



Legislation Text

File #: Int 0257-2010, Version: A

Int. No. 257-A

By Council Members Reyna, Brewer, Foster, Koppell, Lander, Gentile, James, Van Bramer, Mark-Viverito, Koslowitz, Nelson, Gennaro, Garodnick, Rose, Jackson, Vann, Greenfield, Vallone and Koo

A Local Law to amend the administrative code of the city of New York, in relation to unlawful sidewalk ATMs.

Be it enacted by the Council as follows:

Section 1. Subchapter one of chapter one of title 19 of the administrative code of the city of New York is amended to add a new section 19-133.1 to read as follows:

§19-133.1 Unlawful Sidewalk ATMs. a. For purposes of this section, "Automated Teller Machine Booth" ("ATM booth") shall mean any device linked to the accounts and records of a banking institution that enables consumers to carry out banking transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and loan payments.

b. Notwithstanding any other provision of law, it shall be unlawful for any property owner to permit an ATM booth to be located on any portion of the sidewalk that is adjacent to the property of such owner, lies between the curb line and the building line, and is intended for use by the public.

c. The department may serve an order upon the owner of any premises adjacent to which such ATM booth is located, requiring such owner to remove such ATM booth. The department shall provide in such order that such ATM booth shall be removed within thirty days of the date of such order. Such order shall be served personally upon the owner of such premises, or by leaving it with a person in control of the premises, or by leaving it or posting it at the place of business of the owner, or by leaving it or posting it at any home of such owner, if service to the place of business of such owner is impractical.

d. Failure to comply with an order to remove an ATM booth within thirty days of the date of such order

shall be a violation subject to a civil penalty of not less than two thousand five hundred dollars nor more than five thousand dollars for the first day of such violation. Any owner who remains in violation beyond the first day after the expiration of the thirty-day period specified in such order shall be subject to a civil penalty of five thousand dollars for every five-day period during which he or she remains in violation. There shall be a rebuttable presumption that the ATM booth has remained in place during each such five-day period.

e. In addition to any other fines, penalties, sanctions or remedies provided for in this section, an ATM booth which remains in violation of subdivision d of this section shall be deemed abandoned. The department shall be authorized to provide for the seizure of such ATM booth, after the owner has been provided with notice and an opportunity to be heard before the appropriate administrative tribunal, if the owner of such ATM booth has accumulated an aggregate of fifty thousand dollars in civil penalties that have remained unpaid for ninety days following the expiration of the time to appeal the imposition of such penalties in accordance with the procedures of the environmental control board.

§2. Subdivision a of section 19-150 is amended to read as follows:

§19-150 Civil penalties. a. In addition to or as an alternative to the penalties set forth in section 19-149, any person who violates any of the provisions of this subchapter, or of section 24-521 of the code, or any order issued by or rule promulgated by the commissioner pursuant thereto or the terms or conditions of any permit issued pursuant thereto, or who causes, authorizes or permits such violation shall be liable for a civil penalty for each violation. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense, except that in the case of a violation of section 19-133.1, failure to remove an ATM booth pursuant to an order issued in accordance with subdivision c of section 19-133.1 shall be subject to a civil penalty of not less than two thousand five hundred dollars nor greater than five thousand dollars for the first day of such violation and a civil penalty of five thousand dollars for every five days beyond the first day that such violation shall be in effect, and provided further that there shall be rebuttable presumption that the ATM

booth has remained in place during each such five-day period.

§3. Paragraph 1 of subdivision b of section 19-150 of the administrative code of the city of New York is amended by inserting in the table in such paragraph after section 19-133 and before section 19-135 the following:

Section of the Administrative Code	Maximum Civil Penalty (dollars)
<u>19-133.1</u>	<u>5,000</u>

§4. This local law shall take effect one hundred and twenty days after its enactment into law.

JW/LF
LS# 880
12/2/10 1:15 pm