



Legislation Details (With Text)

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Type: Introduction **Status:** Enacted
In control: Committee on Fire and Criminal Justice Services

On agenda: 3/10/2004

Enactment date: 7/13/2004 **Enactment #:** 2004/033

Title: A Local Law to amend the administrative code of the city of New York in relation to flammables and combustibles and penalties recoverable in proceedings before the environmental control board, and to repeal subdivision c of section 27-4065, subdivision b of section 27-4069, and subdivisions a, b and c of section 27-4070, to repeal and reenact subdivisions 10 and 22 of section 27-4002, sections 27-4015, 27-4063, 27-4064, 27-4066, 27-4067, 27-4068 and 27-4070 of such code.

Sponsors:

Indexes:

Attachments: 1. Committee Report 4/26, 2. Hearing Transcript 4/26, 3. Committee Report 6/23, 4. Hearing Transcript 6/23, 5. Fiscal Impact Statement, 6. Hearing Transcript - Stated Meeting, 7. Local Law

Date	Ver.	Action By	Action	Result
3/10/2004	*	City Council	Introduced by Council	
3/10/2004	*	City Council	Referred to Comm by Council	
4/26/2004	*	Committee on Fire and Criminal Justice Services	Hearing Held by Committee	
4/26/2004	*	Committee on Fire and Criminal Justice Services	Laid Over by Committee	
6/23/2004	*	Committee on Fire and Criminal Justice Services	Approved by Committee	Pass
6/23/2004	*	Committee on Fire and Criminal Justice Services	Hearing Held by Committee	
6/24/2004	*	City Council	Laid Over by Council	
6/28/2004	*	City Council	Approved by Council	Pass
6/28/2004	*	City Council	Sent to Mayor by Council	
7/12/2004	*	Mayor	Hearing Held by Mayor	
7/12/2004	*	Mayor	Signed Into Law by Mayor	
7/14/2004	*	City Council	Recved from Mayor by Council	

Int. No. 248

A Local Law to amend the administrative code of the city of New York in relation to flammables and combustibles and penalties recoverable in proceedings before the environmental control board, and to repeal subdivision c of section 27-4065, subdivision b of section 27-4069, and subdivisions a, b and c of section 27-4070, to repeal and reenact subdivisions 10 and 22 of section 27-4002, sections 27-4015, 27-4063, 27-4064, 27-4066, 27-4067, 27-4068 and 27-4070 of such code.

By Council Members Clarke, Boyland, Koppell, Seabrook, Stewart, Comrie and Gonzalez (by request of the Mayor)

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 15-229 of the administrative code of the city of New York, as amended by local law number 74 for the year 1988, is amended to read as follows:

a. In addition to or as an alternative to any of the remedies and penalties provided in any laws, rules, or regulations enforceable by the department, any person who shall violate or fail to comply with any such laws, rules, or regulations shall, except as otherwise specifically provided in subdivision c of section 15-230, be liable for a civil penalty which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the board. Except as otherwise specifically provided, such civil penalty shall be determined [in accordance with the following schedule:

First Violation:

Second or Subsequent Violation by the same respondent of the same provision of law, rule or regulation and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violation occurred, at the same premises (all violations committed within an eighteen month period).

Section	Minimum (Dollars)	Maximum (Dollars)	Minimum (Dollars)	Maximum (Dollars)
27-4007	0	1,000	0	5,000
27-4053	0	1,000	0	5,000
27-4057				
(subd. c, d, f)	0	1,000	0	5,000
27-4058 (subd. c, para. 5, 6)	0	1,000	0	5,000
27-4062				
(subd. b, c, f)	0	1,000	0	5,000
27-4065				
(subds. d-k, m-r)	0	1,000	0	5,000
27-4066 (subd. d)	0	1,000	0	5,000
27-4070 (subd. b)	0	1,000	0	5,000
27-4074	0	1,000	0	5,000
27-4076				
(subd. a, b)	0	1,000	0	5,000
27-4077				

