

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2018**

No. 161

Introduced by Council Members Espinal, Ampry-Samuel, Koslowitz and Borelli.

A LOCAL LAW

In relation to applications for retail dealer licenses for sale of cigarettes or tobacco products

Be it enacted by the Council as follows:

Section 1. For 60 days following the effective date of this local law, subparagraph (D) of paragraph 1 of subdivision d of section 20-202 of the administrative code of the city of New York shall not apply to any applicant for a retail dealer license that (i) held a valid and current certificate of registration pursuant to paragraph (a) of subdivision 1 of section 480-a of the tax law on February 24, 2018 for use at the same address as the premises address provided by the applicant on its retail dealer license application, (ii) has not engaged in the retail sale of cigarettes at any time after February 24, 2015, and (iii) had not applied for a retail dealer license pursuant to subdivision a of section 20-202 of the administrative code of the city of New York at any time after February 24, 2015 and before February 24, 2018. For the purposes of this local law, any applicant that, after February 24, 2015, held a retail dealer license pursuant to subdivision a of section 20-202 of the administrative code of the city of New York or was found to have engaged in the retail sale of cigarettes without such license shall be deemed to have engaged in the retail sale of cigarettes.

§ 2. For any violation of subdivision a of section 20-202 of the administrative code of the city of New York issued on or after the effective date of local law 146 for the year 2017 and before 90

days after the effective date of this local law, it shall be an affirmative defense that the person issued the violation (i) applied for a retail dealer license after such effective date, (ii) has not engaged in the retail sale of cigarettes as described in section one of this local law at any time after February 24, 2015, (iii) held a valid and current certificate of registration pursuant to paragraph (a) of subdivision 1 of section 480-a of the tax law on February 24, 2018 for use at the same address at which the violation was issued, and (iv) had not applied for a retail dealer license pursuant to subdivision a of section 20-202 of the administrative code of the city of New York at any time after February 24, 2015 and before February 24, 2018. This section shall not apply to a person issued a tobacco retail dealer license pursuant to paragraph 4 of subdivision e of section 20-202 of the administrative code of the city of New York. This section shall not apply to a person whose retail dealer license application was denied after having been submitted pursuant to section one of this local law, for any violation issued after such denial. A determination by the office of administrative trials and hearings that a person meets the affirmative defense in this section shall not affect any determination of whether an applicant meets the criteria in section one of this local law or any other criteria related to an application for a retail dealer license.

§ 3. A license issued pursuant to section one of this local law shall not affect the calculation of the initial community district retail dealer cap determined by the department of consumer affairs pursuant to paragraph 1 of subdivision e of section 20-202 of the administrative code of the city of New York, or any recommendations by the department of health and mental hygiene to further reduce the community district retail dealer cap pursuant to paragraph 2 of such subdivision.

§ 4. This local law takes effect 30 days after it becomes law.

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 August 8, 2018 and returned unsigned by the Mayor on September 12, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 161 of 2018, Council Int. No. 965-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.