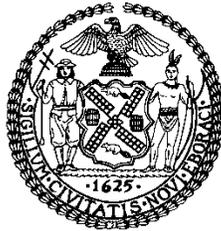


Committee Staff:
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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

Matt Gewolb, Legislative Director
Terzah Nasser, Deputy Director of Human Services

COMMITTEE ON WOMEN'S ISSUES

Hon. Laurie Cumbo, Chair

June 20, 2016

PROPOSED INT. NO. 1122-A:

By The Speaker (Council Member Mark-Viverito) and Council Members Ferreras-Copeland, Rodriguez, Cabrera, Crowley, Vacca, Constantinides, Rose, Dickens, Chin, Koslowitz, Treyger, Eugene, Menchaca, Kallos, Cohen, Garodnick, Cumbo and Rosenthal

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to requiring that the department of correction issue feminine hygiene products to inmates

ADMINISTRATIVE CODE:

Adds section 9-141

PROPOSED INT. NO. 1123-A:

By The Speaker (Council Member Mark-Viverito) and Council Members Levin, Ferreras-Copeland, Rodriguez, Cabrera, Crowley, Rose, Dickens, Chin, Koslowitz, Treyger, Eugene, Menchaca, Kallos, Cohen, Garodnick, Cumbo and Rosenthal

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to the provision of feminine hygiene products

ADMINISTRATIVE CODE:

Adds section 12-207

PROPOSED INT. NO. 1128-A:

By Council Members Ferreras-Copeland, The Speaker (Council Member Mark-Viverito), Rodriguez, Dromm, Williams, Cabrera, Garodnick, Crowley, Vacca, Constantinides, Rose, Dickens, Chin, Rosenthal, Koslowitz, Treyger, Levin, Eugene, Koo, Levine, King, Menchaca, Kallos, Cohen, Cumbo and Ulrich

TITLE:

A local law to amend the administrative code of the city of New York, in relation to the provision of feminine hygiene products in schools

ADMINISTRATIVE CODE:

Adds section 21-968

PROPOSED RES. NO. 1012-A:

By Council Members Rodriguez, Ferreras-Copeland, Dickens, The Speaker (Council Member Mark-Viverito), Williams, Vacca, Constantinides, Rose, Chin, Koslowitz, Treyger, Eugene, Kallos, Cohen, Cumbo and Ulrich

TITLE:

Resolution acknowledging the passage by the New York State Legislature and calling upon the Governor to sign legislation that amends the Tax Law to exempt feminine hygiene products from all state and local sales taxes.

I. INTRODUCTION

On Monday, June 20, 2016, the Committee on Women's Issues, chaired by Council Member Laurie Cumbo will hold a hearing to consider Proposed Int. No. 1122-A, sponsored by Speaker Mark-Viverito and Council Members Ferreras-Copeland and Rodriguez, which would require that the Department of Correction provide feminine hygiene products to inmates and to arrestees and detainees in its custody for at least 48 hours. The Committee will also consider Proposed Int. No. 1123-A, sponsored by Speaker Mark-Viverito and Council Members Levin, Ferreras-Copeland, and Rodriguez, which would require the provision of feminine hygiene products in certain homeless shelters, foster care and juvenile justice facilities, and Proposed Int. No. 1128-A, sponsored by Council Member Ferreras-Copeland, Speaker Mark-Viverito, and Council Member Rodriguez, which would require the provision of feminine hygiene products in schools.

The first hearing on Int. 1122, Int. 1123, and Int. 1128 was held on June 2, 2016. Witnesses who testified at the hearing at the hearing included Azadeh Khalili, Executive Director of the NYC Commission on Gender Equity, the NYC Department of Correction, the NYC Department of Education, the Department of Homeless Services/Human Resources Administration, government officials, education advocates, women's health organizations, women's rights organizations, prison rights organizations, housing advocates, and other interested parties. The legislation was amended to many of the concerns of the advocates and the Administration.

