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Int. No. 645

By Council Members Restler, Won and Louis

A Local Law in relation to establishing a day-fines pilot program in the office of administrative trials and hearings

Be it enacted by the Council as follows:

Section 1. Definitions. As used in this local law, the following terms have the following meanings:

Agency. The term “agency” has the same meaning as provided in section 1150 of the New York city charter.

Chief administrative law judge. The term “chief administrative law judge” means the chief administrative law judge of the office of administrative trials and hearings.

Civil penalty. The term “civil penalty” means any monetary penalty imposed in connection with a notice of violation returnable to the office of administrative trials and hearings.

Day-fines. The term “day-fines” means a system for assessing civil penalties that takes into account a respondent’s daily disposable income.

Designated agency. The term “designated agency” means any enforcement agency designated as such pursuant to section two of this local law.

Enforcement agency. The term “enforcement agency” means any agency that issues notices of violation returnable to the office of administrative trials and hearings.

Fixed-fines. The term “fixed-fines” means a system for assessing civil penalties that does not take a respondent’s income into account.

§ 2. No later than 30 days after the effective date of this local law, the mayor shall designate two or

more enforcement agencies to serve as designated agencies, notify the chief administrative law judge and the speaker of the council of such designations, and publish such designations on the city's official website.

§ 3. a. No later than one year after the effective date of this local law, the chief administrative law judge, in collaboration with the head of each designated agency, shall establish a pilot program pursuant to which day-fines shall be used in lieu of fixed-fines for violations of certain provisions of local law.

b. At a minimum, such pilot program shall provide for the use day-fines in lieu of fixed-fines for violations of at least 10 distinct provisions of local law over the course of at least 12 months.

c. To the greatest extent practicable, such pilot program shall not require a respondent to attend an in-person hearing in order for such respondent's income to be taken into account in assessing a civil penalty.

§ 4. a. The chief administrative law judge and the head of each designated agency shall collaborate to promulgate rules to effectuate such pilot program.

b. At a minimum, such rules shall establish which provisions of local law will be included in such program, how a respondent's income will be determined for the purposes of such program, and how civil penalties will be calculated pursuant to such program.

c. Notwithstanding any other provision of local law or rule in effect prior to the effective date of this local law, in order to effectuate the purposes of this local law, such rules may permit civil penalties to be assessed in amounts less than the minimum penalty set forth in local law or by rule, or greater than the maximum penalty set forth in local law or by rule, for the duration of the pilot program.

§ 5. No later than 180 days after the 2 year anniversary of the effective date of this local law, the chief administrative law judge, in collaboration with the head of each designated agency, shall submit to the mayor and the speaker of the council, and publish on the official website of the office of administrative trials and hearings, a report on the results of such pilot program. At a minimum, such report shall include:

a. An analysis of the advantages and disadvantages of using day-fines in lieu of fixed-fines for assessing civil penalties, including, but not necessarily limited to, an assessment of whether doing so is likely to promote

equity in the enforcement of local laws and ensure that civil penalties adequately deter persons of all income levels; and

b. For each provision of local law included in the pilot program:

1. The number of notices of violation issued pursuant to such provision over the course of the pilot program;

2. The number of such notices of violation that were dismissed;

3. The number of such notices of violation that resulted in civil penalties being assessed using day-fines; and

4. If any such notices of violations resulted in civil penalties being assessed without taking the respondent's income into account, the number of such notices of violations that so resulted, disaggregated by the reason why the respondent's income could not be taken into account.

§ 7. This local law takes effect immediately.

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