle immobilization program to enforce the provisions of the Westchester County For-Hire Vehicle Law.”

Your Committee notes that with New York State authorization, Westchester County enacted Local Law No. 9-1998, which established a For-Hire Vehicle Law and a Taxi and Limousine Commission (“Commission”) to handle the day-to-day enforcement of the statutory provisions regarding taxicabs and limousine licensing. *See*, Chapter 270, et. seq. of the Laws of Westchester County (“LWC”). Pursuant to this law, the Commission licenses individual drivers, for-hire vehicles and base station owners and is vested with the authority to issue summonses and notices of appearance to anyone alleged to have violated the provisions of the laws regulating for-hire vehicles. *See*, LWC § 270.117. In the normal course of operation, when someone is cited for violating a provision of the For-Hire Vehicle Law, a summons will be issued for the alleged violator to appear before an administrative law judge, who will, after a hearing, make findings of fact and recommendations regarding such violation to the Commission. Thereafter, if the individual is found to have violated the law, the Commission will assess penalties and fines against said individual.

Your Committee further notes that when an individual voluntarily pays fines, the matter is closed; however, a problem began to arise in or around 2006, when the fines assessed by the Commission were reduced to judgments, and an individual still refused to

pay the judgment. Accordingly, in 2006, in an effort to effectively enforce the provisions of the For-Hire Vehicle Law and to ensure prompt compliance with the Commission's orders, this Honorable Board enacted Local Law No. 12-2006, which amended the For-Hire Vehicle Law to add a new subdivision (3) to section 270.124 of the LWC establishing a VIP. Such program provided that any vehicle owner who has failed to pay civil penalties resulting from violations of the For-Hire Vehicle Law against the owner himself, the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, which exceeded \$1,000, or any vehicle owner with a total of five or more outstanding summonses from violations of the For-Hire Vehicle Law against the owner of the vehicle himself, the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, could be subject to placement of a vehicle immobilizer or boot to an owner's vehicle.

Your Committee is informed that other provisions of VIP required prior notification to the owner of the vehicle or the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, that a vehicle immobilizer may be attached to their vehicle(s) if the outstanding civil penalties are not paid within thirty (30) days or if the unanswered summonses are not finally satisfied within thirty (30) days. No later than two business days after a vehicle immobilizer has been attached to a vehicle, the owner of the vehicle and the base station owner to which the vehicle is affiliated, if any, shall be provided with the procedure by which the outstanding civil penalties or unanswered summonses shall be satisfied and the vehicle immobilizer removed. The law also provides that in the event that a vehicle is immobilized in a location where it cannot legally remain, said vehicle may be towed to a location designated by the

Commission. Your Committee is informed that many of the vehicles that have immobilizers attached, are also towed for legal, public safety and safety considerations.

Your Committee is advised that according to Chapter 270 of the LWC, base stations, defined as “a central facility which dispatches affiliated vehicles licensed by the Commission.” may have hundreds or thousands of affiliated vehicles (any for-hire vehicle licensed by the commission and dispatched by a particular base station). The LWC Section 270.124 requires the Commission to “notify the owner of the vehicle, the driver of the vehicle and/or the owner of the base station where the vehicle is affiliated, that a vehicle immobilizer may be attached to their vehicle(s) if the outstanding civil penalties are not paid within thirty (30) days or if the unanswered summonses are not finally satisfied within thirty (30) days.” Nothing in the LWC Chapter 270, however, requires any prior notice to vehicle owners where the driver or the base station owner has incurred the fines or failed to respond to summonses to appear for a hearing.

Your Committee is further informed that in practice, the Commission may, without providing notice to an owner/driver of a vehicle affiliated with a base station, in accordance with the For-Hire Vehicle Law, attach a vehicle immobilizer and then tow vehicles where neither the owner nor the driver owes (or is claimed to owe) the County any civil penalty and has not failed to answer any summonses. The Commission has the right to take this action even where the base station owner with which the vehicle is affiliated— and only the base station owner—is claimed to owe a civil penalty or has unanswered summonses as opposed to the owner/driver of a vehicle. Accordingly, vehicle owners/drivers may have a vehicle immobilizer attached to their vehicle, have their vehicle towed and pay fines for the return of their vehicle, when the owner/driver

has not violated any provision of the LWC Chapter 270 however, their vehicle is associated with a base station that has amassed fines.

Your Committee is advised that the County is currently in litigation with several owners/drivers affiliated with base stations, whose vehicles were immobilized and towed by the Commission despite the owner/driver not owing any fines or penalties to the Commission or having missed any hearings but rather, due to the base station owner owing the fines. In light of the pending litigation, the Commission is not currently enforcing that part of the VIP that authorizes application of vehicle immobilizer and towing of an owner's vehicle affiliated with a base station that owes fines or penalties.

