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Int. No. 127

By Council Members McMahon, Avella, DeBlasio, Dilan, Felder, Fidler, Reyna, Gallagher, Lanza and Oddo; also Council Members Koppell and Provenzano

A Local Law to amend the administrative code of the city of New York, in relation to any handbill, poster, notice, sign or advertisement attached to or placed upon motor vehicles, and civil and criminal penalties relating thereto.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council hereby finds that certain persons choose to attach to or place upon motor vehicles, without the permission of the owners of such vehicles, handbills, posters, notices, signs or advertisements. Such materials accumulate in the streets adversely affecting the environment, degrading the appearance of city streets and impairing the quality of life of the city's residents.

The Council finds that such conduct should be prohibited. The Council also finds that such conduct should be made punishable by enhanced civil penalties and/or imprisonment in order to effectively dissuade people from engaging in what is otherwise viewed as a cost-efficient and quick form of "advertising." The Council further finds that the difficulty of identifying persons responsible for such behavior would diminish effective enforcement of this prohibition, and that this deficiency can be resolved by recognition of the fact that, as a general rule, such handbills, posters, notices, signs or advertisements are attached to or placed upon motor vehicles by or at the behest of persons whose names, telephone numbers or other identifying information appear on such materials.

The Council also finds that there are other cost-efficient and satisfactory means of "advertising" expression in which such persons can continue to engage, such as handing out materials to consenting pedestrians on the city's streets, and that these alternative means do not generate the same amount of litter.

§2. Subdivisions 8, 9, 10 and 11 of section 16-118 of such code are renumbered subdivisions 9, 10, 11 and 12 and a new subdivision 8 is added to read as follows:

8. (a) Except as otherwise provided by law, no person shall attach to or place upon a motor vehicle, or direct, suffer or permit any servant, agent, employee or other person under his or her control to attach to or place upon a motor vehicle, any handbill, poster, notice, sign or advertisement; provided, however, that this subdivision shall not apply to the owner, lessee or operator of such motor vehicle, or any servant, agent, employee or other person under his or her control.

(b) There shall be a rebuttable presumption that the person whose name, telephone number, or other identifying information appears on any handbill, poster, notice, sign or advertisement that is found attached to or placed upon a motor vehicle violated this subdivision by either (i) attaching such handbill, poster, notice, sign or advertisement to or placing such handbill, poster, notice, sign or advertisement upon such motor vehicle, or (ii) directing, suffering or permitting a servant, agent, employee or other person under his or her control to attach such handbill, poster, notice, sign or advertisement to or place such handbill, poster, notice, sign or advertisement upon such motor vehicle.

§3. Subdivisions 9, 10 and 11 of section 16-118 of such code, as renumbered by section two of this local law, are amended to read as follows:

9. The violation of any provision of this section shall constitute an offense punishable by a fine of not less than fifty dollars nor more than two hundred fifty dollars, or by imprisonment not to exceed ten days or both*; provided, however, that paragraph (b) of subdivision eight of this section shall not apply with respect to prosecutions brought pursuant to this subdivision*.

10. *(a)* Any [person violating] *violation of* the provisions of this section shall [be liable and responsible] *result in liability and responsibility* for a civil penalty of not less than fifty dollars [nor] *and not* more than two hundred fifty dollars.

(b) Notwithstanding paragraph (a) of this subdivision, any violation of subdivision eight of this section

shall result in liability and responsibility for a civil penalty of not less than fifty dollars and not more than one hundred dollars. If such violation is the second violation of such subdivision by the same person committed in a period of six months, and the handbills, posters, notices, signs or advertisements for the two violations were found on two separate occasions, such second violation shall result in liability and responsibility for a civil penalty of not less than one hundred dollars and not more than one hundred fifty dollars. If such violation is the third violation, or a subsequent violation, of such subdivision by the same person committed in a period of one year, and the handbills, posters, notices, signs or advertisements for each such violation were found on three or more separate occasions, such third or subsequent violation shall result in liability and responsibility for a civil penalty of not less than one hundred fifty dollars and not more than three hundred dollars.

11. In the instance where the notice of violation, appearance ticket or summons is issued for breach of the provisions of this section and sets forth thereon civil penalties only, such process shall be returnable to the environmental control board, which shall have the power to impose the civil penalties hereinabove provided in subdivision [nine] *ten* of this section.

§4. The provisions of this local law shall be severable and if any phrase, clause, sentence, paragraph, subdivision or section of this local law, or the applicability thereof to any person or circumstance, shall be held invalid, the remainder of this local law and the application thereof shall not be affected thereby.

§5. This local law shall take effect 30 days after its enactment into law.

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Note: Matter in *italics* is new; matter in brackets [ ] to be omitted.