II. BACKGROUND

Globally, approximately 52% of the female population (26% of the total population) is of reproductive age.¹ Most of these women and girls will menstruate each month for between two and seven days.² Menstruation is a natural part of the reproductive cycle, in which blood is lost through the vagina.³ However, in most parts of the world, it remains taboo and is rarely addressed.⁴ As a result of the stigmas associated with menstruation, the practical challenges of menstrual hygiene are made even more difficult by various socio-cultural factors.⁵ To manage menstruation hygienically, it is essential that women and girls have access to feminine hygiene products.

Feminine hygiene products are vital for the health, well-being and full participation of women and girls. Inadequate menstrual hygiene management is associated with both health and psycho-social issues, particularly among low-income women.⁶ It has been reported that a lack of access to feminine hygiene products can cause emotional duress, physical infection and disease, and can lead to cervical cancer.⁷

Access to feminine hygiene products has proven to be limited for vulnerable populations. Currently the cost of feminine hygiene products (FHP) are not included in health insurance⁸ or flexible spending accounts⁹, nor in public benefits programs such as the Supplemental Nutrition

¹ House, S., Mahon, T., Cavill, S. "Menstrual hygiene matters - A resource for improving menstrual hygiene around the world." Wateraid. 2012. Accessible at <http://www.susana.org/resources/documents/default/3-2210-21-1426498269.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Sumpter, Colin; Torondel, Belen; RezaBaradaran, Hamid "A Systematic Review of the Health and Social Effects of Menstrual Hygiene Management." April 26 2013/ *PLOS ONE*. Accessible at <http://journals.plos.org/plosone/article/asset?id=10.1371/journal.pone.0062004.PDF>.

⁷ Wolf-Weiss, Jennifer. "America's Very Real Menstrual Crisis." *TIME*. Accessible at <http://time.com/3989966/america-menstrual-crisis/>.

⁸ See http://www.health.ny.gov/health_care/medicaid/#services.

⁹ See <https://www.healthcare.gov/flexible-spending-accounts/>.

Assistance Program (SNAP)¹⁰ or Women, Infants, and Children (WIC) benefits.¹¹ Many shelters and homeless centers in New York City distribute FHP to their female residents, along with toothpaste and shampoo.¹² However, social workers indicate that FHP are often harder to source from public donors.¹³ Rosanna Montilla, an Associate at Care for the Homeless, indicated in an Al Jazeera article that FHP are “not one of the items that people automatically think of when they donate toiletries.”¹⁴ Increased awareness about the plight of low-income women caused by the inability to afford FHP has recently led to a higher number of FHP donations at homeless shelters.¹⁵ In 2015, donations at Care for the Homeless, which runs a major New York City homeless shelter but also provides health care to homeless individuals in a variety of locations, are already five times higher than for all of 2014.¹⁶

Access to feminine hygiene products in the New York State prison system is also limited. A February 2015 report by the Women in Prison Project revealed that the New York State prison system fails to provide sufficient FHP to incarcerated women.¹⁷ According to Department of Correction (DOC) Commissioner Ponte, DOC’s current policy specifies that all female inmates be provided necessary feminine hygiene products at the Department’s expense. At the Rose M. Singer Center, where female inmates are housed, generic sanitary napkins are distributed to each housing unit on a weekly basis. Each week, housing units are provided one 144 count box of

¹⁰ See <http://www.fns.usda.gov/snap/eligible-food-items>.

¹¹ Wolf-Weiss, Jennifer. “Helping Women and Girls.Period.” *The New York Times*. Accessible at <http://kristof.blogs.nytimes.com/2015/01/28/helping-women-and-girls-period/>.

¹² De Bode, Lisa. “Hygiene and heartache: Homeless women’s daily struggle to keep clean.” Accessible at <http://america.aljazeera.com/articles/2015/1/13/-scared-to-walk-thestreet.html>

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Wolf-Weiss, Jennifer. “Helping Women and Girls.Period.” *The New York Times*. Accessible at <http://kristof.blogs.nytimes.com/2015/01/28/helping-women-and-girls-period/>.

