



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN, NY 11217	Summons No: 000978639M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE LEASING & RENTAL CORPORATION Hearing Date: 07/20/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000978639M	Sustained	02/28/2025	113 St. Marks Place Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Sustained	\$350.00

Findings of Fact & Conclusions of Law

This telephone hearing was held on July 20, 2026. Petitioner, NYCDEP, appeared by Inspector Andy Guzman. Respondent, Penske Rental and Leasing Corporation, appeared by Tiffany Irizarry, Esq. She waived the appearance of the Issuing Officer (IO).

This summons alleges a violation of NYC Administrative Code 24-163(f)(Idling of motor vehicle in front of school). In the summons, the Issuing Officer (IO) affirmed, as verified by a review of DEP records, that on 2/28/2025, while adjacent to the George Jackson Academy at 113 St. Marks Place a citizen observed a van with NY License Plate #33233NF idling for longer than one minute.

Inspector Guzman relied on the affirmed statements of the IO in the summons, and he submitted a copy of the redacted-citizen complaint (P-1), two photos depicting the truck, its name and its license plate taken by the citizen-complainant (P-2 &3) and a screenshot of the DMV lookup (P-4). He also submitted a video in excess of one minute which could not be uploaded as evidence due to the size of the file. The video was taken by the citizen-complainant at the time of the alleged violation, and it depicts audible engine noise

Ms. Irizarry stated that she had an opportunity to review Respondent's evidence. She further stated that after viewing the video she could not determine that the truck was adjacent to the school, because she did not see the school in the video. She did not submit any evidence.

Inspector Guzman stated that the sign for the school was at the end of the video and he submitted a google map and a screenshot from the video to support Petitioner's argument (P-5).

§ 24-163(f) states that "No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred."

I credit the Petitioner's evidence and the Issuing Officer's affirmed statements in the summons regarding the citizen's complaint concerning the idling of Respondent's engine. I find that Respondent permitted the idling of its engine for more than one minutes while parked adjacent to a school. I further find that Respondent failed to produce any evidence such as testimony or affidavits from the vehicle's driver to establish an affirmative defense "by a preponderance of the evidence." (See DEP v. G & F Design Appeal No. 2301482 (December 21, 2023). Citing to DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019); DEP v. Hub Truck Rental Corp., Appeal No. 2001344 (February 11, 2021); DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023.)). I also find that Respondent did not establish a valid defense to this charge. This violation is sustained and a penalty of \$350 is imposed.

Barbara Halper

07/21/2026

07/21/2026

Barbara Halper, Judicial Hearing Officer

Date