(subd. a, b, c)	0	1,000	0	5,000
27-4078	0	1,000	0	5,000
27-4079 (subd. a)	0	1,000	0	5,000
27-4081				
(subd. b, para. 3-9)	0	1,000	0	5,000
27-4082 (subd. b,				
para. 1-4)	0	1,000	0	5,000
27-4087 (subd. c)	0	1,000	0	5,000
27-4089				
(subd. a, c, d)	0	1,000	0	5,000
27-4092 (subd. 4)	0	1,000	0	5,000
27-4097 (subd. b)	0	1,000	0	5,000
27-4100 (subd. c)	0	1,000	0	5,000
27-4101				
(subd. b, c, h, j)	0	1,000	0	5,000
27-4104 (subd. d)	0	1,000	0	5,000
27-4112				
(subd. cc, dd)	0	1,000	0	5,000
27-4120 (subd. e)	0	1,000	0	5,000
27-4199 (subd. a)	0	1,000	0	5,000
Subchapter 18 of the				
fire prevention code	0	1,000	0	5,000
(article 3, sub-article 3)				
article 4) (article 5)				
27-4197 (subd. c)	0	1,000	0	5,000
27-4200	0	1,000	0	5,000
27-4205 (subds. a, d, e(3),				
h, k, m, n, o)	0	1,000	0	5,000
27-4206 (subd. (b),				
para. 1, 2, 3)	0	1,000	0	5,000
27-4207 (subds. 2, 3, 4, 5,				
9, 11(d), 11(e))	0	1,000	0	5,000
27-4209 (subd. 1,				
2(c), 7)	0	1,000	0	5,000
27-4210				
(subd. 1, 2)	0	1,000	0	5,000
27-4212 (subd. 2,				
para. a)	0	1,000	0	5,000
27-4212 (subd. 3,				
para. j)	0	1,000	0	5,000
27-4213 (subd. b, para. 13)				
(subd. g, para. 2-6)	0	1,000	0	5,000
27-4218	0	1,000	0	5,000
27-4220	0	1,000	0	5,000
27-4221	0	1,000	0	5,000
27-4236	0	1,000	0	5,000
27-4238	0	1,000	0	5,000
27-4239	0	1,000	0	5,000
27-4248 (subd. b)	0	1,000	0	5,000

27-4251				
(subd. c, para. 1)	0	1,000	0	5,000
27-4265 (subd. a)	0	1,000	0	5,000
27-4275 (subd. a)	0	1,000	0	5,000
27-4279	0	1,000	0	5,000
All other provisions of this title and related rules and regulations (Reference to a section of the Code is intended to include any rules and regulations related to such section).	0	500	0	5,000]

as follows: (1) The maximum penalty for the first violation shall be one thousand dollars (\$1,000); (2) the maximum penalty for the second and any subsequent violation of the same provision of law, rule or regulation shall be five thousand dollars (\$5,000), provided the violation is committed by the same respondent, is for the same provision of law, rule or regulation, and occurs within eighteen months of first violation, and provided, further, that if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violation occurred, the violation occurred at the same premises.

§2. Subdivision 7 of section 27-4002 of the administrative code of the city of New York, as amended by local law number 49 for the year 1991, is amended to read as follows:

7. Certificate of approval, a written statement issued by the [fire] commissioner, certifying that [the] a type, class or kind of article or thing [mentioned therein] has been examined, tested and approved for a specified purpose or use in conformity with [subchapters one through twenty-nine of] the requirements of this chapter or rules promulgated pursuant to this chapter. In those instances where a testing or performance standard is not prescribed by this chapter or such rules, the type, class or kind of article or thing shall have been examined and tested [to the satisfaction of] in a manner acceptable to the commissioner [and approved by the commissioner. Such certificate of approval shall be an authorization for the type, class or kind of article or thing to be manufactured, stored, transported, sold or used].

§ 3. Subdivision 10 of section 27-4002 of the administrative code of the city of New York is REPEALED, and a new subdivision 10 is reenacted to read as follows:

10. Combustible mixture, a liquid or mixture having a closed-cup flashpoint at or above a temperature of one hundred degrees Fahrenheit, except that, for purposes of transportation, a combustible mixture shall mean a liquid or mixture defined as a combustible liquid by the United States department of transportation.

§ 4. Subdivision 22 of section 27-4002 of the administrative code of the city of New York is REPEALED, and a new subdivision 22 is reenacted to read as follows:

22. Flammable mixture, a liquid or mixture having a closed-cup flashpoint at a temperature below one hundred degrees Fahrenheit, except that, for purposes of transportation, a flammable mixture shall mean a liquid or mixture defined as a flammable liquid by the United States department of transportation.

§ 5. Section 27-4015 of such the administrative code of the city of New York is REPEALED, and a new section 27-4015 is reenacted to read as follows:

§27-4015 Certificates of approval. a. An application for a certificate of approval shall include complete drawings of and specifications for the article or thing for which approval is sought and, unless the commissioner determines that it is impracticable, the article or thing itself. The commissioner may require that the article or thing be examined, tested or demonstrated at the applicant's expense in a manner prescribed by the commissioner, including examination and testing by a testing laboratory acceptable to the commissioner.

b. The commissioner may set forth in the certificate of approval conditions on the approved purpose or use of such type, class or kind of article or thing as may be deemed necessary in the interest of public safety.

c. The commissioner may include under a single certificate of approval more than one type, class or kind of article or thing of a similar design or common characteristic.

d. Each article or thing of the type, class or kind for which a certificate of approval has been issued shall have the number of such certificate plainly stamped or otherwise affixed upon it.

e. A certificate of approval, and any renewal thereof granted by the commissioner, shall be issued to the manufacturer of the article or thing, and shall be for a period not to exceed three years.

f. It shall be unlawful for any person to manufacture, install, store, sell or use for any purpose or use,

subject to the provisions of this chapter, any article or thing for which a certificate of approval has been issued except in accordance with the terms and conditions of such certificate.

