



Legislation Text

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Amending Title 12 of The Philadelphia Code, entitled "Traffic Code," to revise procedures for operation of an automated vehicle noise enforcement system and creating Section 12-1138, entitled "Automated Vehicle Noise Enforcement".

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 12 of The Philadelphia Code is hereby amended to read as follows:

TITLE 12. TRAFFIC CODE

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CHAPTER 12-1100. MISCELLANEOUS REGULATIONS AND PENALTIES

12-1127. Excessive Idling of and Noise from Motor Vehicles.

* * *

(3) No person, while driving, parked or in control of a motor vehicle [within any of the areas listed below,] shall cause or allow noise, produced in any manner or form, to come from the motor vehicle at a sound level that is plainly audible at a distance greater than one hundred feet from the vehicle, unless such noise is being created in connection with the holding of a public assembly, parade or procession for which a permit or license has been issued by the City. [This prohibition shall apply within the following areas:

(a) *South Street District*, which for purposes of this Section is defined as the area bounded by Lombard street on the north, Front street on the east, Bainbridge street on the south, and Eleventh street on the west.

(b) The *Delaware River Entertainment District*, which for purposes of this Section is defined as the area bounded by Berks street on the north, the Delaware River on the east, Oregon avenue on the south, and Second street on the west.]

(4) [Unless the violation is caused by a Nuisance Vehicle and is subject to penalties pursuant to Section 12-1136, any] *Any* person who violates subsection 12-1127(3), after having received notice of a prior violation, shall be guilty of a separate offense of Repeat Violation. Notwithstanding anything to the contrary in Section 12-1128, the penalty for committing the offense of Repeat Violation shall be a fine of not more than three hundred dollars (\$300), or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless of whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation offense.

(5) *The Department of Streets shall promulgate regulations providing for the decibel level or other objective sound level measurement to be used to determine a violation of subsection (3).*

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§ 12-1136. Nuisance Vehicles.

(1) Definitions.

(a) *Drifting*. For purposes of this Section, "Drifting" is the intentional act of steering a vehicle in a circle where the rear wheel or wheels lose traction and create a controlled skid sideways. This is also referred to as doughnuts or spin-outs.

(b) *Nuisance Vehicle*. For purposes of this Section, a Nuisance Vehicle is:

[(.1) any vehicle operating a radio or any other sound device that amplifies the sound from within the motor vehicle that is plainly audible at a distance greater than one hundred feet from the vehicle, unless such vehicle is being used in connection with the holding of a public assembly for which a permit or license has been issued by the City;]

[(.2)] (.1) any vehicle engaging in Drifting; or

[(.3)] (.2) any vehicle used to block any intersection, street, highway or access point to any recreation center or private property, without the consent of the owner, to facilitate or otherwise enable the act of Drifting to occur by another.

(2) Prohibited Conduct.

(a) No owner or operator shall allow, authorize or otherwise permit a Nuisance Vehicle to be parked, maintained or operated in any area of the City.

(b) No person shall participate or contribute to the act of Drifting as a spectator or otherwise.

(3) Penalties.

(a) The penalty for violation of subsection (2)(a) shall be:

(.1) A fine of two thousand dollars (\$2,000) per offense.

(.2) The owners and operators of a Nuisance Vehicle shall be jointly liable for all costs incurred by the City for emergency response, cleanup, repair, and damage to City property where a violation has occurred. Legal interest shall accrue for any amount not paid within thirty (30) days from the date a bill for costs incurred is provided to the violator.

(.3) Any fine or cost imposed by the court shall be entered as a judgment against the violator.

(.4) Any fine or other sanction imposed by the Court shall be paid or satisfied within ten (10) days of its imposition. If the fine or sanction together with any court cost is not paid or satisfied within such period, the violator shall be subject to proceedings for contempt of court and/or collection of the fines as provided for by law.

(b) The penalty for violation of subsection (2)(b) shall be a fine of three hundred dollars (\$300).

(4) *Enforcement*.

(a) Notices of violation shall be issued by police officers or any other person authorized to enforce

ordinances, pursuant to the procedures set forth in Section 10-1606 of this Code. Contested charges shall be resolved, penalties shall be imposed, and payments shall be collected and processed by the Director of Finance and the Office of Administrative Review (or such other office as the Director of Finance shall designate), all pursuant to the procedures set forth in Sections 10-1604 through 10-1609.

(5) *Seizure.*

(a) City Council hereby declares that Nuisance Vehicles are an imminent health and safety hazard, therefore, in addition to issuance of a notice of violation, any police officer who discovers a Nuisance Vehicle on any street, park, or recreation center may seize the vehicle.

(b) The procedures set forth in Chapter 12-2400 shall apply to the seizure of a vehicle pursuant to this Section.

(c) When an impounded vehicle is returned to its owners, or any person on behalf of the owner, such person shall sign a receipt for the vehicle after furnishing satisfactory evidence of a person's identity, ownership of the vehicle (or agency on behalf of the owner), valid driver's license, registration, and valid financial responsibility.