¹⁶ De Bode, Lisa. “More Pads for Homeless Women on their Periods.” Al Jazeera. Accessible at <http://america.aljazeera.com/articles/2015/4/15/more-pads-for-homeless-women-help.html>.

¹⁷ See *Reproductive Injustice: The State of Reproductive Health Care for Women in New York State*. Accessible at <http://www.correctionalassociation.org/press-release/correctional-association-releases-5-year-study-of-reproductive-healthcare-for-women-in-new-york-prisons>.

sanitary napkins to accommodate up to 50 inmates housed in the unit. If needed, additional supplies are available upon request.

In September 2015, Council Member Ferreras-Copeland and the High School for Arts and Business in Queens launched a pilot program of free tampons and pads by installing a free dispenser in the girls' restroom.¹⁸ In March of 2016, Council Member Ferreras-Copeland and the Department of Education expanded the program to 25 middle and high schools in Queens and the Bronx.¹⁹ Since the program was introduced to the High School for Arts and Business, there was a 2.4% increase in attendance rates.²⁰ The school's principal attributes this increase to the dispenser that was installed to ensure tampons and pads are freely available.²¹

On May 25, 2016, the New York State Legislature passed bills to exempt feminine hygiene products from the tax on retail sales. The bills, S. 7838 and A.7555A were introduced by New York State Senator Susan Serino and New York State Assembly Member Linda Rosenthal respectively. Once the bill is enacted, New York will become the sixth state to exempt tampons and other feminine hygiene products from sales taxes. The five other states that exempt feminine hygiene products from their sales taxes are Maryland, Massachusetts, Minnesota, New Jersey, and Pennsylvania.

¹⁸ Meg O'Connor. "Council to Hear Bills on Providing Tampons at Shelters, Prisons & Schools." *Gotham Gazette*. May 27, 2016. Accessible at <http://www.gothamgazette.com/index.php/city/6362-council-to-hear-bills-on-providing-tampons-at-shelters-prisons-schools>.

¹⁹ Ben Chapman. "City schools to offer free feminine hygiene products." *NY Daily News*. March 14, 2016. Accessible at <http://www.nydailynews.com/new-york/city-schools-offer-free-feminine-hygiene-products-article-1.2563277>.

²⁰ Meg O'Connor. "Council to Hear Bills on Providing Tampons at Shelters, Prisons & Schools." *Gotham Gazette*. May 27, 2016. Accessible at <http://www.gothamgazette.com/index.php/city/6362-council-to-hear-bills-on-providing-tampons-at-shelters-prisons-schools>.

²¹ *Id.*

III. PROPOSED INT. NO. 1122-A

Section one of Proposed Int. No. 1122-A would amend chapter 1 of title 9 of the administrative code of the city of New York to add a new section 9-141. Pursuant to this section, feminine hygiene products would be defined as tampons and sanitary napkins for use in connection with the menstrual cycle.

The legislation would require that all female inmates in the custody of the department of correction be provided, at the department expense, with feminine hygiene products as soon as practicable upon request.

Proposed Int. No. 1122-A would also require that all female individuals arrested and detained in the custody of the department for at least 48 hours be provided, at the department's expense, with feminine hygiene products as soon as practicable upon request.

Section two of the legislation would establish that this local law takes effect immediately.

IV. PROPOSED INT. NO. 1123-A

Section one of Proposed Int. No. 1123-A would amend chapter 2 of title 12 of the administrative code of the city of New York to add a new section 12-207. Pursuant to this section, feminine hygiene products would be defined as tampons and sanitary napkins for use in connection with the menstrual cycle. Temporary shelters would be defined as Department of Homeless Services family with children shelters, adult family shelters, single adult women shelters and single adult men shelters; and human resources administration domestic violence shelters and HIV/AIDS Services Administration (HASA) shelters.

