

4/17/08

Submitted by the County Executive and introduced by:

LOCAL LAW NO. 5 – 2008

A LOCAL LAW to prohibit deceptively colored handguns in the County of Nassau.

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

Section 1. Short Title.

This law shall be known and may be cited as the “Deceptively Colored Handgun Law” and shall appear in the miscellaneous laws as Title 69.

§ 2. Legislative Intent.

The Legislature of Nassau County hereby finds that deceptively colored handguns pose a danger to law enforcement personnel and the general public. These real guns, when painted with non-traditional handgun colors, resemble toy guns, and can confuse police officers and the general public. Law enforcement officers who sometimes must make split second decisions on the use of force could perceive a deceptively colored real handgun to be a toy and be seriously injured or killed. A child may mistakenly attempt to play with a brightly colored real handgun and seriously injure themselves or others. As such, the legislature declares that the purpose of this local law is to safeguard the public from the unreasonable risk of death and injury that may result when real handguns are mistaken for toys by banning the distribution and possession in Nassau County of deceptively colored handguns.

§ 3. Definitions.

a) The term handgun shall include:

(1) any weapon or device from which a shot can be discharged through the energy of an explosive and which may be fired by the use of a single hand; and

(2) any combination of parts from which a weapon or device described in paragraph (1) of this subdivision can be assembled.

b) The term “deceptively colored handgun” shall include any handgun which has a substantial portion of its exterior surface that is plated with gold or colored any color other than black, grey, silver, steel, nickel or army green. A substantial portion of the exterior surface of a handgun shall be considered to be colored any color other than black, grey, silver, steel, nickel, or army green if such other color is used either alone or as the predominant color in combination with other colors in any pattern; provided, however, that a handgun shall not be deemed to be a deceptively colored handgun merely because its handle is plated with gold or composed of ivory, colored so as to appear to be composed of ivory, composed of wood, or colored so as to appear to be composed of wood.

c) The term “substantial portion of the exterior surface of a handgun” shall mean:

(1) at least twenty five percent of the entire exterior surface area of a handgun; or (2) the exterior surface of either the receiver or the slide of a handgun.

d) The term "deceptive coloring product" shall mean and include any equipment, product, or material that is designed for use in modifying any handgun so as to make it a deceptively colored handgun. 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 handgun so as to make it a deceptively colored handgun 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 handgun so as to make it a deceptively colored handgun shall be deemed a deceptive coloring product.

§ 4. Violations.

a) It shall be unlawful for any person to dispose of a deceptively colored handgun except as authorized by section 6 of this title. It shall be unlawful for any person to

modify, attempt to modify, or offer to modify any handgun so as to make it a deceptively colored handgun except as authorized by section 6 of this title.

b) It shall be unlawful for any person to possess a deceptively colored handgun or a deceptive coloring product except as authorized by section 6 of this title or for any person to attempt to possess a deceptively colored handgun or a deceptive coloring product except as authorized by section 6 of this title.

§ 5. Penalties. Any person who violates any provision of this title or of any regulations issued pursuant to it shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year or both.

§ 6. Exceptions.

a) This title shall not prohibit possession of any deceptively colored handgun by any person who possesses it on the effective date of the local law enacting this title, or by any person who acquires it by inheritance or operation of law after the effective date of this title, provided that, within thirty (30) days, such person either (i) surrenders such deceptively colored handgun to the Commissioner of Police for disposal in accordance with the provisions of section 400.05 of the penal law; or (ii) modifies such handgun to be in conformance with this title. This title shall not prohibit the possession of any deceptive coloring product by any person who possesses it on the effective date of the local law enacting this title, or by any person who acquires it through inheritance or by operation of law after the effective date of the local law enacting this title, provided that within thirty (30) days such person surrenders such deceptive coloring product to the Commissioner of Police for disposal.

b) This title shall not prohibit the possession, modification, use, or disposal of any handgun 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 when possessed, modified, used or disposed of by an employee or agent of such entity, or by a peace officer or police officer, acting within the scope of his or her duties.

§ 7. Enforcement. The Commissioner of Police may make and promulgate such rules and regulations as are necessary to carry out the provisions of this title.

§ 8. Severability. If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

§ 9. Effective Date. This local law shall take effect immediately.