



Legislation Text

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Int. No. 1308-A

By The Speaker (Council Member Mark-Viverito) and Council Members Johnson, the Public Advocate (Ms. James), Salamanca, Gibson, Chin, Menchaca and Levin

A Local Law to amend the administrative code of the city of New York, in relation to limiting the application of temporary orders obtained pursuant to the nuisance abatement law

Be it enacted by the Council as follows:

Section 1. Subdivision (a) of section 7-707 of the administrative code of the city of New York is amended to read as follows:

(a) Generally. Pending an action for a permanent injunction as provided for in section 7-706 of this subchapter, the court may grant a preliminary injunction enjoining a public nuisance within the scope of this subchapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance, where the public health, safety or welfare immediately requires the granting of such injunction. An order granting a preliminary injunction shall direct a trial of the issues within three business days after joinder of issue or, if issue has already been joined, within three business days after the entry of the order. Where a preliminary injunction has been granted, the court shall render a decision with respect to a permanent injunction within three business days after the conclusion of the trial. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this subchapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this

subchapter is being conducted, maintained or permitted.

§ 2. Subdivision (a) of section 7-709 of the administrative code of the city of New York is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction pursuant to section 7-707 [of this subchapter] alleging a public nuisance as defined in subdivision (a) or (d) of section 7-703, or a public nuisance as defined in subdivision (e) of section 7-703 in a building, erection or place used for commercial purposes in which there is a significant risk of imminent physical harm to a natural person or persons, the corporation counsel shall show by clear and convincing evidence that [a] such public nuisance [within the scope of this subchapter] is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary closing order, a temporary order closing such part of the building, erection or place wherein [the] such public nuisance is being conducted, maintained or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time but in no event later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within three business days after the conclusion of the hearing.

§ 3. Subdivision (a) of section 7-710 of the administrative code of the city of New York is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction pursuant to section 7-707 [of this subchapter] alleging a public nuisance as defined in subdivision (a), (d), or (k) of section 7-703, or a public nuisance as defined in subdivision (e) of section 7-703 in a building, erection or place used for commercial purposes in which there is a significant risk of imminent physical harm to a natural person or persons, or a public nuisance as defined in subdivision (h) of section 7-703 in a building, erection or place operating without a license or with a license permitting the sale of liquor under the alcoholic beverage control law, the corporation counsel shall

show by clear and convincing evidence that [a] such public nuisance [within the scope of this subchapter] is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary restraining order, such temporary restraining order may be granted without notice restraining the defendants and all persons from removing or in any manner interfering with the furniture, fixtures and movable property used in conducting, maintaining or permitting [the] such public nuisance and from further conducting, maintaining or permitting [the] such public nuisance, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time but in no event later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within three business days after the conclusion of the hearing.

§ 4. This local law takes effect 60 days after it becomes law.

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