



City of Chicago



O2020-802

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	2/19/2020
Sponsor(s):	Lightfoot (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Chapter 4-156 regarding tour boat operator amusement tax and admission fee at inter-track wagering location facilities
Committee(s) Assignment:	Committee on Finance

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OFFICE OF THE MAYOR
CITY OF CHICAGO

LORI E. LIGHTFOOT
MAYOR

February 19, 2020

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

Ladies and Gentlemen:

At the request of the City Comptroller, I transmit herewith an ordinance amending Chapter 4-156 of the Municipal Code regarding the amusement tax.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Lori E. Lightfoot".

Mayor

ORDINANCE

WHEREAS, The City of Chicago (“City”) is a home rule unit of government as defined in Article VII, Section 6(a) of the Illinois Constitution; and

WHEREAS, As a home rule unit of government, the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The City also has statutory authority to tax amusements and sellers of tickets to amusements; and

WHEREAS, The Illinois courts have held that Section 5(b) of the federal Maritime Transportation Security Act of 2002, 33 U.S.C. § 5(b), prohibits the City from imposing a tax on the patrons of tour boat operators; and

WHEREAS, The tax imposed by Section 4-156-020 of the Municipal Code of Chicago (“Code”) is imposed on patrons; and

WHEREAS, By contrast, the tax imposed by Section 4-156-032 of the Code is imposed on tour boat operators; and

WHEREAS, The intent of Section 4-156-032 is to ensure that tour boat operators pay the same amount of amusement tax that providers of other amusements are required to collect from their patrons and remit to the City under Section 4-156-020; and

WHEREAS, The City Council wishes to amend Section 4-156-032 to confirm its intent; and

WHEREAS, The City Council also wishes to make other amendments to Chapter 4-156 of the Code; now, therefore,

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

SECTION 1. Section 4-156-020 of the Municipal Code of Chicago is amended by inserting the language underscored, as follows:

4-156-020 Tax imposed.

(Omitted text is unaffected by this ordinance)

H. For the purpose of determining the amount of the amusement tax due under Section 4-156-020, admission fees or other charges shall be computed exclusive of this tax, any federal, state or county taxes imposed upon the amusement patron for amusement services and any separately stated optional charges for nonamusement services or for the sale or use of tangible personal property. The fact that the patron could have avoided the charge by obtaining the privilege from or through a different owner, manager or operator, pursuant to different terms.

or through a course of performance that would have avoided the obligation to pay the charge, does not make the charge “optional”.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 4-156-032 of the Municipal Code of Chicago is amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-156-032 ~~Additional~~ Alternative tax imposed on tour boat operators.

A. ~~In addition to the tax imposed by Section 4-156-020, a~~ A tax is imposed upon all persons engaged in the business of operating tour boats in the City. The rate of this tax shall be nine percent of the charges paid to the tour boat operator for amusements provided by the tour boat operator in the City. For the purposes of this Section 4-156-032, the term “tour boat” shall mean any vessel or other ~~water-craft~~ watercraft on which amusements take place, as the term “amusement” is defined in Section 4-156-010. Charges that are excluded, or that are fully or partially exempt, from the tax imposed by Section 4-156-020 shall also be excluded, or fully or partially exempt, from the tax imposed by this Section 4-156-032.

(Omitted text is unaffected by this ordinance)

E. The intent of this Section 4-156-032 is that the total amount of amusement tax paid by a tour boat operator will be the same as it would have been had the tour boat operator collected and remitted the tax imposed by Section 4-156-020. As used in subsection A of this Section 4-156-032, the terms “exempt” and “excluded” refer to those exemptions and exclusions set forth in Section 4-156-020 and do not include preemption by federal or state law. The intent of this subsection E is to confirm rather than change the intent of Section 4-156-032 since it was added to the Code effective January 1, 2017.

SECTION 3. Section 4-156-125 of the Municipal Code of Chicago is amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-156-125 ~~Intertrack~~ Inter-track wagering.

(a) ~~Whenever~~ As used in this section, ~~the word:~~

~~“Act” shall mean~~ means the ~~“Illinois Illinois~~ Illinois Horse Racing Act of ~~1975”~~ 1975, 230 ILCS 5/1 et al. as amended. ~~Whenever used in this section, the words “board” and “intertrack wagering location licensee shall have the meanings specified in Sections 3.01 and 3.073, respectively, of the Act.~~

“Board” has the meaning ascribed to that term in Section 3.01 of the Act.

“Inter-track wagering location licensee” has the meaning ascribed to that term in Section 3.073 of the Act.

(b) ~~A one-dollar admission fee is imposed upon each patron of an intertrack inter-track wagering location facility located wholly within the corporate boundaries of the city City. It shall be the duty of each such intertrack wagering location licensee to collect such admission fee and, within 48 hours of collection, to remit the fees to the board. As provided in Section 27 of the Act, the board shall cause such fees to be distributed to the city. The comptroller is authorized and directed to collect such fees as shall be distributed by the board to the city.~~

(c) It shall be the duty of each inter-track wagering location licensee at a facility located wholly within the corporate boundaries of the City to collect the fee imposed under subsection (b) of this section and to remit the fee to the Department of Finance no later than the 20th day of each calendar month for all admission fees collected during the immediately preceding calendar month. A verified statement of admission fees in a form prescribed by the Comptroller shall accompany each such remittance.

(d) Notwithstanding any other provision of this Chapter 4-156, for all periods beginning on or after January 1, 2020, all remittance returns shall be filed with the Department of Finance on an annual basis on or before August 20 of each year.

(e) Pursuant to Section 26(h)(10.1) of the Act, it shall be the duty of each inter-track wagering location licensee at a facility located wholly within the corporate boundaries of the City to pay to the City the percentage of the pari-mutuel handle required under Section 26(h)(10.1) of the Act, or its successor provision, no later than the 20th of the month following the month such handle was generated. Payment of the required percentage of the pari-mutuel handle shall be made to the Department of Finance separately and apart from remittance of the fee imposed under subsection (b) of this section.

SECTION 4. This ordinance shall take full force and effect upon its passage and approval.