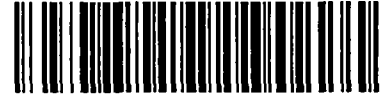




City of Chicago



SO2015-8045

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 11/18/2015

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Amendment of Municipal Code Titles 3, 4, 9 and 10 regarding cigarette vending machines, licenses, immigration assistance, bill of rights regarding tax preparation services, and extension of produce stand on public way pilot program

Committee(s) Assignment: Committee on License and Consumer Protection

**SUBSTITUTE
ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 3-42-110 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and inserting the language underscored, as follows:

3-42-110 Confiscation of illegal cigarettes and cigarette-vending machines.

(Omitted text is unaffected by this ordinance)

(b) After issuing a notice of violation, the comptroller or the commissioner of business affairs and consumer protection shall institute an action with the department of administrative hearings which shall appoint an administrative law officer who shall conduct the hearing, no later than 45 days after the issuance of the notice of violation, to determine whether the cigarette packages at the time of issuance of the notice of violation, were unstamped or improperly stamped in violation of the provisions of this chapter. If the alleged violation is not contested or the administrative law officer determines by a preponderance of the evidence that any or all of the cigarette packages were unstamped or improperly stamped in violation of the provisions of this chapter, the administrative law officer shall enter an order requiring payment by the cigarette purveyor or the owner of the following penalty for cigarettes possessed in violation of Section 3-42-020: ~~\$1,000.00~~ \$2,000.00 for a first violation involving forty or fewer packages, and ~~\$25.00~~ \$50.00 per package for a violation involving over forty packages, and an additional ~~\$2,000.00~~ \$4,000.00 for the second and each subsequent offense occurring within 24 months, plus fees for the seizure and storage of any seized cigarette packages or cigarette-vending machines. Any penalty imposed for a violation of Section 3-42-020 shall be in addition to any penalty imposed for a violation of Section 3-42-025. If the administrative law officer determines a violation, all unstamped or improperly stamped cigarette packages seized under this section shall be forfeited to the city and subsequently destroyed or sold at public sale. Any money contained in a cigarette-vending machine seized under this section shall also be forfeited to the city, unless the administrative law officer determines that the evidence presented by the alleged violator at the hearing established that the money was not consideration for unstamped or improperly stamped cigarette packages. The cigarette purveyor and the owner of the unstamped or improperly stamped cigarette packages or cigarette-vending machines shall be jointly and severally liable for sanctions provided by this section.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 4-4-320 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and inserting the language underscored, as follows:

4-4-320 License denial, revocation or suspension for certain offenses.

(a) The commissioner, for good and sufficient cause, may deny an application for any license issued under this Title 4 if:

(1) during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any~~ any judicial or administrative proceedings of committing or attempting to commit a willful violation, or two or more violations

which do not include a willful violation, of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, or any other federal or state law regulating the payment of wages;

(2) during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any a~~ a judicial or administrative proceeding of committing or attempting to commit a violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, or the Collection Agency Act, 225 ILCS 425/1, or any other federal or state law regulating the collection of debt; ~~or~~

(3) during the 24-month period prior to the date of the application, the applicant admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any~~ a judicial or administrative proceedings of committing three or more violations of Chapter 1-24 of this Code; or

(4) during the 5-year period prior to the date of the application, one or more determinations of disqualification from participation in the federal Supplemental Nutrition Assistance Program (SNAP) was imposed upon the applicant, where such determination or determinations imposed the sanction of permanent disqualification or disqualification for an aggregate of at least 12 months, whether consecutive or nonconsecutive.

(b) The commissioner, for good and sufficient cause, may revoke or suspend a license issued under this Title 4 if:

(1) during the previous 5-year period ~~a person holds a license; or~~

~~(2) during the five-year period prior to the issuance of the license, the licensee admitted guilt or liability or has been~~ was found guilty or liable in ~~any~~ a judicial or administrative proceedings of committing or attempting to commit, as applicable, a the designated number of violations of any of the laws set forth in subsections 4-4-320(a)(1), (a)(2), and (a)(3); or

(2) during the previous 5-year period, one or more determinations of disqualification from participation in the federal Supplemental Nutrition Assistance Program (SNAP) was imposed upon the licensee, where such determination or determinations imposed the sanction of permanent disqualification or disqualification for an aggregate of least 12 months, whether consecutive or nonconsecutive.

~~(c) This Subsections 4-4-320(a)(1), (a)(2), (a)(3), and (b)(1) shall not apply to any person whose final applicant or licensee where one or more of the designated number of pertinent administrative adjudications or judicial judgments or convictions was entered prior to June 1, 2013.~~

(d) The procedure for the revocation or suspension of a license shall be as set forth in Section 4-4-280. The procedure for the denial of an application for a license shall be as set forth in Section 4-4-060.

(e) The grounds provided in this section for denial of a license application, and for revocation or suspension of a license, shall render ineligible not only the applicant or licensee, as applicable, but also the parent, child, sibling, spouse, or domestic partner of such applicant or licensee, and any other corporation or legal entity in which the applicant or licensee has a substantial ownership or controlling interest. If the applicant or licensee is a corporation or other legal entity, the grounds provided in this section for denial of a license application, and revocation or suspension of a license, shall also render ineligible any person who has a

substantial ownership or controlling interest in that entity. As used in this subsection, "substantial ownership or controlling interest" means ownership of 25% or more of the entity, or, if the entity is a corporation, ownership of 25% or more voting shares of stock, or occupation as a principal officer, member of the board of directors, or manager of the entity.

SECTION 3. Section 4-6-240 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by adding the language underscored, as follows:

(Omitted text is unaffected by this ordinance)

(e) Legal duties. Each licensee engaged in the business of immigration assistance shall have a duty to:

(1) (A) at the time a customer indicates that he is contemplating retaining the licensee for assistance with an immigration matter, and prior to entering into a contract or charging any compensation or costs for assistance in the immigration matter, before providing any assistance in an immigration matter, provide the customer with a written contract disclosure that includes the following provisions: (i) an explanation of the services to be performed; (ii) a statement that prior to entering into any contract, the licensee shall provide the customer with a written estimate of the total identification of all compensation and costs to be charged to the customer for the based on the services selected by the customer to be performed; (iii) a statement that documents submitted in support of an application for non-immigrant, immigrant or naturalization status may not be retained by the licensee for any purpose, including payment of compensation or costs; (iv) a statement, which shall be on the face of the contract disclosure and shall be in print larger and more conspicuous than other print on the disclosure contract, that the licensee is not an attorney and may not perform legal services;

(B) prior to entering into any contract or charging any fee for assistance in an immigration matter, a licensee shall provide a written estimate of the total charge, including any fees or costs, a customer will incur based upon the services selected by the customer.

A licensee shall not enter into any contract with a customer, or charge the customer any fee, prior to the licensee reviewing the written estimated total charges with the customer.

No customer shall be liable to a licensee for any charge or cost for assistance in an immigration matter without a written contract; and

(C) prior to charging any compensation or cost, provide a customer with a written contract that includes the following conditions: (i) a list of the services to be performed; (ii) the total amount of compensation and cost to be charged based upon the services selected by the customer; (iii) a provision that the documents submitted in support of an application for non-immigrant, immigrant or naturalization status may not be retained by the licensee for any purpose, including the payment of compensation or costs; (iv) ~~(v)~~ a statement provision that the customer may rescind the contract within 72 hours, which shall be conspicuously set forth in the contract in understandable language substantially similar to "You may cancel this contract within 3 days and get your money back for work not performed." The written contract required under this subsection (e)(1) shall be in both English and in the language of the customer. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. The customer shall have the right to rescind such contract within 72 hours of his or her signing of the contract;

(Omitted text is unaffected by this ordinance)

SECTION 4. Chapter 4-44 of the Municipal Code of Chicago is hereby amended by adding new sections 4-44-032 and 4-44-035, by deleting the language struck through and by adding the language underscored, as follows:

4-44-010 Definitions.

As used in this chapter, unless the context indicates otherwise:

(Omitted text is unaffected by this ordinance)

~~“Commissioner” means the commissioner of the department of business affairs and consumer protection.~~

“Consumer” means a person: (i) for whom an individual income tax return is being prepared by a tax preparer; or (ii) who, in contemplation of retaining the tax preparer for tax preparation services, seeks advice or assistance from a tax preparer for tax preparation services.

~~“Department” means the department of business affairs and consumer protection.~~

(Omitted text is unaffected by this ordinance)

4-44-020 Consumer bill of rights regarding tax preparation services.

The department shall produce a document in English and Spanish known as a “Consumer Bill of Rights Regarding Tax Preparation Services”. The document shall be written in plain language, published on the department's website, and shall contain the following information:

(Omitted text is unaffected by this ordinance)

d) a statement that a consumer shall not be charged any fee or costs without a written contract and that the consumer will receive an estimate of charges prior to entering into any contract ~~has the right to receive all of the information listed in Section 4-44-030 of this chapter from the tax preparer before the tax preparer renders any tax preparation services to the consumer;~~

(Omitted text is unaffected by this ordinance)

4-44-030 Mandatory disclosures.

(a) At the time a consumer indicates that he is contemplating retaining the tax preparer for tax preparation services, and prior ~~Prior to rendering~~ entering into a contract with such consumer for any tax preparation services to a consumer, a tax preparer must provide the consumer with the following information, in writing:

1. a copy of the Consumer Bill of Rights Regarding Tax Preparation Services, which the department shall make available on-line for the tax preparer to print and give to the consumer;

2. a Disclosure Form that contains the following information:

(A) a written list, description, and price of the tax preparation service services offered by the tax preparer;

(B) a written list, description, and price of all miscellaneous fees associated with tax preparation services, including filing fees and processing fees;

(C) a statement that prior to entering into any contract, the tax preparer shall provide the consumer with a written estimate of the total charge to the consumer based upon the tax preparation services the consumer has selected by the consumer to purchase;
(Omitted text is unaffected by this ordinance)

(b) The Disclosure Form shall be approved annually by the department prior to any tax preparation services being rendered to any consumer. The commissioner may prescribe, by rule, a model disclosure form to facilitate compliance with the disclosure requirements of this section. Nothing in this subsection shall be construed as requiring a tax preparer to use any such model form. A tax preparer shall be deemed to be in compliance with the disclosure provisions if the tax preparer uses the appropriate uniform model disclosure form prescribed by the commissioner.

If a tax preparer does not use the model disclosure form, prior to any tax preparation services being rendered to consumers, the tax preparer shall submit a proposed disclosure form to the commissioner in a form and format prescribed by the commissioner in rules. Any changes to the approved disclosure form shall be submitted to the commissioner prior to the disclosure form being provided to the consumer. Within 14 days of submission of the proposed disclosure form, or any changes thereto, the commissioner shall either approve or disapprove the disclosure form or changes thereto.

(c) A tax preparer shall not enter into a contract for tax preparation services until after the The tax preparer must verbally review reviewing each and every disclosure contained on the Disclosure Form with the consumer before the tax preparer renders any tax preparation services to the consumer. No tax preparation services shall be rendered to any consumer until the tax preparer has reviewed the Disclosure Form with and the consumer certifying and has certified to such review on the Disclosure Form.

(Omitted text is unaffected by this ordinance)

4-44-032 Written estimate of total charges.

Prior to entering into any contract or charging any fee for tax preparation services, a tax preparer shall provide a written estimate of the total charge, including any fees or costs, a consumer will incur based upon the tax preparation services selected by the consumer.

A tax preparer shall not enter into any contract with a consumer, or charge the consumer any fee, prior to the tax preparer reviewing the written estimated total charges with the consumer.

No consumer shall be liable to a tax preparer for any charge or cost for tax preparation services without a written contract.

4-44-035 Postings of required information.

A tax preparer shall post the following information, in a form and format prescribed by rules, in a conspicuous location on the premises where the tax preparer renders any tax preparation services:

(a) the Consumer Bill of Rights regarding tax preparation services;

(b) a written description and price of the tax preparation services offered by the tax preparer; and

(c) a written description and price of all miscellaneous fees associated with the tax preparation services, including filing and processing fees.

The information shall be posted in English and Spanish.

SECTION 5. Section 9-104-080 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-104-080 License issuance, renewal.

(a) A chauffeur's license shall be issued for a two-year period; provided, however, the commissioner is authorized to issue initial chauffeur's licenses or renewals for less than a two-year period to establish a system for renewing chauffeur's licenses on a staggered basis in a manner that the commissioner determines by rule. The commissioner may renew a chauffeur's license upon application made upon a form furnished by the commissioner which shall state, in addition to any other information required by the commissioner, the full name and address of the applicant, the date upon which his original license was granted and the number thereof.

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 10-28-060 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

10-28-060 A produce stand on the public way pilot program.

(Omitted text is unaffected by this ordinance)

(m) This pilot program shall expire on ~~December 31, 2015~~ June 30, 2016. Sixty (60) days before the expiration of the pilot program, the commissioner, the commissioner of transportation, the commissioner of planning and development, and the commissioner of health shall evaluate the effectiveness of the pilot program and may recommend the continuation of the program with or without changes as may be adopted by ordinance.

SECTION 7. Section 5 of this ordinance shall take effect upon passage and approval, the remainder of this ordinance shall take effect 10 days after its passage and publication.

Chicago, December 9, 2015

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration a substitute ordinance introduced by Mayor Rahm Emanuel at the request of the Commissioner of Business Affairs and Consumer Protection (which was referred on November 18, 2015), to amend Title 3, 4, 9, and 10 of the Municipal Code of Chicago regarding cigarette vending machines, licenses, immigration assistance, bill of rights regarding tax preparation services, and extension of produce stand on public way pilot program, begs leave to recommend that Your Honorable Body **pass** the substitute ordinance which is transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the committee on December 8, 2015.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Emma Mitts", written over a horizontal line.

EMMA MITTS
CHAIRMAN, COMMITTEE ON
LICENSE AND CONSUMER
PROTECTION