The legislation would require that the Department of Citywide Administrative Services make available to agencies operating or having oversight of providers operating temporary shelters, a supply of feminine hygiene products sufficient to meet the needs of residents. The

Department would also be required to make available a supply of feminine hygiene products sufficient to meet the needs of youth in secure detention facilities operated by the Administration for Children's Services (ACS) as well as youth in congregate care facilities operated by ACS who are awaiting placement with a licensed foster care agency.

Section two of the legislation would establish that this local law takes effect 120 days after it becomes law.

V. PROPOSED INT. NO. 1128-A

Section one of Proposed Int. No. 1128-A would amend chapter 8 of title 21-A of the administrative code of the city of New York to add a new section 21-968. Pursuant to this section, feminine hygiene products would be defined as tampons and sanitary napkins for use in connection with the menstrual cycle. School building would be defined as any facility that is leased by the Department of Education (DOE) or over which the DOE has care, custody, and control, in which there is a public school, including a charter school, serving female students in grades six through twelve.

The legislation would require that the DOE make feminine hygiene products available at no cost to students in bathrooms of school buildings.

Section two of the legislation would establish that this local law takes effect 120 days after it becomes law.

VI. PROPOSED RES. NO. 1012-A

Proposed Res. No. 1012-A would note that the power of taxation in the State of New York is exclusively reserved to the New York State Legislature and that the City of New York has no inherent ability to levy or forgive any taxes, but has only the powers to administer and collect taxes as delegated and directed by the State.

Proposed Res. No. 1012-A would indicate that Chapter 60 of the Consolidated Laws of the State of New York details the laws of taxation in the State of New York and is commonly referred to as the Tax Law. The resolution would further point out that Article 28 of the Tax Law contains provisions for the assessment and collection of sales taxes throughout the state. The Resolution would indicate that Section 1101 of the Tax Law details the imposition of sales and use taxes on certain goods and services and that Section 1115 of the Tax Law details exemptions to the imposition of sales and use taxes on certain goods and services. The Resolution would acknowledge that Item three on this list of exemptions includes “drugs and medicines... and products consumed by humans for the preservation of health.”

The Resolution would also acknowledge that Publication 840 issued by the New York State Department of Taxation and Finance describes feminine hygiene products as items that “maintain personal cleanliness” rather than items necessary for the preservation of health, and thereby determines that feminine hygiene products are subject to sales taxes.

The Resolution would further note that Tax Bulletin ST-193 issued by the New York State Department of Taxation and Finance further categorizes feminine hygiene products as general merchandise, rather than products necessary for the preservation of health.

Proposed Res. No. 1012-A would indicate that the continued categorization of feminine hygiene products as general merchandise fails to recognize the evolving public sentiment, as documented by recent reports by the New York Times and The Guardian, as well as letters from residents of New York City sent to Council Members and expressed by various national and international organizations and movements, that menstruation is a core component of a woman’s reproductive and overall health and well-being.

The Resolution would indicate that feminine hygiene products are vital for the health, well-being and full participation of women and girls, and it has been reported that a lack of access to feminine hygiene products can cause emotional duress, physical infection and disease, and can lead to cervical cancer. The Resolution would further indicate that according the U.S. Census Bureau, women and girls comprise over half the population of New York City, New York State, and across the United States of America, thus the needs of women to maintain their health and well-being are indeed necessary for the preservation of public health.

Proposed Res. No. 1012-A would indicate that the New York State Senate has passed S.7838, introduced by Senator Sue Serino, and the New York State Assembly passed A.7555A, introduced by Assembly Member Linda Rosenthal, which seek to repeal the state sales tax on tampons and other feminine hygiene products.

The Resolution would further note that the tax laws of several states, including Massachusetts and New Jersey, recognize feminine hygiene products as necessary products and thus exempt such products from the imposition of sales taxes. The Resolution would indicate that the State of New York should join those states in relieving the imposition of the sales taxes on feminine hygiene products.

