

constitute a separate and distinct offense.

4-4-313 Businesses that are or cause a nuisance.

(a) A license may be suspended or revoked if a licensee's business is or creates a nuisance. A licensed business is or creates a nuisance if: (i) within any consecutive 12 months, not less than three separate incidents occur on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property, involving illegal acts that violate any federal or state law defining a felony, or any federal or state law or municipal ordinance regulating narcotics, controlled substances or weapons; or (ii) the licensee has failed to take reasonable steps to correct objectionable conditions existing or occurring on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property while the licensed premises is open for business or within one hour of the time the establishment is opened or closed for business. The licenses of any business that is or creates a nuisance under clause (i) of this subsection (a) shall be subject to suspension or revocation pursuant to Section 4-4-280. The licenses of any business that is or creates a nuisance under clause (ii) of this subsection (a)

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shall be subject to suspension or revocation pursuant to the procedures set forth in subsection (b) of this section.

(b) (1) Any person A group of five or more people who reside within 500 feet of a licensed premises, measured from the nearest exterior walls of each applicable building, may file with the commissioner a complaint that a licensee's business is a public nuisance because the licensee has failed to take reasonable steps to correct objectionable conditions existing on the licensed premises, on or in the licensed premises' parking facility or on adjacent property. The commissioner may notify the licensee to appear before the commissioner, in the presence of the complaining persons when the commissioner considers such presence appropriate, to define, discuss and seek resolution of problems giving rise to the complaint. The commissioner may also order subsequent meetings to review progress toward resolution of the problems. A meeting may also be convened at the request of the commissioner or the alderman of the ward in which the licensed premises is located.

Notice of any meeting scheduled pursuant to this subsection shall be sent to the alderman of the ward in which the licensed premises is located.

The failure of a licensee to appear in response to a notice, or to attend subsequent meetings as ordered by the commissioner, shall be grounds for the imposition of a fine or the suspension or revocation of a license. The progress made in resolving the problems identified in the complaint and meeting process shall be considered in any proceeding to suspend or revoke a license under this section.

(2) After the commissioner determines that the complaint and meeting process has been completed or the licensee has failed to submit a plan of corrective action pursuant to subsection (d), the commissioner may institute a hearing based upon his or her reasonable belief that the operation of the business is a public nuisance. Notice of a hearing scheduled under this section shall be given to the alderman of the ward in which the licensed premises is located. At the conclusion of the hearing, if the commissioner determines by a preponderance of the evidence that the operation of the licensee's business is a public nuisance because the licensee has failed to take reasonable steps to correct objectionable conditions occurring on the licensed premises or adjacent property, the commissioner shall enter an order suspending or revoking the applicable license.

When determining what constitutes reasonable steps, the commissioner shall consider site configuration constraints and other factors related to any unique circumstances or the nature of the business,

as well as the frequency of complaints of objectionable conditions and the manner in which the licensee has sought to address such conditions.

"Reasonable steps" include, but are not limited to, the following:

A) calling the police department. Timely calls to the police department via 911 that are placed by the licensee, or his agents or employees, shall not, in and of themselves, be construed by the commissioner as evidence of objectionable conditions that constitute a nuisance.

B) directing those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee, or his agents or employees, reasonably believe that their personal safety would be threatened if such direction was given. Directions of this nature may be provided orally or in writing.

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C) making good-faith efforts to remove items that facilitate loitering, such as furniture.

D) attending CAP. S. meetings, beat meetings or other similar city-sponsored informational meetings or educational events designed to alert the licensee and his employees to problems related to the operation of the business and to promote remediation of such objectionable conditions.

(c) As part of an order of suspension issued by the commissioner, the commissioner may impose conditions upon the future operation of the licensed business that are useful or necessary to mitigate the public nuisance, including, but not limited to: providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services or any other reasonable restrictions on business practices until the commissioner concludes that the conditions which gave rise to the public nuisance are abated.

