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Legislation Text

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

June 28, 2017

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY OF
CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance regarding safety equipment on large vehicles.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Sections 2-51-010 and 2-51-050 of the Municipal Code of Chicago are hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

2-51-010 Definitions.

The following terms wherever used in this chapter shall have the following meanings unless a different meaning appears from the context:

(Omitted text is not affected by this ordinance)

(h) "Fuel management system" means an on-line inventory management system to monitor use and expenditure of nonemergency fuel^

(i) "Safety enhancing equipment" means motor vehicle equipment that has the potential to reduce traffic fatalities and injuries. The term "safety enhancing equipment" includes, but is not limited to, lateral protective devices, crossover mirrors or convex mirrors, as these terms are defined in Section 2-92-597.

2-51 -050 Commissioner of fleet and facility management - Powers and duties.

The commissioner of fleet and facility management shall have the following duties and responsibilities:

(Omitted text is not affected by this ordinance)

w. To coordinate, supervise, monitor and inspect the maintenance and repair of the fleet except as otherwise provided in the annual appropriation ordinance;

w-1. To retrofit, or cause to be retrofitted, any vehicle in the fleet with safety enhancing equipment or function enhancing equipment that is appropriate or necessary for such vehicle, as determined by the commissioner, in consultation with the city department or agency that controls or uses the vehicle;

x. To establish and coordinate a loan pool for the fleet;

(Omitted text is not affected by this ordinance)

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SECTION 2. Chapter 2-92 of the Municipal Code of Chicago is, hereby amended by adding a new Section 2-92-597, as follows:

2-92-597 Safety enhancing vehicle equipment contracting.

(a) Definitions. For purposes of this section, the following definitions shall apply:

"Commissioner" means the city's commissioner of fleet and facility management.

"Construction contract" means a contract for a construction project, including, but not limited to,

a project for the construction, demolition, restoration, repair, renovation, environmental remediation or environmental abatement of any building, structure, tunnel, excavation, roadway, bridge, transit station or parcel of land.

"Contract" means any contract awarded by the city and whose cost is to be paid from funds belonging to or administered by the city for: (i) a construction contract that has an estimated contract value of \$2,000,000 or more; (ii) a fixed-price, fixed term, and indefinite quantity construction contract, such as contracts commonly referred to as "job order contracts," when the estimated value of an individual order under the contract is \$2,000,000 or more; and (iii) a non-construction contract that has an estimated contract value of \$2,000,000 or more, and whose performance requires the use of a large vehicle, as determined by the head of the department and the chief procurement officer.

"Contractor" means any person that enters into a contract with the city.

"Conventional cab" means a large vehicle configuration in which the driver is behind the front axle and the engine is in front of the axle under a discrete hood.

"Convex mirrors" means wide-angle mirrors that enable the operator of a large vehicle to see along the left and right sides of the vehicle by allowing a view of all points on an imaginary horizontal line which is: (i) three feet above the road; and (ii) one foot outside the plane defined by the outer face of the wheels.

"Crossover mirror" means a fender-mounted or hood-mounted mirror that enables the operator of a large vehicle with a conventional cab to see: (i) any person or object at least three feet tall passing one foot in front of the vehicle; and (ii) the area from the front bumper to where direct vision is possible.

"Department" means any city department or city agency that manages or supervises a contract awarded to a contractor.

"Large vehicle" means any motor vehicle with a gross vehicle weight rating exceeding 10,000 pounds, except an ambulance, fire apparatus, low-speed vehicle with maximum speed under 15 mph, or agricultural tractor.

"Lateral protective device" or "vehicle side guard" means an apparatus installed between the front and rear wheels of a large vehicle that is designed to prevent road users from falling underneath the vehicle.

"Subcontractor" means any person that enters into any tier subcontract to perform work on a contract.

"Volpe side guard standard" means the United States Department of Transportation's Volpe side guard standard published and referred to as US DOT Standard DOT-VNTSC-OSTR-16-05, as amended; or a functionally equivalent national vehicle side guard standard, as determined by the commissioner.

Safety enhancing requirements. Any solicitation for a contract advertised or otherwise communicated after the

effective date of this Ordinance, and any contract entered into as a result of such solicitation shall include a specification that the contractor and any subcontractor shall retrofit large vehicles used in the performance of the contract, in accordance with the phase-in period provided pursuant to subsection (c), with:

- 1) Lateral protective devices. This requirement shall be considered satisfied if: (i) the vehicle is equipped with vehicle side guards in accordance with the requirements of the Volpe side guard standard; or (ii) the vehicle is so designed or equipped at the side that, by virtue of its shape and characteristics, its component parts can be regarded as replacing or functioning as vehicle side guards in accordance with the Volpe side guard standard; or (iii) the vehicle cannot be retrofitted with lateral protective devices as attested by the contractor or the subcontractor in a statement accompanied by certification from two manufacturers of such devices.
- 2) Left and right side convex mirrors; and
- 3) At least one crossover mirror on the passenger side.

