



Legislation Text

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Int. No. 53

By Council Members Oddo, Lanza, Gallagher, Provenzano, Recchia Jr. and Rivera; also Council Member Clarke

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting loitering for the purpose of buying or selling illicit drugs.

*Be it enacted by the Council as follows:*

Section one. Chapter 1 of title 10 of the administrative code of the City of New York shall be amended by adding a new section 10-125.1 to read as follows:

*§ 10-125.1 1. It shall be unlawful for any person to loiter in or near any thoroughfare, or place open to the public, including but not limited to streets, sidewalks, parks, plazas and squares, or near any public or private place, in a manner and under circumstances manifesting the purpose to engage in drug-related activity contrary to any of the provisions of the penal law, and with the intent to engage in drug-related activity contrary to any of the provisions of the penal law.*

*2. It shall further be unlawful to loiter within fifty feet of a licensed drug or alcohol treatment facility.*

*3. No arrest or conviction under this section may occur unless and until the arresting officer has probable cause that the individuals to be arrested is loitering with the intent to engage in drug-related activity.*

*4. Prior to making an arrest under this section, the police officer must afford the individual to be arrested an opportunity to explain his or her conduct and purpose at the site.*

*5. The circumstances which may be considered in determining whether a person manifests the intent to*

*engage in drug-related activity include, but are not limited to:*

*(a) Such person is a known unlawful drug user, possessor or seller. For purposes of this section, a "known unlawful drug user, possessor or seller" is a person who has, within knowledge of the arresting officers, been convicted in any court of any violation involving the use, possession or sale of any of the substances referred in article 220 of the penal law or the similar laws of any political subdivision of this state or any other state; or a person who displays physical characteristics of drug intoxication or usage, including needle tracks, or a person who possess drug paraphernalia as defined in articles 220.45 and 220.50 of the penal law.*

*(b) Such person is known to have been convicted in New York within a period of two years, of any violation involving the use, sale, possession or transfer of any substance referred in to in article 220 of the penal law;*

*(c) Any vehicle involved is known to be registered to a known unlawful drug user, possessor or seller or a person for whom there is an outstanding warrant for a drug-related violation;*

*(d) Such person's behavior raises a reasonable suspicion that he or she is about to engage in, or is then engaged in, an unlawful drug-related activity;*

*(e) Such person flees upon the appearance of a police officer;*

*(f) Such person manifestly endeavors to conceal himself or herself, or conceal any object that reasonably could be involved in an unlawful drug-related activity;*

*(g) Such person repeatedly beckons to, stops, attempts to stop, or engages in conversation with passers-by, whether such passers-by are on foot or in a motor vehicle;*

*(h) Such person repeatedly passes to or receives from passers-by money, objects, or written material, whether such passers-by are on foot or in a motor vehicle;*

*(i) Such person is known to be the subject of a court or administrative order of parole, probation bond, or sentence, prohibiting his or her presence in the area, or in any geographic area with a high level of drug activity;*

*(j) Such person transfers small objects or packages for currency in a furtive fashion or manifestly endeavors to conceal himself, herself or any object or package which reasonably could be involved in illegal drug activity.*

*6. Any property, including a motor vehicle, used to facilitate a violation of this section or used in connection with activity that violates this section, may be seized at the time of the arrest and permanently forfeited upon conviction for a violation of this section, or pursuant to other provisions of state or federal law.*

§ 2. If any section, sentence, clause, or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no way affect the validity of the remaining portions of this ordinance.

§ 3. This local law shall become effective immediately and shall expire on the second anniversary of the date it becomes effective.