Notwithstanding any other provision of this section, if a licensee has provided satisfactory proof to the commissioner that the licensee has devised a plan of operation that will provide reasonable assurance that operation of the business will not cause a public nuisance, the commissioner may suspend the effectiveness of the suspension or revocation order for a period of six months while that plan is in effect. Such a plan must be submitted within 20 days after a suspension or revocation order is issued under this section, and the commissioner shall postpone enforcement of the order pending his or her review of the plan. If no plan is submitted within 20 days after the issuance of a suspension or revocation order under this section, or if the commissioner rejects the plan, the suspension or revocation order shall become final. If the commissioner approves the plan, the commissioner shall continue the hearing to a specified date prior to the expiration of the six month period. The plan may include conditions upon the licensee's operation of the premises that are useful or necessary to mitigate a public nuisance, including, but not limited to: providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services or any other reasonable restrictions on business practices. After a continued hearing at which interested persons shall have the opportunity to be heard, the commissioner may: (1) reimpose the suspension or revocation order if the commissioner determines that the licensee has failed to adhere to the written plan of operation; (2) order the modification of the plan of operation, including the addition or removal of conditions on the operation of the premises; (3) vacate the suspension or revocation order if the commissioner determines that the order is no longer necessary to prevent a public nuisance; and/or (A) continue the hearing for an additional six months, during which the effectiveness of the suspension or revocation order may continue to be suspended pending further evaluation of the licensee's efforts to correct objectionable conditions.

Any order issued pursuant to this section, other than a final order imposing a suspension or revocation or vacating such sanction, shall not be considered a final order for purposes of appeal.

A licensee's failure to adhere to a written plan of operation approved by the commissioner pursuant to this section, through either the complaint and meeting procedures or upon the licensee's submission, shall

constitute a basis to impose a fine and to suspend or revoke the licenses held by such licensee, as appropriate.

(d) (1) Notwithstanding subsection (b), at any time prior to the initiation of proceedings to revoke or suspend a license under this section, if the

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commissioner determines that a business meets the criteria for a public nuisance under subsection (a), the commissioner may notify the licensee of his determination. Upon such notification, the commissioner may request the licensee to submit a plan of corrective action that provides reasonable assurance that the operation of the business will not cause, or continue to cause, a public nuisance. Subject to the approval by the commissioner, the plan may include conditions upon the licensee's operation of the premises that are useful or necessary to mitigate the public nuisance, including, but not limited to: providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services or any other reasonable restrictions on business practices.

2) Any licensee who fails to comply with all requirements of the approved plan of corrective action shall be fined not less than \$200.00 nor more than \$1,000.00, or have his license suspended or revoked for the first violation. For any subsequent violation, the license shall be revoked. Each day that such violation exists shall constitute a separate and distinct offense.

3) If the licensee does not submit a plan of corrective action after a request by the commissioner, the commissioner may institute a hearing in compliance with subsection (b) (2).

4) The commissioner shall not approve any plan of corrective action after the initiation of proceedings to revoke or suspend a license, unless the commissioner determines that it would be in the best interest of the city to approve such a plan.

(e) The commissioner shall deny an application for a license when the premises identified in the application was subject to a license suspension, revocation or a plan of corrective action pursuant to this section or section 4-4-312 within the three-year period prior to the date of the application; provided that the commissioner may approve an application if the applicant agrees to enter into and comply with the plan of action approved by the commissioner to abate any of the conditions which gave rise to undertaking a plan of corrective action, or the finding of a violation of this section; provided further for any premises which is ineligible for a license due to a license being revoked for cause at that location, no license shall be issued during of the term ineligibility provided in the code.