Phase-in period. Except when a contractor or a subcontract is granted a waiver pursuant to subsection (g), the requirements of subsection (b) shall apply to:

- i) one-fourth of a contractor's or a subcontractor's large vehicles used in the performance of a contract on or after July 1, 2018 but before July 1, 2019;
- ii) one-half of a contractor's or a subcontractor's large vehicles used in the performance of a contract on or after July 1, 2019 but before July 1, 2020;
- iii) three-fourths of a contractor's or a subcontractor's large vehicles used in the performance of a contract on or after July 1, 2020 but before July 1, 2021;

(iv) all of a contractor's or a subcontractor's large vehicles used in the performance of a contract on or after July 1, 2021.

- d) Compliance. (1) Any solicitation for a contract advertised or otherwise communicated after the effective date of this Ordinance, and any contract entered into as a result of such solicitation shall include a specification that the contractor shall submit a written compliance plan to the commissioner with respect to compliance with the requirements of this section within 14 days following the notice to proceed or the placing of the first order under the contract, as applicable.

(2) Every twelve-month period following the notice to proceed or the placing of the first order under the contract, as applicable, or when requested by the commissioner, the contractor must submit to the commissioner, in a form and manner provided by the chief procurement officer, a report that includes the

following:

i) the number of large vehicles used in the performance of the contract by the contractor and any subcontractor;

ii) the number of large vehicles used in the performance of the contract by the contractor and any subcontractor that are retrofitted with safety enhancing equipment as required in subsection (b) of this Section;

iii) one or more photographs of each large vehicle used in the performance of the contract by the contractor and any subcontractor that is retrofitted with safety enhancing equipment as required in subsection (b) of this Section. The photographs must show the large vehicle's license plate number with the safety enhancing equipment fitted on the vehicle; and

iv) a certification that the contractor and any subcontractor in the contract have met the requirements of this section and the terms of the contract specified pursuant to this section.

e) Costs. All costs that the contractor or any subcontractor may incur to comply with contract requirements imposed pursuant to this section are incidental to the overall contract. No additional time or monies shall be granted to the contractor for compliance with these requirements.

f) Enforcement. (1) Any solicitation for a contract subject to the provisions of this section and any contract entered into as a result of such solicitation shall include terms necessary to enforce this section, including, but not limited to, terms that:

i) require the contractor and any subcontractor to the contract to comply with this section; and

ii) specify that the chief procurement officer or the head of the department is authorized to inspect or to have inspected any large vehicle used in the

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performance of the contract in order to ensure compliance with contract requirements specified pursuant to this section.

(2) In addition to other remedies provided by law or specified in the contract, any person who knowingly makes a false statement of material fact to any city agency with respect to compliance with any contract requirements specified pursuant this section or rules promulgated thereunder shall be fined not less than \$1,000.00 nor more than \$5,000.00 for each such false statement. For purposes of this section, a person knowingly makes a false statement of material fact when such person makes a false statement of material fact as provided in subsection (d) of Section 1-21-010.

g) Annual waiver. (1) Any person may apply to the chief procurement officer for an annual waiver from the requirements of this section. Application for the annual waiver shall be on a form provided by the department of procurement services and shall be accompanied by a non-refundable application fee of \$100.00. The application shall include all of the following information and statements, which shall be verified

by affidavit:

i) a list of all large vehicles that the applicant owns, leases or otherwise controls to do the applicant's business;

ii) a statement, accompanied by supporting financial statements, that retrofitting the applicant's large vehicles in order to comply with contract requirements that shall be imposed pursuant to this section would cause the applicant to suffer an undue financial hardship.

(3) If, upon review of the application, the chief procurement officer or his or her designee determines that: (i) the applicant has met all of the requirements in subsection (g)(1) of this section; and (ii) compliance with the requirements of this section will cause the applicant to suffer an undue financial hardship, the chief procurement officer is authorized to grant an annual waiver to the applicant.

(3) An annual waiver granted pursuant to this subsection shall expire one year from the date it has been granted; provided, however, the chief procurement officer may renew the waiver for additional one-year periods if the grantee shows, in a manner the chief procurement officer determines by rule, that the grantee continues to be eligible for the waiver.

h) Time extension: Upon a written request, accompanied by a compliance plan, of a contractor or subcontractor of a contract entered on or before December 31, 2018, the chief procurement officer, in consultation with the department, may grant time extension of not more than six months for compliance with the requirements of this section with regard to the contract.

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(i) Rules. The chief procurement officer, in consultation with the commissioner and the commissioner of transportation, is authorized to adopt rules for the proper administration and enforcement of this section.

SECTION 3. This ordinance shall take effect upon its passage and approval. The City's Commissioner of Fleet and Facility Management is authorized to implement Section 1 of this Ordinance in a graduated fashion, upon consultation with the City's Budget Director.