Finally, Proposed Res. No. 1012-A would assert that that the Council of the City of New York acknowledges the passage by the New York State Legislature and calls upon the Governor to sign legislation that amends the Tax Law to exempt feminine hygiene products from all state and local sales taxes.

Proposed Int. No. 1122-A

By The Speaker (Council Member Mark-Viverito) and Council Members Ferreras-Copeland, Rodriguez, Cabrera, Crowley, Vacca, Constantinides, Rose, Dickens, Chin, Koslowitz, Treyger, Eugene, Menchaca, Kallos, Cohen, Garodnick, Cumbo and Rosenthal

A Local Law to amend the administrative code of the city of New York, in relation to requiring that the department of correction issue feminine hygiene products to inmates

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-141 to read as follows:

§ 9-141 Feminine hygiene products. All female inmates in the custody of the department shall be provided, at the department's expense, with feminine hygiene products as soon as practicable upon request. All female individuals arrested and detained in the custody of the department for at least 48 hours shall be provided, at the department's expense, with feminine hygiene products as soon as practicable upon request. For purposes of this section, "feminine hygiene products" means tampons and sanitary napkins for use in connection with the menstrual cycle.

§ 2. This local law takes effect immediately.

BC/ACK
LS # 4309
6/13/2016 8:46pm

Proposed Int. No. 1123-A

By The Speaker (Council Member Mark-Viverito) and Council Members Levin, Ferreras-Copeland, Rodriguez, Cabrera, Crowley, Rose, Dickens, Chin, Koslowitz, Treyger, Eugene, Menchaca, Kallos, Cohen, Garodnick, Cumbo and Rosenthal

A Local Law to amend the administrative code of the city of New York, in relation to the provision of feminine hygiene products

Be it enacted by the Council as follows:

1 Section 1. Chapter 2 of title 12 of the administrative code of the city of New York is
2 amended by adding a new section 12-207 to read as follows:

3 § 12-207 Availability of feminine hygiene products.

4 a. Definitions. For the purposes of this section, the following terms have the following
5 meanings:

6 Feminine hygiene products. The term “feminine hygiene products” means tampons and
7 sanitary napkins for use in connection with the menstrual cycle.

8 Temporary shelters. The term “temporary shelters” means department of homeless services
9 family with children shelters, adult family shelters, single adult women shelters and single adult
10 men shelters; and human resources administration domestic violence shelters and HIV/AIDS
11 services administration (HASA) shelters.

12 b. The department of citywide administrative services shall make available to agencies
13 operating or having oversight of providers operating temporary shelters a supply of feminine
14 hygiene products sufficient to meet the needs of residents. The department shall also make
15 available a supply of feminine hygiene products sufficient to meet the needs of youth in secure
16 detention facilities operated by the administration for children’s services, as well as youth in
17 congregate care facilities operated by the administration for children’s services who are awaiting
18 placement with a licensed foster care agency.

1 § 2. This local law takes effect 120 days after it becomes law.

2

3

4 ACK
5 LS #4307 / LS#5625
6 6/13/2016 10:22pm
7

Proposed Int. No. 1128-A

By Council Members Ferreras-Copeland, The Speaker (Council Member Mark-Viverito), Rodriguez, Dromm, Williams, Cabrera, Garodnick, Crowley, Vacca, Constantinides, Rose, Dickens, Chin, Rosenthal, Koslowitz, Treyger, Levin, Eugene, Koo, Levine, King, Menchaca, Kallos, Cohen, Cumbo and Ulrich

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the provision of feminine hygiene products in schools

1 Be it enacted by the Council as follows:

2 Section 1. Chapter 8 of title 21-A of the administrative code of the city of New
3 York is amended by adding a new section 21-968 to read as follows:

4 § 21-968 Provision of feminine hygiene products in schools.

