

Intro. Res. No. 1354-2010

Laid on Table 3/23/2010

Introduced by Presiding Officer, on request of the County Executive and Legislators Muratore, Losquadro

RESOLUTION NO. 461 -2010, ADOPTING LOCAL LAW NO. 24 -2010, A LOCAL LAW TO IMPOSE CIVIL PENALTIES FOR THE USE OF A VEHICLE IN CONNECTION WITH THE SALE, PURCHASE, USE, OR TRANSPORT OF UNLAWFULLY POSSESSED CONTROLLED SUBSTANCES

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on March 23, 2010, a proposed local law entitled, "**A LOCAL LAW TO IMPOSE CIVIL PENALTIES FOR THE USE OF A VEHICLE IN CONNECTION WITH THE SALE, PURCHASE, USE, OR TRANSPORT OF UNLAWFULLY POSSESSED CONTROLLED SUBSTANCES**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 24 -2010, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO IMPOSE CIVIL PENALTIES FOR THE USE OF A VEHICLE IN CONNECTION WITH THE SALE, PURCHASE, USE, OR TRANSPORT OF UNLAWFULLY POSSESSED CONTROLLED SUBSTANCES

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that steps are being taken at all levels of government aimed at drug abuse education, prevention, and recovery, such as Suffolk County's recent purchase of 16,000 drug testing kits given away to parents at no cost in order to test their children for drug use.

This Legislature also finds that it is in the best interest of the health, safety, and well-being of the residents of Suffolk County to continue to enhance measures aimed at combating the wide spread drug epidemic facing our communities.

This Legislature further finds and determines that residents in Suffolk County communities have a shared responsibility to make our communities a safer and healthier place to raise our families.

This Legislature further finds and determines that owners, lessees, and operators should not turn their backs on the risks associated with the use of vehicles by persons who may be engaged in the use or transport of controlled substances.

This Legislature also finds that owners, lessees, and operators of vehicles should exercise control and good judgment to prevent the use of their vehicles for the sale purchase, use, and/or transport of unlawfully possessed controlled substances.

Therefore, the purpose of this Article is to assess significant civil penalties upon those who use or knowingly or recklessly allow the use of their vehicles in connection with the sale purchase, use, or transport of unlawfully held controlled substances so that a portion of the mounting cost of drug education and prevention programs may be borne by those who contribute to the growing drug epidemic facing Suffolk County.

Section 2. Amendments.

Chapter 270 of the Suffolk County Code is amended as follows:

Article V, Civil Penalties for the Use of a Vehicle in Connection with the Sale, Purchase, Use, and/or Transport of Unlawfully Possessed Controlled Substances

§ 270-31 -Definitions

DEPARTMENT means the Suffolk County Department of Law

CONTROLLED SUBSTANCE means any substance listed in schedules I, II, III, IV or V of New York Public Health Law §3306 where such substance is unlawfully possessed.

OWNER has the same meaning as used in Section 128 of the New York Vehicle and Traffic Law.

SALE OR PURCHASE means to buy, sell, exchange, give, dispose of, or acquire from another, or to offer or agree to do the same.

TRANSPORT means to convey from one place to another.

UNLAWFULLY means in violation of Article Thirty-Three of the New York Public Health Law.

USE means mixing, compounding, preparing, possessing, or consuming any controlled substance.

VEHICLE has the same meaning as used in Section 159 of the New York Vehicle and Traffic Law.

§ 270-32 - Use of Vehicle for the Sale, Purchase, Use, and/or Transport of a Controlled Substance

The owner, lessee, or driver of any vehicle that is used in connection with the sale, purchase, use, and/or transport of controlled substances shall be liable to the County of Suffolk for a civil penalty in the amount of twenty-five hundred dollars (\$2,500).

§ 270-33 -Civil Action

- A. The Department, on behalf of Suffolk County, may commence a civil action for the assessment of a penalty as set forth in § 270-31 against the owner, lessee, and/or driver of any vehicle that is used in connection with the sale, purchase, use, and/or transport of a controlled substance. Such civil action may be commenced no later

than three years subsequent to the date of such use of a vehicle. Suffolk County must establish by clear and convincing evidence that the owner, lessee, or driver of a vehicle knew or had reason to believe that that such vehicle would be used in connection with the sale, purchase, use, and/or transport of controlled substances.

- B. It shall be a defense to liability if the owner, lessee, and/or driver shows, by a preponderance of the evidence, that such owner, lessee, and/or driver neither knew nor had reason to believe that the vehicle was to be used in connection with the sale, purchase, use, and/or transport of a controlled substance.
- C. Any civil penalty assessed against the owner, lessee, and/or driver pursuant to this Article shall be civil, remedial and in personam in nature; and shall not be deemed to be a criminal penalty or criminal forfeiture for any purpose.
- D. The provisions of this Section shall be in addition to any other penalties set forth by law.

Section 3. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged 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, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 4. Applicability.

This law shall apply to all offenses occurring on or after the effective date of this law.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 5. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of language.
— Underlining denotes addition of new language.

DATED: May 11, 2010

APPROVED BY:

/s/ Steve Levy
County Executive of Suffolk County

Date: May 26, 2010

After a public hearing duly held on May 25, 2010
Filed with the Secretary of State on June 17, 2010