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Legislation Details (With Text)

File #: O2021-5859
Type: Ordinance **Status:** Passed
File created: 12/15/2021 **In control:** City Council
Final action: 1/26/2022

Title: Amendment of Municipal Code Sections 4-240-170, 4-264-230, 4-264-240 and 8-4-053 regarding modifications of regulations, fines, licensing and resale of stolen cell phones and cell phone data

Sponsors: Lightfoot, Lori E., Hairston, Leslie A.

Indexes: Ch. 4 Public Peace & Welfare, Ch. 240 Pawnbrokers, Ch. 264 Secondhand Dealers

Attachments: 1. O2021-5859.pdf

Date	Ver.	Action By	Action	Result
1/26/2022	1	City Council	Passed	Pass
1/19/2022	1	Committee on License and Consumer Protection	Recommended to Pass	
12/15/2021	1	City Council	Referred	

OFFICE OF THE MAYOR
CITY OF CHICAGO

LORI E. LIGHTFOOT
MAYOR

December 15, 2021

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 Alderman Hairston, an ordinance amending the Municipal Code to enhance the regulation of secondhand dealers and pawnbrokers.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

ORDINANCE

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

SECTION 1. Section 4-240-170 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

4-240-170 Violation - Penalty.

a) Any person violating any of the provisions of this chapter or any rule promulgated thereunder shall be fined not less than ~~\$1,000.00~~ \$2,000.00 nor more than ~~\$2,000.00~~ \$10,000.00 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. Where the provisions of this chapter impose a requirement on a licensee, an unlicensed person engaged in the activity shall be subject to the same penalty for violating the requirement.

b) In addition to any other penalty provided by law, any violation of this chapter or rule promulgated thereunder may result in license suspension or revocation in accordance with the requirements of Section 4-4-280 of this Code. If a person commits two or more violations within any 24-month period of Section 4-240-150, the Commissioner shall revoke that person's licenses. For purposes of this section: (1) "licenses" includes any and all licenses issued by the City of Chicago to engage in business operations at the location at which the violations occurred; (2) multiple offenses occurring on the same date shall be deemed a single violation while offenses occurring on separate dates shall be deemed separate violations; and (3) a "violation" may include a finding of liability or a finding sustaining the offense or offenses charged in the same or in any contemporaneous proceeding or evidence of any previously resolved final disposition against the licensee on a charge brought pursuant to any of the provisions of this chapter including, but not limited to, any finding of liability after adjudication on the merits, any default finding of liability, any uncontested finding of liability, any negotiated prehearing settlement of the charge, and any voluntary payment of the fine corresponding to the charge. Any revocation hearing shall be limited to the issue of whether the licensee's record and the resolution of any pending charges in the same or contemporaneous proceedings, if applicable, accurately reflect the existence of a sufficient number of violations to support the revocation decision. The licensee shall not be permitted to challenge the previously resolved violations themselves, nor any underlying facts asserted or determined therein.

c) When any license issued pursuant to this Chapter is revoked for any cause, no pawnbroker license shall be granted to such person for any premises for a period of four years thereafter. In the case of a legal entity, all persons who have a substantial ownership or controlling interest in the entity shall be subject to the prohibition in this subsection.

d) When a pawnbroker license under this Chapter is revoked for any cause, no pawnbroker license under this Chapter shall be granted to any person for a period of one year thereafter for the premises described in such revoked license unless the revocation order was entered as to the licensee only.

SECTION 2. Section 4-264-230 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

4-264-230 Violation - Penalty.

(a) Except as otherwise provided in subsection (c), any person who violates any requirement of this chapter or any rule promulgated thereunder shall be fined not less than ~~\$500.00~~ \$1,000.00 nor more than ~~\$1,000.00~~ \$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. Where the provisions of this chapter impose a requirement on a

licensee, an unlicensed person engaged in the activity shall be subject to the same penalty for violating the requirement.

b) In addition to any other penalty provided by law, any violation of this chapter or rule promulgated thereunder may result in license suspension or revocation in accordance with the requirements of Section 4-4-280 of this Code. If a person commits two or more violations within any 24-month period of Section 4-264-090, the Commissioner shall revoke that person's licenses. For purposes of this section: (1) "licenses" includes any and all licenses issued by the City of Chicago to engage in business operations at the location at which the violations occurred; (2) multiple offenses occurring on the same date shall be deemed a single violation while offenses occurring on separate dates shall be deemed separate violations; and (3) a "violation" may include a finding of liability or a finding sustaining the offense or offenses charged in the same or in any contemporaneous proceeding or evidence of any previously resolved final disposition against the licensee on a charge brought pursuant to any of the provisions of this chapter including, but not limited to, any finding of liability after adjudication on the merits, any default finding of liability, any uncontested finding of liability, any negotiated prehearing settlement of the charge, and any voluntary payment of the fine corresponding to the charge. Any revocation hearing shall be limited to the issue of whether the licensee's record and the resolution of any pending charges in the same or contemporaneous proceedings, if applicable, accurately reflect the existence of a sufficient number of violations to support the revocation decision. The licensee shall not be permitted to challenge the previously resolved violations themselves, nor any underlying facts asserted or determined therein.

c) In addition to any other penalty provided by law, any person who purchases or offers for sale secondhand cell phones in violation of this chapter or who otherwise violates subsection (e) of Section 4-264-090 of this chapter, as applicable, shall be fined not less than \$1,000.00 \$2,000.00 nor more than \$2,000.00 \$10,000.00 for each offense. Each violation shall constitute a separate and distinct offense.

d) When any license issued pursuant to this Chapter is revoked for any cause, no secondhand dealer license shall be granted to such person for any premises for a period of four years thereafter. In the case of a legal entity, all persons who have a substantial ownership or controlling interest in the entity shall be subject to the prohibition in this subsection.

e) When a secondhand dealer license under this Chapter is revoked for any cause, no secondhand dealer license under this Chapter shall be granted to any person for a period of one year thereafter for the premises described in such revoked license unless the revocation order was entered as to the licensee only.

SECTION 3. Section 4-264-240 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

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 City's Department of Chicago Police Department and the Department of Business Affairs and Consumer Protection 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 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) At any time before a determination is made by an administrative law officer under subsection (d) of this section, the commissioner of business affairs and consumer protection shall notify by United States mail the owner of each cell phone, if the identity of the owner is reasonably ascertainable, of the date, time, and l~~

~~ocation 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.~~

~~{4) After issuing a notice of violation, the commissioner of business affairs and consumer protection Commissioner of Business Affairs and Consumer Protection shall institute an action with the department of administrative hearings 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, in addition to any other penalty imposed under this Chapter 4-264, (1) the respondent shall be liable for a \$1,000.00 fine for each cell phone purchased or offered for sale in violation of this chapter and (2) all cell phones that were purchased or offered for sale 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: (t) returned to the licensee; or («), 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 4. Section 8-4-053 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

8-4-053 Stolen cell phone database.

(Omitted text is unaffected by this ordinance)

(d) Any person who violates this section shall be subject to a fine of not less than ~~\$1,000.00~~ \$2,000.00 nor more than ~~\$2,000.00~~ \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

SECTION 5. This ordinance shall be in full force and effect 10 days following passage and publication.