§ 6. Paragraph 1 of subdivision (b) of section 27-4026 of the administrative code of the city of New York, as amended by local law number 56 for the year 1991, is amended to read as follows:

1. Certificates of approval [(per product for term of three years)]
(per application):
 - (A) Original [for equipment requiring fire department approval] applications, amended applications, and changes of ownership, manufacturing process or design
(except torches): 625.00
 - (B) Original applications, amended applications, and changes of ownership, manufacturing process or design [for]
(torches) 260.00
 - (C) [Original for products other than equipment requiring fire department approval 470.00
 - (D)] Renewal applications 50.00
 - [(E)] (D) Change of identification [(excluding change of ownership),
e.g., change in corporate name or name of product or]
, including change in name of article, model number
or name of manufacturer 210.00
 - [(F) Change of ownership, change of manufacturing process,
change of design, or change in chemical composition of
flammable & combustible mixtures:
For equipment 625.00

For torches 260.00

For products other than equipment or torches 470.00]

§ 7. Sections 27-4063 and 27-4064 of the administrative code of the city of New York are REPEALED, and new sections 27-4063 and 27-4064 are reenacted to read as follows:

§27-4063 Permit. a. Except as otherwise provided in this chapter, it shall be unlawful to manufacture any flammable mixture without a permit.

b. Except as otherwise provided in this chapter, it shall be unlawful to store, sell, keep or use any flammable mixture in quantities exceeding five gallons without a permit.

§27-4064 Restrictions. a. The commissioner may, by rule, prescribe requirements for the safe manufacture, storage, sale and use of flammable mixtures, and prohibit or restrict the manufacture, storage, sale or use of such a mixture in any container, equipment, building or place in the interest of public safety.

b. A flammable mixture shall be kept separate from any substance with which it is incompatible, when such mixture and substance are stored or used in containers having a capacity of more than five pounds or one-half gallon. Except where this chapter, a rule of the fire commissioner, or other applicable law, rule or regulation specifies greater protection, such separation shall be maintained at a distance of not less than twenty feet, by a noncombustible partition extending not less than eighteen inches above and to the sides of the stored mixtures or substance, by storing such mixture and substance in a metal storage cabinet, or by other means acceptable to the fire commissioner. For purposes of this section, “incompatible” shall mean that such mixture and substance, if mixed, could explode, generate heat, gases or other byproducts, or otherwise react in a manner potentially hazardous to life or property.

c. The owner of any establishment in which flammable mixtures are being manufactured, stored or used, and all persons engaged in the manufacture, storage or use of such flammable mixtures thereat, shall be familiar with the hazardous nature of the mixtures and the appropriate actions to be taken in the event of spill, leak or fire. A certificate of fitness shall be obtained where required by rule of the fire commissioner.

§ 8. Subdivision c of section 27-4065 of the administrative code of the city of New York is REPEALED.

§ 9. Section 27-4066 of the administrative code of the city of New York is REPEALED, and a new section 27-4066 is reenacted to read as follows:

§27-4066 Requirements for below-grade storage in mercantile occupancies. A system of automatic sprinklers shall be provided in each basement, cellar or other location below grade, regardless of the floor area of such space, in any mercantile establishment in which the commissioner permits the storage of flammable mixtures, except that, where flammable mixtures are stored in such basement, cellar or other location below grade, in a room or other area that is segregated, vertically and horizontally, from surrounding spaces by a fire separation of not less than a two-hour fire-resistance rating, such system of automatic sprinklers shall be required only within such room or other area. Such system of automatic sprinklers shall conform to the requirements for automatic sprinklers for spaces classified in storage occupancy group B-1 pursuant to subdivision d of section 27-954 of the building code.

§ 10. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-4066.1 to read as follows:

§27-4066.1 Containers. a. Flammable mixtures shall be stored in containers acceptable to the commissioner that are approved for their intended use and identified as to their content.

b. Except as otherwise provided by rule of the fire commissioner, the maximum allowable size of a container used for the storage of flammable mixtures shall be five gallons for a metal or plastic container approved by the United States Department of Transportation, except that the maximum allowable size of a metal drum approved by the United States Department of Transportation shall be sixty gallons.