(cf) For purposes of this subsection, the term "illegal acts" means any conduct or activity that violates any federal or state law defining a felony, or any federal or state law or municipal ordinance regulating narcotics, controlled substances or weapons. In a proceeding to suspend or revoke the license(s) license of a business that is or creates a nuisance under subsection (a) of this section:

1) it shall not be a defense that the licensee or the licensee's employees or agents were not personally involved in the commission of the illegal acts or directly responsible for the objectionable conditions except as provided otherwise in paragraph (2) of this subsection (e); and

2) for purposes of determining whether three or more illegal acts occurred during a 12-month period, illegal acts occurring on the public way shall be limited to acts of the licensee, its employees, agents or patrons or otherwise involving circumstances having a nexus to the operation of the business; and

3) the illegal acts or objectionable conditions must occur or exist while the licensed premises is open for business or within one hour of the time the establishment is opened or closed for business; and

4) any evidence on which a reasonably prudent person would rely may be considered without regard to the formal or technical rules of evidence, and the commissioner may rely upon police reports, official written reports, affidavits and other business records submitted by police officers or other authorized city officials or employees charged with inspection or enforcement responsibilities to determine whether such illegal acts or objectionable conditions occurred. If during any 12-month period three separate incidents of illegal acts occur on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property, a rebuttable presumption shall exist that the licensed business is or creates a nuisance in violation of this section.

(5 g.) A licensee may offer evidence of mitigating factors in any license disciplinary hearing where it is alleged that the licensed business is or creates a nuisance based upon the occurrence of three or more illegal acts in any 12-month period. Mitigating factors may include evidence of the licensee's reasonable efforts to deter or discourage illegal acts from occurring on the licensed premises or adjacent property such as: the use of strategically placed recording cameras, employment of trained security personnel, and a practice of promptly notifying the police when illegal activity occurs or appears imminent and cooperating with police investigations. When reviewing any evidence of mitigating factors, the commissioner may consider factors related to the unique circumstances of the nature of the business as well as the relative frequency of the occurrence of illegal acts in the surrounding community.

(d h) For purposes of this section:

(1) "Adjacent property" means:

- A) any private property that is owned, leased, or rented by the licensee, or used by its patrons, and that is located next to the business premises;
- B) any public way located next to the business premises; or
- C) any private property which is owned, leased, or rented by the licensee, or used by its patrons with the knowledge or permission of the licensee, and that is: (i) used in connection with the operation of the business; and (ii) located within 500 feet of the licensed premises which is located next to such portion of the public way described in paragraph (B) of this definition. For the purposes of this definition, the term "public way" has the meaning ascribed to the term in Section 1-1090 of this Code.

2) "Illegal acts" means any conduct or activity that violates any federal or state law defining a felony, or any federal or state law or municipal ordinance regulating narcotics, controlled substances or weapons.

(2 3) "Objectionable conditions" include, but are not limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise.

3) "Reasonable steps" include, but are not limited to, the following:

- (A) Calling the police department. Timely calls to the police department via 911 that are placed by the licensee, or his or her agents

or employees, shall not, in and of themselves, be construed by the commissioner as evidence of objectionable conditions that constitute a nuisance.

B) Directing those persons engaging in activities causing objectionable conditions to cease

~~e these activities, unless the licensee, or the licensee's agents or employees, reasonably believe that their personal safety would be threatened if such direction was given. Directions of this nature may be provided orally or in writing.~~

~~C) Making good faith efforts to remove items that facilitate loitering, such as furniture. CD) Attending CAP. S. meetings, beat meetings or other similar city-sponsored informational meetings or educational events designed to alert the licensee and its employees to problems related to the operation of the business and to promote remediation of such objectionable conditions.~~

~~(4) When determining what constitutes reasonable steps within the meaning of this section, the commissioner shall consider site configuration constraints and other factors related to the unique circumstances or nature of the business, as well as the frequency of complaints of objectionable conditions and the manner in which the licensee has sought to address such conditions.~~

~~(e) This section shall not apply to a retail liquor establishment licensed under Chapter 4-60 of this Code.~~

SECTION 2. Chapter 4-60 of the Municipal Code of Chicago is hereby amended by deleting sections 4-60-142, 4-60-190, and 4-60-195, by deleting the language struck through and by adding the language underscored, as follows:

4-60-040 License - Application and issuance procedures.

