

LOCAL LAW NO. "H" FOR 2008

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK REQUIRING THAT SALES OF AEROSOL SPRAY PAINT CANS, BROAD-TIPPED INDELIBLE MARKERS AND ETCHING ACID BE PROHIBITED TO PERSONS UNDER 18 YEARS OF AGE

Introduced: 6/9/08

By Messrs. Domalewicz, Commisso, Joyce, McCoy, Bullock, Clay, Clenahan, Higgins, Houghtaling, Mayo, Morse, Reilly and Scavo:

BE IT ENACTED by the Legislature of the County of Albany as follows:

SECTION 1. Legislative intent, purpose and definitions.

A. This Legislature finds and determines that for the health, safety and welfare of the residents of the County of Albany that the laws designed to deter the defacement of public and private property through the use of aerosol spray paint cans, broad-tipped indelible markers, etching acid and other marking devices shall be strengthened. This Legislature further finds that such defacement of property is most often committed by persons under eighteen (18) years of age using aerosol spray paint cans, broad-tipped indelible markers and etching acid; that such persons rarely have a legitimate need for such aerosol spray paint cans, broad-tipped indelible markers or etching acid; that where such a need exists, such aerosol spray paint cans, broad-tipped indelible markers and etching acid may be furnished by a parent or guardian, and therefore, that within the County of Albany, the sale of aerosol spray paint cans, broad-tipped indelible markers and etching acid to such persons should be prohibited.

B. Accordingly, the purpose of this Local Law is to prohibit the sale of aerosol spray paint cans, broad-tipped indelible markers and etching acid to persons under eighteen (18) years of age and to require any person or entity who sells such items to ascertain from any person desiring to purchase such container identification and proof of such person's age before selling or delivering said item to such person.

C. As used in this local law, the term broad-tipped indelible marker shall mean any felt-tip marker or similar implement containing a fluid or coloring matter that is not water soluble and which has a flat or angled writing surface of 1/2 inch or greater.

The term etching acid shall mean any liquid, cream, paste or similar substance that can be used to etch, carve, engrave, or otherwise impair the physical integrity of glass or metal.

SECTION 2. Sale of aerosol spray paint cans, broad-tipped indelible markers or etching acid.

- A. No person shall sell or offer to sell an aerosol spray paint can, broad-tipped indelible markers or etching acid to any person under eighteen (18) years of age.
- B. It shall be the duty of any person or entity who sells or offers for sale aerosol spray paint cans, broad-tipped indelible markers or etching acid to ascertain from any person desiring to purchase such items identification and proof of such person's age before selling or delivering said item to such person.
- C. A person who sells or offers for sale aerosol spray paint cans, broad-tipped indelible markers or etching acids shall not place such cans, markers or acids on display, but shall display only facsimiles of such cans, markers or acids containing no paint, ink or other colored fluid.

SECTION 3. Violation and Penalties.

Any person who shall violate any provision or prohibition of this Local Law shall be guilty of a Class A misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one (1) year, or both.

SECTION 4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. Effective date.

This law shall take effect immediately.

Referred to Public Safety Committee. 6/9/08

Favorable recommendation – Public Safety Committee. 8/11/08

On roll call vote the following voted in favor: Mr. Aylward, Ms. Benedict, Messrs. Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Clouse, Commisso, Cotrofeld, Dawson, Domalewicz, Ethier, Gordon, Higgins, Hoblock, Houghtaling,

Infante, Joyce, Mss. Lockart, Maffia-Tobler, Messrs. Mayo, McCoy, Ms. McKnight, Messrs. Mendick, Morse, Nichols, Rahm, Reilly, Scavo, Steck, Timmins, Tunny, Ward, Ms. Willingham and Mr. Zeilman – 36.

Those opposed: 0.

Local Law was adopted. 8/11/08