5 a. Definitions. For the purposes of this section, the following terms have the following
6 meanings.

7 Feminine hygiene products. The term “feminine hygiene products” means tampons and
8 sanitary napkins for use in connection with the menstrual cycle.

9 School building. The term “school building” means any facility that is leased by the
10 department or over which the department has care, custody and control, in which there is a public
11 school, including a charter school, serving female students in grades six through twelve.

12 b. The department shall make feminine hygiene products available at no cost to students
13 in bathrooms of school buildings.

14 § 2. This local law takes effect 120 days after enactment.

ACK
LS #4879
6//13/2016 8:21pm

Proposed Res. No. 1012-A

Resolution acknowledging the passage by the New York State Legislature and calling upon the Governor to sign legislation that amends the Tax Law to exempt feminine hygiene products from all state and local sales taxes.

By Council Members Rodriguez, Ferreras-Copeland, Dickens, The Speaker (Council Member Mark-Viverito), Williams, Vacca, Constantinides, Rose, Chin, Koslowitz, Treyger, Eugene, Kallos, Cohen, Cumbo, Rosenthal and Ulrich

Whereas, The power of taxation in the State of New York is exclusively reserved to the New York State Legislature; and

Whereas, The City of New York, therefore, has no inherent ability to levy or forgive any taxes, but has only the powers to administer and collect taxes as delegated and directed by the State; and

Whereas, Chapter 60 of the Consolidated Laws of the State of New York details the laws of taxation in the State of New York and is commonly referred to as the Tax Law; and

Whereas, Article 28 of the Tax Law contains provisions for the assessment and collection of sales taxes throughout the state; and

Whereas, Section 1101 of the Tax Law details the imposition of sales and use taxes on certain goods and services; and

Whereas, Section 1115 of the Tax Law details exemptions to the imposition of sales and use taxes on certain goods and services; and

Whereas, Item three on this list of exemptions includes “drugs and medicines... and products consumed by humans for the preservation of health;” and

Whereas, Publication 840 issued by the New York State Department of Taxation and Finance describes feminine hygiene products as items that “maintain personal cleanliness” rather

than items necessary for the preservation of health, and thereby determines that feminine hygiene products are subject to sales taxes; and

Whereas, Tax Bulletin ST-193 issued by the New York State Department of Taxation and Finance further categorizes feminine hygiene products as general merchandise, rather than products necessary for the preservation of health; and

Whereas, The continued categorization of feminine hygiene products as general merchandise fails to recognize the evolving public sentiment, as documented by recent reports by the New York Times and The Guardian, as well as letters from residents of New York City sent to Council Members and expressed by various national and international organizations and movements, that menstruation is a core component of a woman's reproductive and overall health and well-being; and

Whereas, Feminine hygiene products are vital for the health, well-being and full participation of women and girls, and it has been reported that a lack of access to feminine hygiene products can cause emotional duress, physical infection and disease, and can lead to cervical cancer; and

Whereas, According the U.S. Census Bureau, women and girls comprise over half the population of New York City, New York State, and across the United States of America, thus the needs of women to maintain their health and well-being are indeed necessary for the preservation of public health; and

Whereas, The New York State Senate has passed S.7838, introduced by Senator Sue Serino, and the New York State Assembly passed A.7555A, introduced by Assembly Member Linda Rosenthal, which seek to repeal the state sales tax on tampons and other feminine hygiene products; and

Whereas, The tax laws of several states, including Massachusetts and New Jersey, recognize feminine hygiene products as necessary products and thus exempt such products from the imposition of sales taxes; and

Whereas, The State of New York should join those states in relieving the imposition of the sales taxes on feminine hygiene products; now, therefore, be it

Resolved, That the Council of the City of New York acknowledges the passage by the New York State Legislature and calls upon the Governor to sign legislation that amends the Tax Law to exempt feminine hygiene products from all state and local sales taxes.

LUR/IM/ACK
LS 3969
5/27/2016