Your Committee therefore recommends amending the law to delete certain provisions with regard to attaching a vehicle immobilizer to and towing of vehicles affiliated with a base station based upon repeated violations by the base station owner, rather than the owner of a vehicle affiliated with the base station who has not violated the For-Hire Vehicle Law. Specifically, the proposed amendment to the VIP would delete references to owner of the base station in any part of the VIP in subdivision 3 of Section 270.124 of the LWC. By this amendment, the Commission would cease the practice of booting and seizing vehicles affiliated with a base station, based upon the failure of the base station owner to pay fines or respond to summonses from the Commission, and where the driver or owner of the vehicle affiliated with the base station has not been fined based on any violations of the For-Hire Vehicle Law. The VIP would still apply to any vehicle owner or driver who has failed to pay civil penalties resulting from violations of the For-Hire Vehicle Law against the owner himself or the driver of the vehicle which exceed \$1,000 or any vehicle owner has a total of five or more outstanding summonses

from violations of the For-Hire Vehicle Law against the owner of the vehicle himself or the driver of the vehicle.

Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act (“SEQRA”) and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 12, 2023, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Based on the foregoing, your Committee recommends the passage of this Local Law.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON

A LOCAL LAW amending Chapter 270 of the Laws of Westchester County to delete provisions in subdivision (3) of section 270.124 with respect to base station owners and a vehicle immobilization program to enforce the provisions of the Westchester County For-Hire Vehicle Law.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 270 of the Laws of Westchester County is hereby amended to delete certain portions of subdivision (3) to section 270.124 to read as follows:

(3) Vehicle Immobilization Program

1. As used in this section,

(a) the phrase “vehicle immobilizer”, also known as a “boot”, shall mean any device, approved by the commission, which is locked to the wheel of a vehicle to prevent the vehicle from being driven.

(b) the phrase “unanswered summons” shall mean any summons issued pursuant to section 270.117 of the Laws of Westchester County which remain outstanding, unanswered or defaulted by the respondent.

2. In addition to any other penalties provided for in this Chapter, a vehicle immobilizer may be applied to any vehicle whose owner has either:

(a) failed to pay civil penalties resulting from violations of this Chapter as against the owner of the vehicle[,] or the driver of the vehicle [and/or the owner of the base station where the vehicle is affiliated,] which exceed \$1,000; or

(b) a total of five or more unanswered summonses from violations of the For-Hire Vehicle Law as against the owner of the vehicle or[,] the driver of the vehicle.[and/or the owner of the base station where the vehicle is affiliated.]

3. The Commission and/or its designee shall notify the owner of the vehicle or[,] the driver of the vehicle [and/or the owner of the base station where the vehicle is affiliated], that a vehicle immobilizer may be attached to their vehicle(s) if the outstanding civil penalties are not paid within

thirty (30) days or if the unanswered summonses are not finally satisfied within thirty (30) days.

4. Upon applying a vehicle immobilizer, the commission and/or any authorized person or entity designated by the commission shall provide written notification to the owner of the vehicle [and the base station owner to which the vehicle is affiliated, if any,] of the procedure by which the outstanding civil penalties or unanswered summonses shall be satisfied and the vehicle immobilizer removed. Such written notice shall be made as soon as practicable but in no event later than two (2) business days after which the vehicle immobilizer has been applied. The driver of the vehicle, if present, shall be notified immediately following the application of the vehicle immobilizer of the procedure by which the outstanding civil penalties or unanswered summonses may be satisfied.

5. In the event that a vehicle is immobilized in a location where it cannot legally remain, said vehicle may be towed to a location designated by the commission. Law enforcement personnel may also tow a vehicle that has been immobilized for public safety reasons as well as to protect the immobilized vehicle.

6. The commission shall not authorize the release of any immobilized or towed vehicle until all of the following fees, fines, and penalties have been paid in full:

- (a) fees relating to the application of the vehicle immobilizer;
- (b) fees, if any, relating to transport of any passenger, who was in the vehicle at the time that the vehicle immobilizer was applied. This fee, if any, shall be the same amount that the passenger was being charged for his or her transport that was interrupted when the vehicle immobilizer was applied;
- (c) fees for towing, if applicable;
- (d) storage, if applicable; and
- (e) the underlying fine or civil penalty.

7. The unauthorized removal or destruction of a vehicle immobilizer may result in a criminal prosecution in accordance with the provisions of the New York State Penal Law and the New York State Criminal Procedure Law.

§2. This Local Law shall take effect immediately.