



Legislation Text

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Int. No. 365-A

By The Speaker (Council Member Quinn) and Council Members Vallone Jr., Addabbo Jr., Avella, Brewer, Clarke, Comrie, Felder, Fidler, Gentile, Gerson, Gonzalez, James, Koppell, Liu, Mark-Viverito, Martinez, Nelson, Recchia Jr., Rivera, Sears, Stewart, Vann, Weprin, Mealy, Garodnick, Monserrate, McMahon, Gioia, Gennaro, Dilan, Foster, Jackson, Yassky, Katz, Oddo and The Public Advocate (Ms. Gotbaum) (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to banning firearms, rifles, or shotguns that are colored so as to appear to be toy guns.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council finds that guns that are colored so as to resemble toy guns endanger law enforcement officers and the public without serving any legitimate purpose. Multiple firms now offer to cover guns with ceramic coatings in an array of colors, including “hidden white” and “electric cherry.” One even sells on the internet kits designed to allow people to recolor their guns in such colors. Guns in such colors could be easily mistaken for toys, which poses many dangers. If such colored guns deceive police officers, or even cause officers to hesitate for a moment, armed criminals are given a potentially fatal advantage. Furthermore, a young child who comes upon a gun in an attractive color could easily mistake it for a toy with predictably tragic results.

Deceptively colored firearms pose a particular threat to New Yorkers because they undercut legislation that the Council passed seven years ago. Under Local Law 58 of 1999, toy guns (unless they are transparent or translucent) must be colored certain bright hues. The Council imposed this requirement to ensure that toy guns are never mistaken for real ones. Ceramic coating on real guns in the colors designated by Local Law 58 subverts the basic purpose of that law, changing it from one that protects the public to one that places police at greater risk.

There is no legitimate reason for anyone to disguise a gun to look like a toy, and such deceptive guns should be banned from New York City. By the same token, no person or company should disguise or offer to disguise a gun by changing its color, essentially seeking profit at the expense of City law and public safety. The Council therefore intends for this law to apply to the full extent of its jurisdiction under the state and federal constitutions to the practices addressed herein.

§2. Section 10-131 of the administrative code of the city of New York is amended by adding a new subdivision j, to read as follows:

j. Deceptively colored firearms, rifles, shotguns, and assault weapons.

(1) Definitions.

(i) When used in this subdivision, the term “deceptively colored firearm, rifle, shotgun, or assault weapon” shall include any firearm, rifle, shotgun, or assault weapon any substantial portion of whose exterior surface is colored any color other than black, dark grey, dark green, silver, steel, or nickel, except as provided in subparagraph (iii) of this paragraph. For purposes of this subparagraph, the exterior surface of either the receiver or the slide of a firearm shall be deemed to constitute a substantial portion of the exterior surface of the firearm.

(ii) Any firearm, rifle, shotgun, or assault weapon any substantial portion of whose exterior surface is colored white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink or bright purple, either singly or as the predominant color in combination with other colors in any pattern shall be deemed to be a deceptively colored firearm, rifle, shotgun, or assault weapon, except as provided in subparagraph (iii) of this paragraph.

(iii) Notwithstanding subparagraph (i) and (ii) of this paragraph, a firearm, rifle, shotgun, or assault weapon shall not be deemed to be a deceptively colored firearm, rifle, shotgun, or assault weapon merely because its handle is composed of ivory, colored so as to appear to be composed of ivory, composed of wood, or colored so as to be composed of wood.

(iv) The term “deceptive coloring product” shall mean and include any equipment, product, or material that is designed for use in modifying any firearm, rifle, shotgun, or assault weapon so as to make it a deceptively colored firearm, rifle, shotgun, or assault weapon. Any equipment, product, or material that is held out, offered for sale, or otherwise disposed of based on its utility, alone or in combination with other equipment, products, or materials, in modifying any firearm, rifle, shotgun, or assault weapon so as to make it a deceptively colored firearm, rifle, shotgun, or assault weapon shall be deemed a deceptive coloring product. Any combination of equipment, products, or materials that are jointly held out, offered for sale, or otherwise disposed of based on their utility, jointly or in combination with other equipment, products, or materials, in modifying any firearm, rifle, shotgun, or assault weapon so as to make it a deceptively colored firearm, rifle, shotgun, or assault weapon shall be deemed a deceptive coloring product.

(v) The definitions set forth in section 10-301 of this title shall apply to this subdivision.

(2) It shall be unlawful for any person to dispose of a deceptively colored firearm, rifle, shotgun, or assault weapon or a deceptive coloring product except as authorized by paragraph six of this subdivision. It shall be unlawful for any person to modify, attempt to modify, or offer to modify any firearm, rifle, shotgun, or assault weapon so as to make it a deceptively colored firearm, rifle, shotgun, or assault weapon except as authorized by paragraph six of this subdivision.

(3) It shall be unlawful for any person to possess a deceptively colored firearm, rifle, shotgun, or assault weapon or a deceptive coloring product except as authorized by paragraph five or six of this subdivision or for any person to attempt to possess a deceptively colored firearm, rifle, shotgun, or assault weapon or a deceptive coloring product except as authorized by paragraph six of this subdivision.

(4) Violation of this subdivision or of regulations issued pursuant to it shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year or both.

(5) This subdivision shall not apply to the possession of any deceptively colored firearm,

rifle, shotgun, or assault weapon by any person who possesses it on the effective date of the local law enacting this subdivision, or by any person who acquires it by operation of law after the effective date of the local law enacting this subdivision, or because of the death of another person for whom such person is an executor or administrator of an estate or a trustee of a trust created in a will, provided that, within fifteen days, such person either (i) surrenders such deceptively colored firearm, rifle, shotgun, or assault weapon to the commissioner for disposal in accordance with the provisions of section 400.05 of the penal law; or (ii) modifies such firearm, rifle, shotgun, or assault weapon so that it is no longer a deceptively colored firearm, rifle, shotgun, or assault weapon and cannot be readily converted into one. This subdivision shall not apply to the possession of any deceptive coloring product by any person who possesses it on the effective date of the local law enacting this subdivision, or by any person who acquires it by operation of law after the effective date of the local law enacting this subdivision, or because of the death of another person for whom such person is an executor or administrator of an estate or a trustee of a trust created in a will, provided that within fifteen days such person surrenders such deceptive coloring product to the commissioner for disposal.

(6) This subdivision shall not apply to the disposal, possession, modification, or use of any firearm, rifle, shotgun, assault weapon, or deceptive coloring product that is purchased for the use of, sold or shipped to, or issued for the use of, the United States or any department or agency thereof, or any state or any department, agency, or political subdivision thereof.

(7) The police commissioner may make and promulgate such rules and regulations as are necessary to carry out the provisions of this subdivision. Such rules and regulations may provide that for purposes of paragraph six of this subdivision, a firearm, rifle, shotgun, assault weapon, equipment, product, or material that is purchased by, received by, possessed by, or used by a peace officer or police officer shall be deemed to have been issued for the use of the agency employing such officer.

§3. Severability. If any provision of this local law is for any reason found to be invalid, in whole or in part, by any court of competent jurisdiction, such finding shall not affect the validity of all remaining

portions of this local law, which shall continue in full force and effect.

§4. This local law shall take effect 120 days after its enactment into law, provided that, prior to such effective date, the police commissioner shall promulgate such rules and take such other actions as are necessary to its timely implementation.