(Omitted text is unaffected by this ordinance)

(l) No application for a retailer's license for the sale of alcoholic liquor shall be accepted for any location which is currently licensed for the retail sale of alcoholic liquor and such license is subject to a pending disciplinary hearing seeking revocation of such license.

4-60-070 Issuance authority - Special licenses.

(Omitted text is unaffected by this ordinance)

(b) Any qualified organization licensed and approved for the operation of charitable games under the Illinois Charitable Games Act, Illinois Revised Statutes Chapter 120, Section 1121, et seq. (1985), as amended, may apply to the local liquor control commissioner for a special term liquor license. The local liquor control commissioner may, upon the approval of the bureau of fire prevention, issue a special term liquor license to such an organization for the location and for a period not to exceed the actual time specified in the applicant's charitable games license issued by the Illinois Department of Revenue Business Affairs and Licensing. Any licensee under this section shall be subject to Sections 4-60-100, except as it may incorporate and impose any requirements for separate licensing, 4-60-110, 4-60-130, 4-60-140, 4-60-150 and ~~4-60-190~~ 4-4-313 with respect to violations of application sections, and shall be exempt from all others.

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4-60-142 Responsibilities of licensee.

~~a) A licensee is responsible to the community surrounding the licensed premises. A city liquor dealer's license issued or renewed after the effective date of this section shall be subject to suspension or revocation if the licensee's business becomes or creates a nuisance under this section or if it causes a public nuisance under Section 4-60-195. A licensed business is or creates a nuisance under this section if within any consecutive 12 months not less than three separate incidents occur, before, on or after the effective date of this 2012 amendatory ordinance, on the licensed premises, on or in the licensed premises' parking facility or on adjacent property, while the business establishment is open for business or within one hour of the time the establishment is opened or closed for business, involving acts that violate any federal or state law defining a felony, or any federal or state law or municipal ordinance regulating narcotics, controlled substances or weapons. It is not a defense~~

to a charge of violating this section that the licensee or the licensee's employees or agents were not personally involved in the commission of the illegal acts except as provided otherwise in paragraph (1) of subsection (e).

b) For purposes of this section:

- 1) the term "adjacent property" shall have the same meaning set forth in Section A-60-190(e);
- 2) the term "illegal acts" means any conduct or activity that violates any federal or state law defini

c) In a proceeding to suspend or revoke a license under this section:

- 1) for purposes of determining whether three or more illegal acts occurred during a 12-month period;
- 2) the illegal acts must occur or exist while the licensed premises is open for business of within one hour of the time the establishment is opened or closed for business; and
- 3) any evidence on which a reasonably prudent person would rely may be considered without regard to the formal or technical rules of evidence; and the commissioner may rely upon official written reports, affidavits and other business records submitted by police officers or other authorized city officials or employees charged with inspection or enforcement responsibilities to determine whether such illegal acts occurred. If during any 12 month period three separate incidents of illegal acts occur on the licensed premises, on or in the licensed premises parking facility, or on adjacent property, a rebuttable presumption shall exist that the licensed business is or creates a nuisance in violation of this section.
- 4) A licensee may offer evidence of mitigating factors in any license disciplinary hearing where it is alleged that the licensed business is or creates a nuisance in violation of this section. Mitigating factors may include evidence of the licensee's reasonable efforts to deter or discourage illegal acts from occurring on the licensed premises or adjacent property such as: the use of strategically placed recording cameras, employment of trained security personnel, and a practice of promptly notifying the police when illegal activity occurs or app

4-60-180 License revocation - One-year wait for new license.

a) Except as provided in subsection (b), when When any license issued pursuant to this chapter shall have been is 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 alcoholic liquor in the premises described in such revoked license unless the revocation order was entered as to the licensee only.

b) When any license issued pursuant to this chapter shall have been revoked under Section 4 -60-195 for causing a public nuisance, no license shall be granted to any person for the period of two years thereafter for conducting the business of selling alcoholic liquor in the premises described in such revoked license, provided that such two year period may be reduced to no less than one year if the local liquor control commission determines that such a reduction will not cause a public nuisance. If a petition requesting such a reduction, signed by a majority of the legal voters residing within 500 feet (measured from the nearest exterior walls of each applicable building) of the premises, has been filed with the local liquor control commissioner, the reduction shall be presumed not to create a public nuisance.

