



Legislation Text

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Int. No. 815

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A Local Law to amend the administrative code of the city of New York, in relation to the regulation of devices or substances that release or are designed to release noxious or offensive odors.

Be it enacted by the Council as follows:

Section 1. **Declaration of Legislative Intent and Findings.**

The Council finds that the number of school safety incidents involving noxious substances that take place in the city's schools are disturbingly high, and that these incidents place students and school personnel at unacceptable risk of injury and also disrupt the learning environment. Many of these incidents result in the necessary evacuation of classes and medical injuries due to eye and throat irritations, chest pains, breathing problems or other varied physical reactions caused by the noxious substances.

Many jurisdictions outside of the city and state of New York have passed legislation regulating these noxious substances, which come packaged in various ways and generally contain a sulfur compound as its active ingredient (e.g., ammonium sulfide or hydrogen sulfide). Some of the more common forms include, but are not limited to, liquid contained in glass vials ("stink bombs") and small aerosol spray cans ("spray"). The liquid vials present a particular concern because they are designed to release a noxious odor upon shattering. The glass shards left behind present yet another safety hazard in the schools.

These noxious substances and devices have been readily available for purchase from ice cream trucks and local stores. Indeed, the warnings on some of these items caution that the product is an "irritant" and should be kept out of reach of children. To remedy the safety and educational concerns that these substances

and devices have presented in the schools, the amendment prohibits the sale to minors, and also prohibits the possession by students of these substances on school premises.

Section 2. Chapter 1 of title 10 of the administrative code of the city of New York is hereby amended by adding a new section 10-134.3.

§ 10-134.3 Regulation of devices or substances which release or are designed to release noxious or offensive odors. a. Definitions. For purposes of this section:

(1) “Noxious substance or device” means any substance or device that releases or is designed to release noxious or offensive odors.

(2) “Person” means any natural person, corporation, partnership, firm, organization or other legal entity.

(3) “School Premises” means the buildings, grounds or facilities, or any portion thereof, owned, occupied by, or under the custody or control of public or private institutions for the primary purpose of providing educational or recreational instruction to students, and any vehicles owned, operated or leased by or on behalf of such institutions that are used to transport such students or the personnel of such institutions.

b. It shall be unlawful for any person to give, sell or offer to sell or cause any person to give, sell or offer to sell a noxious substance or device to any individual eighteen years of age or younger.

c. No person who sells or offers for sale noxious substances or devices shall display them or post a sign advertising their availability unless a notice has been posted, in a form and manner prescribed by rule of the department of consumer affairs, indicating that the sale or giving of noxious substances or devices to persons eighteen years of age or younger is a misdemeanor. Further, it shall be unlawful for noxious substances or devices to be openly displayed offering these items for sale so that they are accessible to the public without the assistance of the seller, or his or her employee or other agent, unless the noxious substances or devices on open display are clearly and fully visible from a place of payment for goods or services or customer information at which the seller, employee or other agent of the seller is usually present during hours when the public is invited.

d. It shall be unlawful for any person twenty years of age or younger to possess a noxious substance or

device on school premises; provided, however, that nothing in this section shall preclude the temporary transfer on school premises of any noxious substance or device to, or possession on school premises by, a person twenty years of age or younger for a valid instructional, school-related or employment purpose, where the substance or device is used under the supervision of a school staff person, other authorized instructor, employer or employer's agent.

e. Authorized agents and employees of the department of consumer affairs, and of any other agency designated by the mayor, shall have the authority to enforce the provisions of subdivisions b and c of this section. A proceeding to recover any civil penalty pursuant to this section shall be commenced by the service of a notice of hearing that shall be returnable to the administrative tribunal of the department of consumer affairs. The administrative tribunal of the department shall have the power to impose civil penalties for a violation of subdivision b or c of this section as follows: not more than three hundred dollars for the first violation; not more than five hundred dollars for a second violation of subsection b or c by the same person within a two-year period; and not more than one thousand dollars for the third and all subsequent violations of subsection b or c by the same person within a two-year period.

f. Any person who violates subdivision b or c of this section shall be guilty of a misdemeanor. Any person who violates subdivision d of this section shall be guilty of a violation for a first offense and a misdemeanor for all subsequent offenses.

Section 3. This local law shall take effect thirty days after its enactment.