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Int. No. 470

By Council Members Comrie and Yassky and Council Members Brewer, Fidler, Gennaro, Gerson, Gonzalez, James, Koppell, Liu, Recchia, Seabrook, Sears, Weprin and White

A Local Law to amend the administrative code of the city of New York, in relation to the sale of counterfeit goods.

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 20 of the administrative code of the city of New York is amended by the addition of a new subchapter 16, to read as follows:

SUBCHAPTER 16

SALE OF COUNTERFEIT GOODS

§20-810 Prohibitions.

§20-811 Penalties.

§20-810 **Prohibitions** . It shall be unlawful for any person to sell, trade or otherwise distribute any goods or merchandise that violate, or were produced, derived, copied or otherwise manufactured in violation of, any patent, copyright or trademark laws.

§20-811 **Penalties**. a. Any person who violates the provisions of section 20-810 of this subchapter shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

b. In addition to the penalties set forth in subdivision a of this section, any police officer or authorized officer or employee of the department, upon service of a notice of violation upon any person selling, trading or otherwise distributing any goods or merchandise in violation of section 20-810 of this subchapter, may seize any goods or merchandise which such police officer or authorized officer or employee has reasonable cause to believe are being sold in violation of section 20-810 of this subchapter. Any goods or merchandise seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. The commissioner shall hold a hearing to adjudicate the violation underlying the seizure within seven business days after the date of seizure and shall render his or her determination within five business days after the conclusion of the hearing.

1. After adjudication of the violation underlying the seizure, if the commissioner finds that the goods or merchandise have not been sold, or offered for sale, in violation of section 20-810 of this subchapter, the department shall promptly release such goods or merchandise upon written demand by such individual upon whom the underlying notice of violation was served, or other individual able to demonstrate an ownership interest in such property to the satisfaction of the commissioner.

2. Any goods or merchandise that have not been claimed within ten days after adjudication by the commissioner of the violation underlying the seizure shall be deemed by the department to be abandoned. Such goods or merchandise shall be disposed of by the department pursuant to rule of the commissioner.

3. After adjudication of the violation underlying the seizure, if the commissioner finds that the goods or merchandise have been sold, or offered for sale, in violation of section 20-810 of this subchapter, then the commissioner shall commence a forfeiture action pursuant to this subdivision by the filing of a summons with a notice or a summons and complaint in accordance with the civil practice law and rules. Such summons with notice or a summons and complaint shall be served in accordance with the civil practice law and rules on all parties known to have an interest in the goods or merchandise. Goods or merchandise which are the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

4. Notice of the institution of the forfeiture action shall be given by first-class mail to all persons known to hold an interest in such goods or merchandise, including the individual upon whom the underlying notice of violation was served.

5. The department or agency having custody of the goods or merchandise, after judicial determination of forfeiture, shall

dispose of such goods or merchandise pursuant to rule of the commissioner.

§2. This local law shall take effect one hundred twenty days after it shall have been enacted into law except that prior to such effective date the commissioner of consumer affairs may promulgate rules or take any other action necessary for implementation of this local law.

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