§ 11. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-4066.2 to read as follows:

§27-4066.2 Transportation. a. It shall be unlawful to transport any flammable mixture in quantities

exceeding five gallons without a permit.

b. The commissioner may, by rule, prescribe requirements for the safe transportation of flammable mixtures, and prohibit or restrict the transportation of such a mixture in the interest of public safety, provided that such requirements, prohibitions and restrictions are consistent with applicable federal and state laws, rules and regulations that require consistency.

§ 12. Sections 27-4067 and 27-4068 of the administrative code of the city of New York are REPEALED, and new sections 27-4067 and 27-4068 are reenacted to read as follows:

§27-4067 Permit. a. Except as otherwise provided in this chapter, it shall be unlawful to manufacture any combustible mixture without a permit issued pursuant to this subchapter or a permit for the manufacture of flammable mixtures issued pursuant to subchapter nine of this chapter.

b. Except as otherwise provided in this chapter, it shall be unlawful to store, sell, keep or use any combustible mixture in quantities exceeding ten gallons without a permit issued pursuant to this subchapter.

§27-4068 Restrictions. The commissioner may, by rule, prescribe requirements for the safe manufacture, storage, sale and use of combustible mixtures, and prohibit or restrict the manufacture, storage, sale or use of such a mixture in any container, equipment, building or place in the interest of public safety.

b. A combustible mixture shall be kept separate from any substance with which it is incompatible, when such mixture and substance are stored or used in containers having a capacity of more than five pounds or one-half gallon. Except where this chapter, a rule of the fire commissioner, or other applicable law, rule or regulation specifies greater protection, such separation shall be maintained at a distance of not less than twenty feet, by a noncombustible partition extending not less than eighteen inches above and to the sides of the stored mixtures or substance, by storing such mixture and substance in a metal storage cabinet, or by other means acceptable to the fire commissioner. For purposes of this section, “incompatible” shall mean that such mixture and substance, if mixed, could explode, generate heat, gases or other byproducts, or otherwise react in a manner potentially hazardous to life or property.

c. The owner of any establishment in which combustible mixtures are being manufactured, stored or used, and all persons engaged in the manufacture, storage or use of such combustible mixtures thereat, shall be familiar with the hazardous nature of the mixtures and the appropriate actions to be taken in the event of spill, leak or fire. A certificate of fitness shall be obtained where required by rule of the fire commissioner.

§ 13. Subdivision b of section 27-4069 of the administrative code of the city of New York is REPEALED.

§ 14. Section 27-4070 of the administrative code of the city of New York is REPEALED, and a new section 27-4070 is reenacted to read as follows:

§27-4070. Requirements for below-grade storage in mercantile occupancies. A system of automatic sprinklers shall be provided in each basement, cellar or other location below grade, regardless of the floor area of such space, in any mercantile establishment in which the commissioner permits the storage of combustible mixtures, except that, where combustible mixtures are stored in such basement, cellar or other location below grade, in a room or other area that is segregated, vertically and horizontally, from surrounding spaces by a fire separation of not less than a two-hour fire-resistance rating, such system of automatic sprinklers shall be required only within such room or other area. Such system of automatic sprinklers shall conform to the requirements for automatic sprinklers for spaces classified in storage occupancy group B-1 pursuant to subdivision d of section 27-954 of the building code.

§15. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-4070.1 to read as follows:

§27-4070.1 Containers. a. Combustible mixtures shall be stored in containers acceptable to the commissioner that are approved for their intended use and identified as to their content.

b. Except as otherwise provided by rule of the fire commissioner, the maximum allowable size of a container used for the storage of combustible mixtures shall be five gallons for a metal or plastic container approved by the United States Department of Transportation other than a metal drum approved by the United

States Department of Transportation, the maximum allowable size of which shall be sixty gallons.

§ 16. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-4070.2 to read as follows:

§27-4070.2 Transportation. a. It shall be unlawful to transport any combustible mixture in quantities exceeding ten gallons without a permit.

b. The commissioner may, by rule, prescribe requirements for the safe transportation of combustible mixtures, and prohibit or restrict the transportation of such a mixture in the interest of public safety, provided that such requirements, prohibitions and restrictions are consistent with applicable federal and state laws, rules and regulations that require consistency.

§17. This local law shall take effect 120 days after the date of its enactment into law, except that prior to such effective date the fire commissioner may promulgate rules or take any other administrative actions to implement its provisions, and provided, further, that rules promulgated under provisions repealed by this local law shall remain in effect until amended or repealed by the fire commissioner.