4-60-181 Revocation order not stayed by appeal.

An order of the liquor control commissioner revoking a city license under this chapter shall take immediate effect if the liquor control commissioner finds that any of the following circumstances are present: (a) the revocation is for violation of any federal or state law or city ordinance regulating the sale, use or possession of firearms; or (b) the revocation is for violation of any federal or state law or city ordinance regulating the sale, use or possession of narcotics or other controlled substances as defined in the Illinois Criminal Code; or (c) the revocation is for violation of any federal or state law or city ordinance relating to prostitution; or (d) the revocation is for sale of alcoholic liquor to a minor, and the licensee was disciplined for three or more similar sales, occurring in separate incidents; within the prior three years; or (e) the revocation is for violations of this Code or the rules and regulations of the City of Chicago Board of Health related to health and sanitation in a food establishment; or (f) the revocation is ordered pursuant to Section 4-4-313 4-60-195

because the premises caused a public nuisance; or (g) if the revocation is of a late-hour privilege, the revocation is for the failure to implement or maintain an adequate exterior safety plan, or for any violation of any law or ordinance that the liquor control commissioner determines warrants immediate revocation of that privilege; or (h) the revocation is for a violation of subsection (k) of Section 4-60-140. For purposes of subsection (d) of this section, "discipline" means revocation, suspension, a voluntary closing in lieu of suspension, or imposition of a fine. In the event that a revocation order contains a finding described in subsection (a), (b), (c), (d), (e), (f), (g), or (h) of this section, the effect of the revocation shall not be stayed pending an appeal by the licensee to the License Appeal Commission under the Liquor Control Act.

4-60-190 Complaint procedure.

(a) Any resident of the City of Chicago shall have the right to file a complaint with the local liquor control commissioner stating that a liquor licensee has been or is violating the provisions of this chapter. The complainant

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(b) Every liquor licensee has a duty to take reasonable steps to correct objectionable conditions occurring on the licensed premises and on property adjacent thereto while the establishment is open for business and within one hour or less of the time the establishment is opened or closed for business. A licensee's failure to satisfy this duty shall be deemed to be a public nuisance. Any group of five or more residents who reside within 500 feet of a licensed premises (measured from the nearest exterior walls of each applicable building) may file with the local liquor control commissioner a complaint that a licensee's business is a public nuisance because the licensee has failed to take reasonable steps to correct objectionable conditions occurring on the licensed premises or adjacent property while the establishment is open for business and within one hour or less of the time the establishment is open or closed for business. The local liquor commissioner may notify the licensee to appear before the commissioner, in the presence of the complaining persons, to define, discuss and seek resolution of problems giving rise to the complaint. The commissioner may also order subsequent meetings to review progress toward resolution of the problems. Failure of a licensee to appear in response to a notice, or to attend subsequent meetings as ordered by the commissioner, shall be grounds for the imposition of a fine and for the suspension or revocation of the licensee's license. Meetings under this subsection may also be convened at the request of the local liquor control commissioner or the alderman of the ward in which the premises are located based upon his or her reasonable belief that the sale of liquor at the particular location is a public nuisance. Notice of a meeting scheduled under this section shall be given to the alderman of the ward in which the licensed premises are located.

(C) For purposes of this section and Section 4-60-195:

1) "Adjacent property" means:

A) any private property that is owned, leased or rented by the licensee and that is located next to the business premises;

B) any public way located next to the business premises; or

C) any private property which is owned, leased or rented by the licensee which is located next to such portion of the public way described in paragraph (B) of this definition. For the purposes of this definition

2) "Objectionable conditions" include but are not limited to disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise.