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§12-1138. Automated Vehicle Noise Enforcement.

(1) *Notwithstanding any provision to the contrary in this Title, violations of subsection 12-1127(3) ("Excessive Idling and Noise from Motor Vehicle") may be enforced using an Automated Vehicle-Noise Enforcement System.*

(2) *An Automated Vehicle-Noise Enforcement System or Automated System means a system using one or more stationary cameras and decibel-meters or similar equipment as provided by regulation of the Department to record images and establish meter readings in connection with a vehicle in a manner capable of demonstrating a violation of subsection 12-1127(3).*

(3) *Such department as may be designated by the Managing Director shall select the locations for placement of each Automated System and manage the purchase, supply, and installation of such equipment.*

(3) *Upon an agreement entered into between the City and the Philadelphia Parking Authority, the Parking Authority shall supervise and coordinate the administration of notices of violation issued under this Section.*

(4) *No vehicle owner shall be liable pursuant to this Section if he or she has been issued a violation notice pursuant to Section 1127(4) of this Title for the same incident of conduct.*

(5) *The Parking Authority shall prepare and mail a notice of violation pursuant to the Automated System addressed to the registered owner of the vehicle identified as violating subsection 12-1127(3) based on images and meter recordings produced by the system. The notice of violation must include:*

(a) the name of the registered owner of the vehicle;

(b) the registration number and state of issuance of the vehicle registration;

(c) the date, time and place of the violation;

(d) identification of the violation under subsection 12-1127(3) of the Code;

(e) identification of the penalty as provided in Section 12-2809 of the Code ("Civil Penalties and Costs");

(f) an attestation, based on review of the applicable camera images and meter reading data by a police officer that the officer has inspected the recorded images and meter reading evidencing the violation and that the officer reasonably believes the information contained in the notice of violation to be true and correct;

(g) a copy of the recorded image(s) showing the vehicle and record of the meter reading data, with date and time stamp;

(h) the date on which the notice was mailed;

(i) the penalty for the violation; and

(j) instructions for return of the notice of violation, including method of paying penalties, deadlines for response, and identification of additional penalties that may accrue for failure to respond.

(7) The notice of violation shall be sent by first-class mail within thirty (30) days after the commission of the violation or within thirty (30) days after the discovery of the identity of the registered owner by the Police Department, whichever is later, to the address of the registered owner as listed in the records of the Department of Transportation or other agency with responsibility for maintaining vehicle registrations in the jurisdiction in which the vehicle is registered. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of mailing and shall be admissible in any judicial or administrative proceeding as to the facts contained therein.

(8) An owner to whom a notice of violation has been issued may, within 30 days of the mailing of the notice, request a hearing to contest the liability alleged in the notice. A hearing request must be made by appearing before the Parking Authority during regular office hours either personally or by an authorized agent or by sending a request on the prescribed form. Upon receipt of a hearing request, the matter shall be scheduled by the Parking Authority as follows:

(a) An administrative hearing shall be conducted before a hearing officer appointed by the Director of Finance. Written notice of the date, time and place of hearing must be sent by first-class mail the owner.

(b) Hearings pursuant to this Section shall be conducted pursuant to 2 Pa. C.S. Ch. 5 (relating to practice and procedure) and will be subject to appeal pursuant to 2 Pa. C.S. Ch. 7 (relating to judicial review).

(c) At a hearing pursuant to this Section, the notice of violation, including the recorded image evidencing the violation, sworn to or affirmed by a police officer shall be prima facie evidence of the facts contained in it so long as written documentation is provided that the automated noise enforcement system was operating correctly at the time of the alleged violation and has been tested for accuracy at regular intervals as designated

by the Department.

(d) The police officer who signed the authentication shall not be required to appear at the hearing unless the hearing officer determines that the officer's presence is required. The hearing officer may grant a reasonable continuance if the officer is not available at the time of hearing.

(e) The Parking Authority shall provide the owner with notice of the decision of the hearing officer, together with any reasons provided by the hearing officer, and advise the owner of his or her right to appeal the decision of the hearing officer in court.

(9) Delinquent notices of violation issued as provided in this Section shall be calculable for purposes of determining boot and tow eligibility in subsection 12-2405(1)(c.1) of this Title ("Removal or Immobilization of Parked Vehicles; Notice").

(10) Motor vehicle owner information obtained as a result of the operation of an Automated System shall not be the property of the manufacturer or vendor of the Automated System and may not be used for any purpose other than as prescribed in this section.

(11) The compensation paid to the manufacturer or vendor of the Automated System may not be based upon the number of violation notices issued or a portion or percentage of the penalties generated by the notices. The compensation paid to the manufacturer or vendor of the equipment shall be based upon the value of the equipment and the services provided or rendered in support of the camera-based parking enforcement system.

SECTION 2. This Ordinance shall be effective 30 days after the effective date of regulations implementing sound level measurement standards.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.