

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1998**

No. 58

Introduced by Council Members Rodriguez, Fisher, Robles, Carrion , The Speaker (Council Member Vallone) (in conjunction with the Mayor), Clarke, Cruz, Dear, Eisland, Eristoff, Fiala, Freed, Leffler, Linares, Lopez, Malave-Dilan, Marshall, Ognibene, Provenzano, Reed, Sabini, Spigner, Stabile, Warden, Perkins and Boyland; also Council Members Abel, DiBrienza, Duane, Foster, Harrison, Koslowitz, Lasher, McCaffrey, Michels, O'Donovan, Robinson, Watkins, Wooten, Golden and Espada.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the regulation of laser pointers.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 10 of the administrative code of the city of New York is amended by adding a new section 10-134.2 to read as follows:

§ 10-134.2 *Regulation of laser pointers. a. Definitions. For purposes of this section:*

(1) "Laser pointer" means any device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

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

(3) "Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, parking lot, plaza, transportation facility, place of amusement, park, playground, and any hallway, lobby and other portion of an apartment house or hotel not constituting a room or apartment designed for actual residence.

(4) "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 laser pointer to any individual eighteen years of age or younger.

c. No person who sells or offers for sale laser pointers shall place such laser pointers on open display so that such laser pointers are accessible to the public without the assistance of such seller, or his or her employee or other agent, offering such laser pointers for sale, unless: (1) such laser pointers on open display are clearly and fully visible from a place of payment for goods or services or customer information at which such seller or an employee or other agent of such seller is usually present during hours when the public is invited or (2) such laser pointers are in a package, box or other container provided by the manufacturer, importer or packager that is larger than forty-one square inches. Further, it shall be unlawful to display laser pointers in any manner or to post a sign advertising the availability of laser pointers 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 laser pointers to persons eighteen years of age or younger is a misdemeanor.

d. It shall be unlawful for any person twenty years of age or younger to possess a laser pointer on school premises, unlawful for any person eighteen years of age or younger to possess a laser pointer while in a public place and unlawful for any person to direct light emitted from a laser pointer into or through a public place; provided, however, that nothing in this section shall preclude:

(1) the temporary transfer on school premises of a laser pointer to, or possession on school premises of a laser pointer by, a person twenty years of age or younger for a valid instructional, school-related or employment purpose, where such laser pointer is used under the supervision of a school staff person, other authorized instructor, employer or employer's agent; or

(2) the temporary transfer in a public place of a laser pointer to, or possession in a public place of a laser pointer by, a person eighteen years of age or younger, during such person's hours of employment, for a valid employment purpose, where such laser pointer is used under the supervision of the employer or employer's agent; or

(3) the direction of light from a laser pointer into or through a public place by a person nineteen years of age or older, during such person's hours of employment, for a valid employment purpose.

e. It shall be unlawful for any person to direct light from a laser pointer at a uniformed police officer, uniformed security guard, uniformed school safety officer, uniformed traffic enforcement agent, uniformed member of a paid or volunteer fire department, uniformed emergency medical service worker or uniformed ambulance worker, or other uniformed city, state or federal peace officer, investigator or emergency service worker, or the marked service vehicle of any such individual.

f. When a person is found to possess a laser pointer while in a public place or on school premises in violation of subdivision d of this section, it is an affirmative defense that:

(1) such person was traveling to or from school premises, where the laser pointer would have been or was used for a valid instructional, school-related or employment purpose under the supervision of a school staff person, other authorized instructor,

employer or employer's agent, and such person had not turned on the laser pointer or displayed it in a menacing or threatening manner; or

(2) such person was traveling to or from his or her place of employment, where the laser pointer would have been or was used during such person's hours of employment, for a valid employment purpose, under the supervision of the employer or employer's agent, and such person had not turned on the laser pointer or displayed it in a menacing or threatening manner.

g. 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 the section violation by the same person within a two-year period; and not more than one thousand dollars for the third and all subsequent violations by the same person within a two-year period. For purposes of determining whether a violation of subdivision b or subdivision c of this section should be adjudicated as a second, third or subsequent violation, violations of subdivision b and violations of subdivision c of this section by the same person within a two-year period shall be aggregated.

h. Any person who violates subdivision b, c or e 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.

§ 2. This local law shall take effect forty-five days after its enactment into law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 17, 1998, and approved by the Mayor on December 22, 1998.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 58 of 1998, Council Int. No. 444-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 17, 1998: 44 FOR, 0 AGAINST, 0 NOT VOTING.

Was returned signed by the Mayor on December 22, 1998.

Was returned to the City Clerk on December 23, 1998.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel