



City of Chicago



O2017-5552

Office of the City Clerk

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Meeting Date: 7/26/2017

Sponsor(s): Emanuel (Mayor)
Burke (14)
Mitts (37)

Type: Ordinance

Title: Amendment of Municipal Code by modifying Sections 4-240-010, 4-264-005 and adding new Section 8-4-053 regarding regulation of secondary cell phone market

Committee(s) Assignment: Committee on Public Safety

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

July 26, 2017

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Business Affairs and Consumer Protection, I transmit herewith, together with Aldermen Burke and Mitts, an ordinance amending various provisions of the Municipal Code regarding regulation of the secondary cell phone market.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Rahm Emanuel".

Mayor

ORDINANCE

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

SECTION 1. Chapter 4-240 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

4-240-010 Definitions.

As used in this chapter:

(Omitted text is not affected by this ordinance)

“Secondhand property” has the meaning ascribed to that term by Section 4-264-005 of this Code.

“Stolen cell phone database” has the meaning ascribed to that term by Section 4-264-005 of this Code.

“Wireless communication device” or “cell phone” means any device through which personal wireless services, as defined in 47 U.S.C. 332(c)(7)(C)(i), are transmitted.

4-240-150 Prohibited pledges or purchases.

(a) No licensee under this chapter shall take or receive in pawn or pledge, for money loaned, or shall buy any property from a minor, or shall so take, receive or buy any such property, the ownership of which is in, or which is claimed by, any minor, or which may be in the possession or under the control of any minor.

(b) No licensee under this chapter shall take any article in pawn or buy from any person appearing to be intoxicated or under the influence of any drug, nor from any person known to be a thief or to have been convicted of theft, ~~or burglary, robbery or armed robbery,~~ and when any person is found to be the owner of stolen property which has been pawned or bought, such property shall be returned to the owner thereof without the payment of the amount advanced by the pawnbroker thereon or any costs or charges of any kind which the pawnbroker may have placed upon the same.

(Omitted text is not affected by this Ordinance)

(e) (1) No licensee under this Chapter shall purchase, take or receive from any person in pawn or pledge, for money loaned, any cell phone whose make, model and serial number is entered into a stolen cell phone database. Before purchasing, taking or receiving from any person in pawn or pledge, for money loaned, any cell phone, the licensee shall check the stolen cell phone database to verify that the cell phone is not a stolen or lost cell phone, and shall record, in a log and on a sticker attached to the cell phone, the time of such verification, the make, model and serial number of the cell phone. The log and the sticker attached to the

cell phone shall be made available at all reasonable times, as defined in Section 4-4-290 of this Code, to inspection by authorized personnel of the department or any member of the City's police force.

(2) A licensee under this Chapter shall report to the Chicago Department of Police any secondhand cell phone that is brought to the licensee for pawn or pledge, and whose make, model and serial number is entered into a stolen cell phone database.

4-240-170 Violation – Penalty.

(a) Any person violating any of the provisions of this chapter or any rule ~~or regulation~~ promulgated thereunder shall be fined not less than \$1,000.00 nor more than \$2,000.00 for each offense. Each violation in regard to a separate transaction shall constitute a separate and distinct offense to which a separate fine shall apply.

(b) In addition to any other penalty provided by law, any violation of this chapter or rule ~~or regulation~~ promulgated thereunder ~~on two different days within any 12-month period~~ may result in license suspension or revocation in accordance with the requirements of Section 4-4-280 of this Code.

SECTION 2. Chapter 2-264 of the Municipal Code of Chicago is hereby amended by adding new Section 4-264-240, by deleting the language struck through and by inserting the language underscored, as follows:

4-264-005 Definitions.

For purposes of this chapter:

(Omitted text is not affected by this ordinance)

“Licensee” means a secondhand dealer licensed under this Chapter.

“Precious metal” means gold, silver or platinum.

(Omitted text is not affected by this ordinance)

“Secondhand property” means any previously owned audio-video equipment; construction materials, including, but not limited to, plumbing, electrical, roofing, masonry and carpentry supplies; jewelry or watch made of precious metal or precious stone or gem; article made of precious metal or precious stone or gem; sporting or athletic gear or equipment, including a bicycle; or currency.

“Stolen cell phone database” means a stolen cell phone database created by providers of commercial mobile service, as defined in 47 U.S.C. 332(d), directly or through a representative organization, into which the make, model and serial number of a stolen or lost cell phone is entered. At the time of the enactment of this amendatory ordinance of 2017, “stolen cell phone database” means the database maintained at the domain name:

stolenphonechecker.org. The commissioner may, by rule, identify one or more additional or alternative stolen cell phone databases.

“Unlicensed secondhand dealer” means any person who engages in the business of purchasing, selling, receiving, trading, consignment selling or otherwise transferring for value any secondhand property without obtaining a secondhand dealer license from the City. If any person possesses ten or more secondhand cell phones in one business location without a valid license from the City, a rebuttable presumption shall exist that the person is an unlicensed secondhand dealer.

“Wireless communication device” or “cell phone” means any device through which personal wireless services, as defined in 47 U.S.C. 332(c)(7)(C)(i), are transmitted.

4-264-090 Prohibited purchases.

(Omitted text is not affected by this ordinance)

(c) No secondhand dealer shall purchase any article of secondhand property from any person known to be a thief or to have been convicted of theft, ~~or~~ burglary, robbery or armed robbery, and when any person is found to be the owner of stolen property which has been bought, such property shall be returned to the owner thereof without the payment of the amount paid by the secondhand dealer for the stolen property.

(d) No secondhand dealer shall purchase, take or receive from any person any catalytic converter that is not attached to a motor vehicle, or any portion of a dismantled catalytic converter that is reasonably identifiable as such. In addition to any other penalty provided by law, any person who violates this subsection (d) shall be fined not less than \$1,000.00 nor more than \$2,000.00 for each offense.

(e) (1) No secondhand dealer shall purchase, take or receive from any person any cell phone whose make, model and serial number is entered into a stolen cell phone database. Before purchasing, taking or receiving from any person any cell phone, the secondhand dealer shall check the stolen cell phone database to verify that the cell phone is not a stolen or lost cell phone, and shall record, in a log and on a sticker attached to the cell phone, the time of such verification, the make, model and serial number of the cell phone. The log and the sticker attached to the cell phone shall be made available at all reasonable times, as defined in Section 4-4-290 of this Code, to inspection by authorized personnel of the department or any member of the City’s police force.

(3) A secondhand dealer shall issue to any person who purchases a secondhand cell phone from the licensee a receipt, in a form provided by the Commissioner, acknowledging that the cell phone is not entered into the stolen cell phone database as a stolen or lost cell phone. Such receipt shall include the make, model and serial number of the cell phone.

in violation of this Chapter shall be: (i) forfeited to the City; or (ii), in case of stolen or lost cell phones, returned to each lawful owner, if the identity of the owner is known or reasonably ascertainable. If the administrative law officer determines that a violation has not occurred, all cell phones that were seized pursuant to this Section shall be: (i) returned to the licensee; or (ii), in case of stolen or lost cell phones, returned to each lawful owner, if the identity of the owner is known or reasonably ascertainable.

SECTION 3. Chapter 8-4 of the Municipal Code of Chicago is hereby amended by adding new Section 8-4-053, underscored as follows:

8-4-053 Stolen cell phone database.

(a) For purposes of this section:

“Provider” means a provider of commercial mobile service, as defined in 47 U.S.C. 332(d).

“Stolen cell phone database” has the meaning ascribed to the term in Section 4-264-005.

(b) Any provider that does business in the City shall:

(1) not purchase or activate for service a secondhand cell phone that is brought to the provider, and whose make, model and serial number is entered into a stolen cell phone database. Before purchasing or activating for service any such secondhand cell phone, the provider shall check the stolen cell phone database to verify that the cell phone is not a stolen or lost cell phone, and shall record, in a log and on a sticker attached to the cell phone, the time of such verification, the make, model and serial number of the cell phone. The log and the sticker attached to the cell phone shall be made available at all reasonable times, as defined in Section 4-4-290 of this Code, to inspection by authorized personnel of the Department or any member of the City's police force.

(2) issue to any person who purchases a secondhand cell phone from the provider a receipt, in a form provided by the Commissioner of Business Affairs and Consumer Protection, acknowledging that the cell phone is not entered into the stolen cell phone database as a stolen or lost cell phone. Such receipt shall include the make, model and serial number of the cell phone;

(3) report to the Chicago Department of Police any secondhand cell phone that is brought to the provider for sale or activation for service, and whose make, model and serial number is entered into a stolen cell phone database; and

(2) A secondhand dealer shall report to the Chicago Department of Police any secondhand cell phone that is brought to the licensee for sale, and whose make, model and serial number is entered into a stolen cell phone database.

4-264-230 Violation – Penalty.

(a) Any person who violates any requirement of this chapter or any rule or regulation promulgated thereunder shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense. Each violation in regard to a separate transaction shall constitute a separate and distinct offense to which a separate fine shall apply.

(b) In addition to any other penalty provided by law, any violation of this chapter or rule or regulation promulgated thereunder ~~on two different days within any 12-month period~~ may result in license suspension or revocation in accordance with the requirements of Section 4-4-280 of this Code.

4-264-240 Confiscation of secondhand cell phones – Illegal purchase or offer for sale.

(a) In addition to any other applicable penalty, if any licensee or unlicensed secondhand dealer purchases or offers for sale secondhand cell phones in violation of this Chapter, the superintendent of police or any member of the police force shall have the authority: (1) to issue notices of violation, in accordance with Section 2-14-074, to such licensee or unlicensed secondhand dealer found in possession of such cell phones; and (2) to seize and store all such cell phones.

(b) Within ten days of the issuance of a notice of violation pursuant to subsection (a) of this section, the commissioner of business affairs and consumer protection shall notify by United States mail the licensee or the unlicensed secondhand dealer, and the owner of each cell phone, if the identity of the owner is known or reasonably ascertainable, of the date, time and location of a hearing to determine whether the cell phones, at the time of issuance of the notice of violation, were purchased or offered for sale in violation of this Chapter.

(c) After issuing a notice of violation, 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 cell phones, at the time of issuance of the notice of violation, were purchased or offered for sale in violation 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 cell phones, at the time of issuance of the notice of violation, were purchased or offered for sale in violation of this Chapter, the administrative law officer shall enter an order requiring payment by the licensee or the unlicensed secondhand dealer of a penalty of \$1,000.00 for each cell phone purchased or offered for sale in violation of this Chapter. Any penalty imposed under this section shall be in addition to any other penalty imposed under this Chapter. If the administrative law officer determines that a violation has occurred, all cell phones that were purchased or offered for sale

(4) encourage customers to enter the make, model and serial number of a cell phone into a stolen cell phone database in the event of the theft or loss of the customer's cell phone. The requirement of this subsection (b)(4) can be satisfied by providing the customers of the provider with written or on-line information regarding: (i) the availability of a stolen cell phone database; and (ii) how to enter a stolen or lost cell phone into such database, and by posting similar information in the provider's business premises located in the City.

SECTION 4. This ordinance shall take effect 10 days after its passage and publication.