Legislation Details (With Text)

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Title:	A Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for failure to use a safety locking device and requiring that in certain circumstances law enforcement officers be required to use a safety locking device.				
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Int. No. 12

By Council Members Jennings, Reed, Sears, Barron and Moskowitz; also Council Members Boyland, Seabrook, Stewart and Clarke

A Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for failure to use a safety locking device and requiring that in certain circumstances law enforcement officers be required to use a safety locking device.

Be it enacted by the Council as follows:

Section 1. Section 10-311 of the administrative code of the city of New York is amended to read as follows:

§ 10-311 Sale of weapons without safety locking device prohibited.

a. It shall be unlawful for any person or business enterprise to dispose of any weapon which does not contain a safety locking device. For the purposes of this section and section 10-312: (1) weapon shall mean a firearm, rifle, shotgun, or assault weapon, as such terms are defined in section 10-301; or a machine gun, as defined in the penal law; and (2) a safety locking device shall mean a design adaptation or attachable accessory

that will prevent the use of the weapon by an unauthorized user, and includes, but is not limited to, a trigger lock, which prevents the pulling of the trigger without the use of a key, or a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers.

b. It shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to dispose of any weapon in the city of New York unless it is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the weapon and on a separate sheet of paper included within the packaging enclosing the weapon:

> "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE WEAPON STORAGE. ALL WEAPONS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN AND ANY OTHER UNAUTHORIZED PERSONS."

c. Any person who applies for and obtains authorization to purchase a weapon or otherwise lawfully obtains a weapon pursuant to chapters one or three of title ten of this code shall be required to purchase or obtain a safety locking device at the time he or she purchases or obtains the weapon.

d. (1) The police commissioner is authorized to promulgate rules setting forth the types of safety locking devices which will comply with this section in accordance with subdivision a of this section. The city of New York and its agencies, officers or employees shall not be liable to any party by reason of any incident involving, or the use or misuse of, a safety locking device that may have been purchased in compliance with such rules promulgated by the commissioner.

(2) The police commissioner shall provide written notice of the requirements of this section and section 10-312 to all persons who receive an official authorization to purchase a weapon and all persons applying for renewal of a license or permit issued pursuant to chapters one or three of title ten, including any rules promulgated under this subdivision. All persons applying for a license or permit or applying for the renewal of a license or permit pursuant to chapters one or three of title ten of this code, shall receive from the

commissioner information concerning the importance of using a safety locking device while a weapon is not in use, and a warning that weapons should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized persons.

e. Any violation of subdivisions a or b of this section or any rule promulgated thereunder shall be a misdemeanor and triable by a judge of the criminal court of the city of New York and punishable by imprisonment of not more than thirty days or by a fine of not more than five hundred dollars, or both.

f. Any person who violates this section having previously been found guilty of a violation of this section, or under circumstances which create a substantial risk of physical injury to another person, shall be guilty of a misdemeanor punishable by imprisonment of not more than six months, or by a fine of not more than five thousand dollars, or both.

g. Any person who violates this section having previously been found guilty on two or more occasions of a violation of this section shall be guilty of a misdemeanor punishable by imprisonment of not more than one year, or by a fine of not more than ten thousand dollars, or both.

h. In addition to the penalties prescribed in subdivisions e, f, and g of this section, any person who violates this section shall be liable for a civil penalty of not more than five thousand dollars.

§ 2. Section 10-312 of the administrative code of the city of New York is amended to read as follows:

§ 10-312 Use of safety locking device required under certain circumstances.

a. It shall be unlawful for any person who is the lawful owner or lawful custodian of a weapon, as that term is defined in section 10-311, to store or otherwise place or leave such weapon in such a manner or under circumstances that it is out of his or her immediate possession or control, without having rendered such weapon inoperable by employing a safety locking device. Any person who violates this subdivision shall be guilty of a violation, punishable by imprisonment of not more than ten days or by a fine of not more than two hundred fifty dollars, or both.

b. Any person who violates subdivision a of this section having previously been found guilty of a

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violation of such subdivision, or under circumstances which create a substantial risk of physical injury to another person, shall be guilty of a misdemeanor punishable by imprisonment of not more than [thirty days] six months or by a fine of not more than [one] five thousand dollars, or both.

c. Any person who violates this section having previously been found guilty of a misdemeanor pursuant to this section shall be guilty of a misdemeanor punishable by imprisonment of not more than one year, or by fine of not more than ten thousand dollars, or both.

d. In addition to the penalties prescribed in subdivisions a, b, and c of this section, any person who violates this section shall be liable for a civil penalty of not more than five thousand dollars.

e. The provisions of this section shall not apply to weapons owned or lawfully possessed by a police officer, as such term is defined in section 1.20 of the criminal procedure law, or a federal law enforcement officer, as such term is defined in section 2.15 of the criminal procedure law; provided, however, that this section shall apply to weapons owned or lawfully possessed by a police officer or a federal law enforcement officer, if the police officer or federal law enforcement officer knows or has reason to believe that a minor under the age of 14 years is likely to gain access to the weapon.

§ 3. This local law shall take effect 90 days after its enactment into law.

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