



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

ILMA BABU - NACMIAS LAW FIRM PLLC
592PACIFIC STREET
BROOKLYN,NY 11217

Summons# : 000932005R et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

PENSKE TRUCK LEASING

Hearing Date : 12/5/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 350.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000932005R	Sustained	02/11/2025	235 WEST 14 STREET, Manhattan

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

Total Penalty for Summons: 350.00

Findings of Facts & Conclusions of Law

Petitioner, NYC Environmental Protection, appeared by Senior Inspector Martin Joyce with Inspector Edward Sferrazza, as an observer. Respondent appeared by ILMA BABU, authorized representative.

This hearing was conducted via telephone on December 5, 2025.

Respondent is charged with Code § 24-163, in that there was a citizen-complainant that observed Respondent's vehicle, idling for longer than 1 minute, adjacent to school.

At the telephonic hearing, held on December 5, 2025, the representative for Petitioner relied on (1) the citizen's complaint and photos of the vehicle with the license plate and school, (2) and a video of the vehicle taken by the citizen complainant. See, Petitioner's Exhibits 1-2. A screenshot of the signage of the school on the scaffold was presented at the hearing.

The citizen complaint states, "3292072: First offense. Documentation of a commercial vehicle idling for over 3 minutes and 4 seconds. No operating system like lift was in use. Smoke and sound can be seen and heard coming from the vehicle. The sound in the video is from the engine. The evidence attached in this complaint is supplemental to my testimony as an eye witness. There is no work happening at the back or front of the vehicle that requires the engine to be running and/or the vehicle has a generator that runs independently from the engine."

Respondent's representative argued that there was no visible sign for the school.

The school on the complaint is Bright Horizon, 235-91 WEST 14 STREET.

Code § 24-163(f) provides in pertinent part:

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 [VTL], standing as defined in section one hundred forty-five of the [VTL], or stopping as defined in section one hundred forty-seven of the [VTL], 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 or park was not easily identifiable as a school or park by signage or otherwise at the time a violation of this subdivision occurred. For purposes of this subdivision, "park" means a park that has been designated with a name and is identified as a park on the website of the department of parks and recreation and does not include any parking lot located within such park.

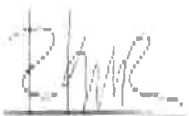
Respondent argued that the school is not reasonably visible. Respondent argued that the video does not depict the school. Respondent made a motion to dismiss the violation.

I disagree with the Respondent and the sign for "Bright Horizon" is hanging prominently on the scaffold and is depicted in the video when the vehicle leaves the location.

Having reviewed the video, I find that the school was easily identifiable from the exterior.

Respondent has not presented a valid defense.

Sustained.

 12/05/2025	12/05/2025
Rebecca Kramer, Judicial Hearing Officer	Date