



City of Chicago



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Meeting Date:	9/11/2013
Sponsor(s):	Burke, Edward M. (14) Burns, William D. (4)
Type:	Ordinance
Title:	Amendment of Chapter 4-64 of Municipal Code regulating the distribution and sale of alternative nicotine products to minors
Committee(s) Assignment:	Joint Committee: Finance; Health and Environmental Protection

JT Finance
Health

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life, health, safety, and the welfare of its citizens; and

WHEREAS, cigarette smoking has been linked to various cancers and lung diseases; and

WHEREAS, while many struggle with their nicotine and tobacco addiction, those seeking to quit their "habit" have sought several modes of treatment: medicine from their doctors, nicotine patches and in recent years, e-cigarettes; and

WHEREAS, e-cigarettes first entered the U.S. market in 2007; they are electronic inhalers meant to simulate cigarette smoking. E-cigarettes use a heating element that vaporizes a liquid solution. Some e-cigarettes release nicotine, while some merely release flavored vapor. They are designed to mimic traditional smoking implements in their use and appearance; and

WHEREAS, though e-cigarettes have been advertised as a "safe" alternative to smoking, they are not currently regulated by the Food and Drug Administration (FDA), leaving the states and cities to adopt their own regulations; and

WHEREAS, several states, including Illinois, have adopted legislation banning the sale of e-cigarettes to minors; and

WHEREAS, the Center for Disease Control and Prevention (CDC) in a report released on September 5, 2013, stated that ten percent of high school students surveyed reported using e-cigarettes in 2012, up from 4.7 percent in 2011; and

WHEREAS, included in its study, the CDC also reported that these same minors also admitted to smoking conventional cigarettes at the same time; and

WHEREAS, CDC Director Tom Frieden, M.D., M.P.H. stated the "increased use of e-cigarettes by teens is deeply troubling. Nicotine is a highly addictive drug. Many teens who start with e-cigarettes may be condemned to struggling with a lifelong addiction to nicotine and conventional cigarettes."; and

WHEREAS, according to Tim McAfee, M.D., M.P.H. the Director of the CDC Office on Smoking and Health "it should be the goal of all to protect the health of our youth and to keep them from experimenting or using any tobacco product. These dramatic increases in usage suggest that developing strategies to prevent marketing, sales, and use of e-cigarettes among youth is critical."; and

WHEREAS, the City of Chicago finds that e-cigarettes with their flavored sweet cartridges represent a calculated attempt by e-cigarette manufacturers to entice children and young adults to purchase and use their devices and constitute an “indirect” marketing campaign which targets youth; and

WHEREAS, the City of Chicago finds that the public health and safety of its citizens, particularly its children, is being endangered by the lack of comprehensive regulation of the sale of e-cigarettes; and

WHEREAS, the regulation of the distribution and sale of e-cigarettes is a legitimate role of government relating to the welfare of its citizens; now, therefore

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

SECTION 1. The above recitals are expressly incorporated and made part hereof as though fully set forth herein.

SECTION 2. Chapter 4-64 of the Municipal Code of Chicago is hereby amended by inserting a new Section 4-64-201 underscored as follows:

4-64-201 Distribution of alternative nicotine products to persons under 18 years of age prohibited.

(a) For purposes of this Section, “alternative nicotine product” means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. “Alternative nicotine product” excludes cigarettes, smokeless tobacco, or other tobacco products as these terms are defined in this Chapter and any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

(b) A person, either directly or indirectly by an agent or employee, may not sell, offer for sale, give, or furnish any alternative nicotine product, or any cartridge or component of an alternative nicotine product, to a person under 18 years of age.

(c) Before selling, offering for sale, giving, or furnishing an alternative nicotine product, or any cartridge or component of an alternative nicotine product, to another person, the person selling, offering for sale, giving, or furnishing the alternative nicotine product shall verify that the person is at least 18 years of age by:

(1) examining from any person that appears to be under 30 years of age a government-issued photographic identification that establishes the person is at least 18 years of age, or

(2) for sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification services that compares information available from public records to the personal information entered by the person during the ordering process that establishes the person is 18 years of age.

(d) Any person who violates this section shall be subject to a fine of not less than \$500.00 nor more than \$2,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(e) Any minor who illegally possesses any tobacco product, tobacco product sample or tobacco accessory shall be subject to a fine of \$25.00 for the first offense and a fine of not less than \$50.00 for each subsequent offense.

SECTION 3. Section 4-64-210 of the Municipal Code of Chicago is hereby amended by Inserting the language underscored and by deleting the language as struck through as follows:

4-64-210 Posting of warning to minors.

Any person, who sells, gives away or distributes tobacco products, ~~or tobacco accessories, or an alternative nicotine product, or any cartridge or component of an alternative nicotine product,~~ shall display a printed card which shall state:

Warning

It Is A Violation Of The Law For Cigarettes Or Other Tobacco Products Or Tobacco Accessories Or An Alternative Nicotine Product, Or Any Cartridge Or Component Of An Alternative Nicotine Product To Be Sold To Any Person Under The Age Of 18. Any Person Who Violates This Law Is Subject To A Fine And Possible Imprisonment.

The printed card shall not be less than eight inches by 11 inches in size. The text of such printed card shall be in red letters on a white background, said letters to be at least one inch high. The word "warning" shall be in a print of 84-point height and Helvetica type and the remainder of the text in a print of 24-point height and in Helvetica medium-face, Futura medium-face or Universe 65 type.

Such card shall be posted at each location at which tobacco products and/or tobacco accessories are sold or displayed at all times in which the establishment is open, so that a card is visible from each location where such sales or displays occur.

SECTION 4. Section 4-64-240 of the Municipal Code of Chicago is hereby amended by Inserting the language underscored and by deleting the language as struck through as follows:

4-64-240 Suspension, revocation and nonrenewal of licenses.

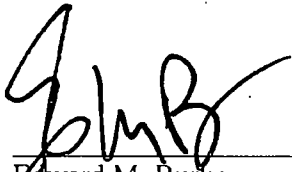
(a) Knowing or repeated violation of any provision of Sections 4-64-100, 4-64-101, 4-64-180, 4-64-181, 4-64-190, 4-64-200, 4-64-201, 4-64-205, 4-64-210 and 4-64-220 by a licensee

shall be grounds for revocation or suspension of such license. For purposes of this section, "license" includes any and all licenses issued by any officer, department or agency of the City of Chicago required for retail or other business operations at the location at which the offense occurred, and includes but is not limited to retail tobacco licenses.

(b) When any license issued pursuant to this chapter shall have been revoked for any cause, no retail tobacco dealer's license or tobacco product sampler's license shall be granted to such person for any premises for a period of one year thereafter. In the case of a legal entity, all owners, officers and directors of the entity shall be subject to the prohibition of this subsection.

(c) When any license issued pursuant to this chapter shall have been revoked for any cause, no license shall be granted to any person for the period of one year thereafter for conducting the business of selling tobacco in the premises described in such revoked license unless the revocation order was entered as to the licensee only.

SECTION 5. This ordinance shall be in full force and effect 30 days after its passage and publication.



Edward M. Burke
Alderman, 14th Ward

