

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2023**

No. 107

Introduced by Council Members Schulman, Menin, Yeger, Richardson Jordan, Velázquez, Hudson, Joseph, Brooks-Powers, Brannan, Louis, Feliz, Marte, Ossé, Ung, Gennaro, Powers, Lee, Narcisse, Abreu, Brewer, Bottcher, Dinowitz, Avilés, Won, De La Rosa, Rivera, Paladino, Ariola and Vernikov.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to prohibiting owners of commercial premises from knowingly leasing a commercial premises to, or otherwise allowing the use of such premises by, unlicensed sellers of cigarettes, electronic cigarettes, tobacco products, or illicit cannabis, and requiring a quarterly report on enforcement relating to such unlicensed sellers

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 10-186 to read as follows:

§ 10-186 Leasing commercial premises to unlicensed sellers of cigarettes, electronic cigarettes, tobacco products, and illicit cannabis. a. Definitions. For the purposes of this section the following terms have the following meanings:

Cigarette. The term “cigarette” has the same meaning as set forth in section 20-201.

Electronic cigarette. The term “electronic cigarette” has the same meaning as set forth in section 20-560.

Illicit cannabis. The term “illicit cannabis” has the same meaning as set forth in section 136 of the cannabis law.

Owner. The term “owner” means the owner or owners of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm, corporation, or other entity directly or indirectly in control of a premises.

Tobacco product. The term “tobacco product” has the same meaning as set forth in section 20-201.

Unlicensed seller. The term “unlicensed seller” means a retailer, distributor, or other seller of cigarettes, electronic cigarettes, tobacco products, or illicit cannabis operating without a license to sell such cigarettes, electronic cigarettes, tobacco products, or illicit cannabis.

b. No person shall knowingly lease a commercial premises to, or otherwise allow the use of such premises by, an unlicensed seller who uses or intends to use such commercial premises to distribute, sell, or offer to sell cigarettes, electronic cigarettes, tobacco products, or illicit cannabis. It shall be an affirmative defense to a violation of this subdivision that the owner of the commercial premises has commenced a proceeding to evict such unlicensed seller.

c. 1. Where any agency authorized by law or designated by the mayor or an authorized state agency to inspect for violations for the unlicensed sale of cigarettes, electronic cigarettes, tobacco products, or illicit cannabis finds that an unlicensed seller is distributing, selling, or offering to sell cigarettes, electronic cigarettes, tobacco products, or illicit cannabis in commercial premises that the unlicensed seller has leased or is otherwise allowed to use, and where such property, or the portion thereof being used for such unlicensed activity, is not occupied for any other licensed or lawful purpose, such agency may provide written notice to the owner of the premises requiring such owner to ensure that the unlicensed sales of cigarettes, electronic

cigarettes, tobacco products, or illicit cannabis are ceased. Such written notice shall be the basis for a violation of subdivision b of this section.

2. Such owner may appeal such written notice to such agency within 15 days of receipt of such written notice. Such agency's decision of such appeal shall be a final determination for the purposes of article 78 of the civil practice law and rules.

d. Where during a subsequent inspection, any agency authorized by law or designated by the mayor or an authorized state agency to inspect for violations for the unlicensed sale of cigarettes, electronic cigarettes, tobacco products, or illicit cannabis finds that the owner of such premises has violated subdivision b of this section and such owner is already subject to a written notice constituting a final administrative determination under subdivision c of this section regarding the same premises, such owner shall be subject to a civil summons for a violation of subdivision b of this section returnable to the office of administrative trials and hearings. The civil penalty for a violation of such subdivision shall be \$5,000 for the first violation and \$10,000 for each subsequent violation.

§ 2. Chapter 5 of title 7 of the administrative code of the city of New York is amended by adding a new section 7-517 to read as follows:

§ 7-517 Report on enforcement against unlicensed controlled substance and tobacco product sellers. a. Definitions. For the purposes of this section the following terms have the following meanings:

Cigarette. The term "cigarette" has the same meaning as set forth in section 20-201.

Electronic cigarette. The term "electronic cigarette" has the same meaning as set forth in section 20-560.

Illicit cannabis. The term “illicit cannabis” has the same meaning as set forth in section 136 of the cannabis law.

Owner. The term “owner” means the owner or owners of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm, corporation, or other entity directly or indirectly in control of a premises.

Tobacco product. The term “tobacco product” has the same meaning as set forth in section 20-201.

Unlicensed seller. The term “unlicensed seller” means a retailer, distributor, or other seller of cigarettes, electronic cigarettes, tobacco products, or illicit cannabis operating without a license to sell such cigarettes, electronic cigarettes, tobacco products, or illicit cannabis.

b. An agency designated by the mayor to compile the information detailed in this subdivision, shall provide a quarterly report to the mayor and the speaker of the council with respect to enforcement relating to unlicensed sellers of cigarettes, electronic cigarettes, tobacco products and illicit cannabis in commercial locations in the previous year. Such report shall include information on the following items for the reporting period:

- 1. The total number of inspections in each borough during the period;*
- 2. The number of inspections in each borough in which cigarettes, electronic cigarettes, tobacco products, or illicit cannabis were seized from an unlicensed seller;*
- 3. The total number of civil summonses issued to unlicensed sellers;*
- 4. The total number of criminal summonses issued to unlicensed sellers;*
- 5. The total number of arrests made;*

6. The total number of written notices or civil summonses issued to owners of the commercial premises pursuant to section 10-186; and

7. The total number of owners found to have violated subdivision b of section 10-186 in each council district during the period.

c. This section shall expire and be deemed repealed on December 31, 2024.

§ 3. This local law takes effect immediately.

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 June 22, 2023 and returned unsigned by the Mayor on July 25, 2023.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 107 of 2023, Council Int. No. 1001-B of 2023) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.