

## NOTICE OF RULE MAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 237 and 1111-c of the New York State Vehicle and Traffic Law, section 19-203 of the Administrative Code of the City of New York, and sections 1043 and 1504 of the New York City Charter, I hereby promulgate the rule amending section 39-18 of Chapter 39 of Title 19 of the Rules of the City of New York applicable to monetary penalties for violations of the New York City Bus Lane Restriction Program as established by New York State Vehicle and Traffic Law section 1111-c. This rule was published for comment in the City Record on August 7, 2019. A public hearing was held on September 9, 2019. No comments were submitted either prior to or during the hearing.

S/S

Jacques Jiha, Commissioner of Finance

### **STATEMENT OF BASIS AND PURPOSE**

Section 19-203(b) of the Administrative Code of the City of New York authorizes the New York City Department of Finance (“DOF”) to provide for penalties for parking violations. New York State Vehicle and Traffic Law (“VTL”) section 1111-c authorizes the City of New York to establish a bus lane restriction program in which the fines and penalties for such violations are set by DOF. DOF’s rule in 19 RCNY section 39-18 (“Rule 39-18”) codifies all fines and penalties pertaining to bus lane restriction violations as set forth in the VTL.

On June 24, 2019, the Governor signed into law Chapter 39 of the Laws of 2019. Part D of this act amends VTL section 1111-c (e) by reducing the monetary penalty for driving in a restricted bus lane. This State law since its inception has been read in tandem with the New York City Department of Transportation’s (“DOT”) rule 34 RCNY section 4-12(m), which sets forth allowable exceptions to its rules regarding driving in restricted bus lanes. The new law reduces the maximum allowable penalty from \$115.00 to \$50.00 for a first offense, to \$100 for a second offense within a twelve-month period, \$150 for a third offense within a twelve-month period, \$200 for a fourth offense within a twelve-month period and \$250 for each subsequent offense within a twelve-month period.

Section 3 of Part D provides that the act shall take effect immediately and that “[e]ffective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.”

On June 26, 2019, DOF Commissioner Jacques Jiha and Mayor Bill de Blasio promulgated a rule on an emergency basis that reduces the monetary penalty for each violation of VTL section 1111-c from \$115.00 to \$50.00 as set forth in Rule 39-18(a), to conform to the amendment to VTL

section 1111-c (e) as described above. The emergency rule was published in the City Record on July 1, 2019.

In accordance with the City Administrative Procedure Act, Rule 39-18(a) is now being amended by non-emergency rulemaking to replace the emergency rule. This rule would establish a set of penalties for driving in a restricted bus lane in a manner inconsistent with DOT's rule 34 RCNY section 4-12(m), which penalties are increased with the number of violations within a twelve-month period, as permitted by the amendment to VTL section 1111-c (e).

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.

### **Amendment to Rule Relating to Parking Violations**

Section 1. Subdivision (a) of section 39-18 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

§ 39-18 Bus Lane Restriction Program.

(a) *Liability.* The liability of an owner pursuant to § 1111-c of the vehicle and traffic law shall be \$50.00 for a first offense within a twelve-month period, \$100.00 for a second offense within a twelve-month period, \$150.00 for a third offense within a twelve-month period, \$200.00 for a fourth offense within a twelve-month period, and \$250.00 for each subsequent offense within a twelve-month period. For the purposes of this subdivision, the twelve-month period is defined as the twelve months going backwards from the date of the most recent offense.