

## **LOCAL LAW NO. “K” FOR 2015**

### **A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK BANNING THE SALE OF GUN GRIP CELL PHONE CASES IN ALBANY COUNTY**

Introduced: 9/14/15

By Messrs. Clay, Beston, Bullock, Commisso, Corcoran, Cotrofeld, Domalewicz, Higgins, Jacobson, Ms. Kinsch, Messrs. Mackey, Mayo, Ms. McKnight, Messrs. O’Brien, Reilly, Ward and Ms. Maffia-Tobler:

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

#### **Section 1.** Legislative Intent.

This Legislature hereby finds that “gun grip” cases for cell phones are manufactured and designed with a grip and trigger guard that are intended to resemble those of a real handgun.

The Legislature also finds that while the gun grip case may serve the purpose of protecting and storing a person’s cell phone, the primary function of the gun grip case is to create the appearance of an actual firearm, with enough lifelike detail as to be indistinguishable from a genuine handgun unless inspecting it at a very close proximity.

The Legislature finds that these cases lack any form of easily identifiable markings or indicators to show at a glance that these gun grip cases are not actual firearms, such as the orange tips that are required under federal law for the sale of toy or replica firearms or similar products.

The Legislature also finds that federal officials and police officers have echoed the concerns stated herein, regarding the possibility of tragic outcomes in relation to these gun grip cell phone cases, due to the strong resemblance to actual firearms unless inspected at very close distances.

The Legislature further finds that in the interest of safety of the people of Albany County that steps should be taken to ensure the protection of the public from the potential hazards associated with these gun grip cases.

Therefore, the purpose of this law is to ban the sale of gun grip cell phone cases in Albany County.

#### **Section 2.** Definitions.

As used in this law, the following terms shall have the meanings indicated:

A) “GUN GRIP CASE” shall mean any protective casing for a cell phone that has an attached replica firearm grip, and appears to resemble an actual gun, either while the phone is in use or otherwise in the possession of the user.

B) “PERSON” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity of business of any kind.

### **Section 3. Prohibition.**

No person shall sell or offer for sale a gun grip cell phone cases within the County of Albany.

### **Section 4. Penalties.**

Any person who intentionally violates the provisions of Section 3 of this law shall be guilty of an unclassified misdemeanor, punishable by a fine of five hundred dollars (\$500) for the first violation, and up to one thousand dollars (\$1,000) for each subsequent violation of the law. Each violation shall constitute a separate and distinct offense.

### **Section 5. Reverse Preemption.**

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal Administrative Agency issues and promulgates regulations preempting such action by the County of Albany. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions in this section.

### **Section 6. Applicability.**

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

### **Section 7. 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 8. Effective Date.**

This law shall take effect sixty (60) days after its filing in the Office of the Secretary of State.

*Referred to Public Safety Committee. 9/14/15*

*Favorable Recommendation – Public Safety Committee. 10/28/15*

*On roll call vote the following voted in favor: Messrs. Beston, Bullock, Carman, Ms. Chapman, Messrs. Clay, Clenahan, Clouse, Commisso, Corcoran, Cotrofeld, Crouse, Dawson, Domalewicz, Ethier, Feeney, Hogan, Jacobson, Joyce, Mss. Kinsch, Lockart, Mr. Mackey, Mss. Maffia-Tobler, McKnight, McLean Lane, Messrs. Mendick, Nichols, Rahm, Reilly, Stevens and Ward – 30.*

*Those opposed: – 0.*

*Local Law was adopted. 11/9/15*