

Int. No. 650

By Council Members Vallone Jr., Addabbo Jr., Comrie, Fidler, Gentile, Gonzalez, James, Nelson, Recchia Jr., Stewart, Weprin and White Jr. (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to permits for atmospheric biological, chemical and radiological detectors.

Be it enacted by the Council as follows:

Section 1. Legislative findings. The City of New York recognizes the need to protect the citizens of New York City from possible terrorist attacks involving chemical, biological, radiological, or nuclear devices or weapons. As part of this effort, the City understands the importance of deploying certain instruments designed to detect the presence of certain chemicals, biological agents, and radiation in the environment. While the proliferation of these capabilities may represent a positive development in ensuring public safety, any such instruments should be deployed and operated only with the knowledge of appropriate City agencies. Moreover, the City of New York has an interest in ensuring that any such instrument is reliable and effective so that it will not lead to excessive false alarms and unwarranted anxiety that a large-scale public emergency may be occurring. Therefore, the Council finds that the possession and deployment of atmospheric detectors should be regulated by the issuance of permits, and that alarms should be immediately reported according to prescribed procedures.

§2. Title ten of the administrative code of the city of New York is amended by adding a new chapter eight to read as follows:

CHAPTER EIGHT

PERMITS FOR ATMOSPHERIC BIOLOGICAL, CHEMICAL AND RADIOLOGICAL

DETECTORS

§10-801 Definitions. For the purposes of this chapter, the following terms shall have the following meanings.

a. The term “biological agent” shall mean any micro-organism, including bacteria, virus, infectious substance or toxin, whether engineered or naturally-occurring, or any component of such micro-organism, bacteria, virus, infectious substance or toxin, capable of causing death, disease or other biological malfunction in a living organism, deterioration of food, water, or other material of any kind, or deleterious alteration of the environment.

b. The term “biological detector” shall mean an instrument used for the purpose of monitoring the release or presence of one or more biological agents, including an instrument which samples the atmosphere for such purpose.

c. The term “chemical agent” shall mean a chemical which through its chemical action on life processes can cause death, serious physical injury or permanent harm to humans or animals and shall include but not be limited to toxic industrial chemicals and chemical warfare agents as identified by the commissioner.

d. The term “chemical detector” shall mean an instrument used for the purpose of monitoring the release or presence of one or more chemical agents, including an instrument which samples the atmosphere for such purpose.

e. The term “commissioner” shall mean the police commissioner of the city of New York or his or her designee.

f. The term “permit” shall mean the permit for possession and deployment of atmospheric biological, chemical and radiological detectors issued by the commissioner.

g. The term “radioactive substance” shall mean a substance that emits ionizing radiation including alpha, beta, gamma and/or neutron radiation.

h. The term “radiological detector” shall mean an instrument used for the purpose of monitoring the release or presence of radiation or a radiological substance.

§10-802 Permits for possession and deployment of atmospheric biological, chemical and radiological detectors. It shall be unlawful for any person to possess and/or deploy an atmospheric biological, chemical or radiological detector in New York City unless such person holds a valid permit therefor, provided that the commissioner may exclude by rule any atmospheric biological, chemical and radiological detector which shall not require such permit. This section shall not apply to atmospheric biological, chemical and radiological detectors possessed and/or deployed by the department of health and mental hygiene or the fire department of the city of New York.

§10-803 Applications. Application for a permit to possess and deploy atmospheric biological, chemical and radiological detectors, or for renewal of such permit, shall be made to the commissioner upon such form as the commissioner shall prescribe and shall contain such information as the

commissioner shall require, including but not limited to a detailed description of the atmospheric biological, chemical and/or radiological detector to be possessed and/or deployed, the manner in which it will be installed and maintained, the means by which it will transmit an alarm, and the emergency action plan to be implemented in the event of an alarm. Applicants shall affirm the truth of the contents of the application under penalty of perjury. There shall be no fee required for processing such application. The commissioner shall review the application and investigate the information contained therein, requesting and receiving from the applicant further information as necessary to his or her determination and consulting as appropriate with other affected City agencies, including but not limited to the department of health and mental hygiene, fire department and department of environmental protection. Applicants may also be required to meet with the police department and other affected City agencies in order to coordinate potential emergency response to an alarm transmitted by an atmospheric biological, chemical or radiological detector. The commissioner shall by rule and in consultation with other affected City agencies, including but not limited to the department of health and mental hygiene and department of environmental protection, establish minimum technical standards which must be met by atmospheric biological, chemical and radiological detectors in order for permits to be issued for their possession and/or deployment. Upon approval of the application for a permit or for renewal thereof, the applicant will be issued a permit for the atmospheric biological, chemical or radiological detector to be possessed and/or deployed, upon such terms and conditions the commissioner may prescribe including emergency response protocols and the emergency action plan. If the application is disapproved, the commissioner shall so notify the applicant, including the reason(s) for the disapproval.

§10-804 Permit term. A permit issued pursuant to this chapter shall expire on the last day of the fifth December after the date of issue and may be renewed for five-year terms thereafter by submission of an application for renewal as described in section 10-803 of this title.

§10-805 Notifications. a. Following issuance of the permit, the holder shall notify the commissioner of any relevant or material change in the information contained in the application or of other relevant circumstances including but not limited to the acquisition of an atmospheric biological, chemical or radiological detector different from the detector for which the permit was issued. Upon notification of such change, the commissioner may suspend, revoke or amend the permit and/or direct

that the holder submit an application for a new permit.

b. Any person deploying an atmospheric biological, chemical or radiological detector shall immediately notify the police department if such detector indicates the presence of a biological agent, chemical agent, radiation or radioactive substance at thresholds prescribed by the commissioner in consultation with the department of health and mental hygiene and the department of environmental protection, notwithstanding whether the person holds a permit for such detector, by following such procedures as are prescribed by rule of the commissioner and/or are included as a term of the permit itself. Such person shall comply with the instructions of police department personnel and shall cooperate in any resulting investigation.

§10-806 Coordination. With respect to atmospheric biological, chemical and radiological detectors possessed or deployed within the city of New York by government agencies or public authorities, whether federal, regional, state, local or foreign, or as an element of programs or initiatives undertaken by such agencies or authorities, the commissioner shall be authorized to coordinate such activities and shall request and receive such information as is necessary to carry out this function.

§10-806 Rules. The commissioner is authorized to promulgate, amend and rescind such rules as he or she deems necessary to implement the provisions of this title.

§10-807 Penalties. Any person who violates section 10-802 or 10-805 of this title or any rule promulgated under this title shall be guilty of a misdemeanor. The commissioner is authorized to suspend or revoke a permit issued pursuant to this title upon such violation or for other good cause, including for a material false statement contained in an application for a permit or for a failure to adhere to the terms and conditions of a permit issued hereunder.

§3. This local law shall take effect ninety days after which it shall have become a law and shall apply to all atmospheric biological, chemical or radiological detectors possessed and/or deployed on the date this law takes effect notwithstanding when acquired, provided that the commissioner may take any actions necessary prior to such effective date for the implementation of this local law, including, but not limited to, promulgating rules and regulations.