(3) "Reasonable steps" includes, but is not limited to, the following:

A) Calling the Police Department. Timely calls to the police department via "911" that are

B) Directing those persons engaging in activities causing objectionable conditions to cease those activities, unless the licensee, or his or her agents or employees, reasonably believe that their personal safety would be threatened in making that such direction. Directions of this nature may be provided orally or in writing.

C) Making good faith efforts to remove items that facilitate loitering, such as furniture.

~~D) Attending C.A.P.S. meetings, beat meetings or other similar city-sponsored information~~

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~~licensee and its employees of problems related to the operation of the business and to promote remediation of such objectionable conditions.~~

~~(4) When determining what constitutes "reasonable steps," the local liquor control commissioner shall consider site configuration constraints and other factors related to the unique circumstances of the nature of the business as well as the frequency of complaints of objectionable conditions and the manner in which the licensee has sought to address such conditions.~~

4-60-195 Public nuisance.

~~Whenever any of the complaint procedures described in subsection (b) of Section A-60-190 have been initiated against a business licensed under this chapter, and in the opinion of the local liquor control commissioner, the complaint procedures initiated pursuant to subsection (b) of Section 4-60-190 have not resulted in a successful outcome, the local liquor control commissioner may initiate a license disciplinary hearing to determine~~

~~The hearing shall be held before a hearing officer designated by the mayor in accordance with Section 4-4-280. The licensee and all interested parties shall have the right to testify. At the conclusion of the hearing, if the hearing officer finds by a preponderance of the evidence that the licensee's sale of liquor at the licensed premises is a public nuisance because a licensee has failed to take reasonable steps to correct objectionable conditions on the licensed premises or on adjacent property during business hours and within one hour before and one hour after such business hours, the local liquor control commissioner shall enter an order suspending or revoking the license. In the event that the licensee holds other city licenses in addition to the liquor license for the subject premises, the order of suspension or revocation may be applied to all licenses held by the licensee for such premises.~~

~~Notwithstanding any other provision of this section, if a licensee has provided satisfactory proof to the local liquor control commissioner that the licensee has devised a plan of operation that will provide reasonable~~

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~~modification of the plan of operation, including the addition or removal of conditions on the operation of the premises; (3) vacate the suspension or revocation order if the local liquor control commissioner determines that the order is no longer necessary to prevent a public nuisance; and/or (4) continue the hearing for an additional six months, during which the effectiveness of the suspension or revocation order may continue to be suspended pending further evaluation of the licensee's efforts to correct objectionable conditions.~~

~~Any order issued under this section, other than a final order imposing a suspension or revocation or vacating such sanction, shall not be considered a final order for purposes of appeal.~~

~~A licensee's failure to adhere to a written plan of operation approved by the local liquor control commissioner pursuant to this section or the complaint procedures described in subsection (b) of Section 4-60-~~

SECTION 3. Section 4-388-090 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by adding the language underscored, as follows:

4-388-090 Applicability of code - Sale and service of alcoholic beverages.

(Omitted text is unaffected by this ordinance)

(c) All special club licensees and their employees shall be subject to and comply with the requirements and responsibilities of sellers of alcohol as specified in Sections Section 4-60-141 and 4-60-142 of the Municipal Code, as amended.

(Omitted text is unaffected by this ordinance)

SECTION 4. This ordinance shall be in full force and effect 30 days after its passage and publication.

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02014-2401

Chicago, December 10, 2014

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration a substitute ordinance introduced by Aldermen Thomas, Graham, Lane, Brookins, Beale, Harris, Sawyer, Cochran, Austin, Mitts, Thompson, Fioretti and Reboyras (which was referred on April 2, 2014), to amend Chapter 4-4 of the Municipal Code of Chicago regarding the partial suspension and revocation of licenses of specific businesses, 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, 2014.

Respectfully submitted,

EMMA MITTS CHAIRMAN, COMMITTEE ON LICENSE AND CONSUMER PROTECTION