



Office of Administrative Trials and Hearings

Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 000909632K et al. (5 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

THE PAY-O-MATIC CORP.

Hearing Date : 6/16/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 2,250.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000909417H	Sustained	11/18/2024	50 WATER STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000909632K	Sustained	10/16/2024	49 FULTON STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	600.00

Total Penalty for Summons: 600.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000909640K	Sustained	10/08/2024	ON CLARKSON AVEBETWEEN NOSTRAND,

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

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000909651X	Sustained	09/30/2024	49 FULTON STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000909659K	Sustained	09/04/2024	1855 BROADWAY, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	600.00

Total Penalty for Summons: 600.00

Findings of Facts & Conclusions of Law

Petitioner, NYC Department of Environmental Protection, issued 5 separate summonses to Respondent, The Pay-O-Matic Corp., for violating NYC Administrative Code Section 24-163, Idling of motor vehicle engine for more than 3 minutes.

1.Summons number 000909632K was issued for violating Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 3rd or subsequent offense, when a Van with NY Plate # 40694NC was observed idling on October 16, 2024, from 11:12 a.m. to 11:17 a.m., at 49 Fulton Street in New York, New York. The Issuing Officer indicated that Respondent has received 2 prior summonses for the same offense.

2.Summons number 000909640K was issued for violating Section 24-163(f), Idling of motor vehicle engine for more than 1 minute while adjacent to a school – 1st offense, when a Van with NY Plate # 61503ND was observed idling on October 8, 2024, from 1:54 p.m. to 1:56 p.m., adjacent to the Rolph Henry Playground located on Clarkson Avenue between Nostrand Avenue and New York Avenue in Brooklyn, New York.

3.Summons number 000909417H was issued for violating Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 1st offense, when a Van with NY Plate # 76340MB was observed idling on November 18, 2024, from 10:48 a.m. to 10:52 a.m., at 50 Water Street in New York, New York.

4.Summons number 000909651X was issued for violating Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 1st offense, when a Van with NY Plate # 21515MC was observed idling on September 30, 2024, from 11:12 a.m. to 11:17 a.m., at 49 Fulton Street in New York, New York.

5.Summons number 000909659K was issued for violating Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 3rd or subsequent offense, when a Truck with NY Plate # 81361MM was observed idling on September 4, 2024, from 2:23 p.m. to 2:27 p.m., at 1855 Broadway in New York, New York. The Issuing Officer indicated that Respondent has received 2 prior summonses for the same offense.

Section 24-163 states that "No person shall or permit the engine of a motor vehicle...to idle for longer than three minutes..." Section 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."

At the hearing, John McLaughlin represented the Petitioner, NYC Department of Environmental Protection. Michael Sargo, Esq., represented the Respondent, The Pay-O-Matic Corp.

Mr. McLaughlin relied upon the sworn statement of the Issuing Officer contained in these 5 summonses and submitted evidence packets for each summons containing photos, redacted idling complaint, google map image of the Rolph Henry playground, videos, and a screenshot of the Variance request tracker (Petitioner's Exhibit 1 saved under each respective summons number). Mr. McLaughlin also stated that Respondent had a variance that expired in July of 2024 and all these summonses were issued in the months after that. Respondent is no longer covered under the variance and there is no reason for the vehicles to be idling in the videos.

Mr. Sargo agreed that the variance has expired and responded that he is challenging the charge and asserted that an exemption applies as this is an armored vehicle and there is a processing device. Specifically, Mr. Sargo stated that this is an armored vehicle transporting money from place to place and they need the GPS and cameras to be running. This is necessary for their business.

Mr. McLaughlin stated that the variances are able to be renewed but Respondent must fulfill an obligation during the time of the variance. The point of the variance is for companies to take steps to go electric. Petitioner also asserted that on board technology is not considered a processing device within the statute and case law supports this. As evidence in support that running cameras is not considered a processing device, Petitioner submitted Appeal No. 2201203 DEP vs. Pix 11 News (Petitioner's Exhibit B saved under summons 000909632K). A processing device is connected to the engine of the vehicle and is necessary to complete a job task. That is not the case here. Mr. McLaughlin also stated that only one of the vehicles in these summonses is an actual truck, the rest are standard work vans.