



# Office of the City Clerk

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## Legislation Details (With Text)

**File #:** O2018-8106  
**Type:** Ordinance  
**Status:** Failed to Pass  
**File created:** 10/31/2018  
**In control:** City Council  
**Final action:**  
**Title:** Establishment of "Electronic Product Promotion Sweepstakes Kiosk or Sweepstakes Device Ordinance"  
**Sponsors:** Villegas, Gilbert, Moreno, Proco Joe, Ramirez-Rosa, Carlos, Tunney, Thomas, Austin, Carrie M., Dowell, Pat  
**Indexes:** Miscellaneous  
**Attachments:** 1. O2018-8106.pdf

| Date       | Ver. | Action By    | Action         | Result |
|------------|------|--------------|----------------|--------|
| 5/29/2019  | 1    | City Council | Failed to Pass |        |
| 10/31/2018 | 1    | City Council | Referred       |        |

Chicago City Council October 31<sup>st</sup>,  
2018

REFERRED TO COMMITTEE ON LICENSE AND CONSUMER PROTECTION

### ORDINANCE

Article \*\*\*\* ELECTRONIC PRODUCT PROMOTION SWEEPSTAKES KIOSKS

#### Part A. General Provision

##### \*\* \*\*\*\* Short title.

This article may be referred to as the Electronic Product Promotion Sweepstakes Kiosk or Sweepstakes Device Ordinance.

##### \*\*\_\*\*\*\* Definitions.

When used in this article, the following terms have stated definitions:

"Bona fide product" means any item of real value, which may include vouchers or coupons, to be used for or towards the purchase of a retail item. "Bona fide product" does not include Internet access, a telephone card, a calling card, or a phone card.

"Department" means the Department of Business Affairs and Consumer Protection.

"Electronic product promotion kiosk" means any electronic video machine which is used to promote the purchase of a bona fide product from a sponsor and offers or awards a prize, without requiring payment or purchase to participate, as a means to promote that sponsor and is otherwise consistent with 720 ILCS 5-28-a(1 2) and b(1 3). and is not capable of connecting directly or indirectly to the Internet, either by hardwire or

wireless connection, or to a set of interconnected networked devices in order to participate in the game or contest or to receive or retrieve any data related to the kiosk or device unless the connected device is a Redemption vault.

"Internet access" means a connection of individual computer terminals, computers, mobile devices, and computer networks to the Internet, enabling users to access Internet services, such as email and the World Wide Web.

"Redemption vault" means a standalone or connected device to an electronic product promotion kiosk for the sole purpose of redeeming a prize or award.

"Telephone card" or "calling card" or "phone card" means any stored-value system capable of being discarded when depleted or recharged for reuse and utilized to place a telephone call.

**\*\*\_\*\*\*\* Electronic Product Promotion Kiosks.**

- a) It is unlawful for a person to operate on any premises more than ten (10) electronic product promotion kiosks at any one time, unless that premises operates as fraternal establishment or veterans establishment. A Redemption vault shall not be considered an electronic product promotion kiosk for purposes of determining the number of electronic product promotion kiosks operated at any premises.
- b) No electronic product promotion kiosk shall be capable of connecting directly or indirectly to the Internet, either by hardwire or wireless connection, or to a set of interconnected networked devices in order to participate in the contest or game, and nothing in this Ordinance may be construed to permit any person to knowingly establish, maintain, or operate an Internet site that permits a person to play a game of chance or skill for money or other thing of value by means of the Internet or to make a wager upon the result of any game, contest, political nomination, appointment, or election by means of the Internet in violation of item (12) of subsection (a) of Section 28-1 of the Criminal Code of 2012.
- c) Electronic product promotion kiosks shall provide the option of an instant reveal of the outcome of any prize offer or award.
- d) Electronic product promotion kiosks shall be limited to participation by persons 18 years of age or older.
- e) Electronic product promotion kiosks shall not be promoted as a gambling device including without limitation a video poker, slot machine or casino game. Advertising shall not include the words video poker, slot machine or casino game. Promotion and Advertising shall be limited too and shall include the phrase Electronic Product Promotion or Sweepstakes Device.
- f) Electronic product promotion kiosks shall provide access to redemption of the Bona fide product sold or

prompted at the premises where Electronic product promotion kiosks are available to the public.

g) Electronic product promotion kiosks shall provide notice to the public at the premises that it is the responsibility of the prize winner to report all winnings for tax purposes, and that the promoter of the Electronic product promotion kiosks has no responsibility and will not report prizes won on behalf of the winner.

h) Electronic product promotion kiosks shall not be considered an Automatic Amusement Device or other defined term under 4-156-150 and shall not be counted towards the requirement of obtaining a public place of amusement license under 4-156-230 and 4-156-290.

#### **\*\*\_\*\*\*\* Applicability.**

This article shall apply to all forms of promotion including without limitation, written promotional offers, product promotion with a contest through any vending machine, internet web based promotions, in-store promotions or any other type of sweepstakes whether offered through a kiosk or any other means. This article is intended to cover any form of promotion as provided for under the Illinois Prize and Gifts Act 815 ILCS 525/1 et. seq.

#### **\*\*\_\*\*\*\* Annual tax.**

An bi-annual tax in the amount of \$200.00 for each calendar year is imposed upon all electronic product promotion kiosks operated for gain or profit per device. A Redemption vault is not subject to the Annual tax.

#### **\*\*\_\*\*\*\* Tax emblem.**

The electronic product promotion kiosk tax shall be paid by the owner of such device to the city clerk. The city clerk shall issue as evidence of the payment of the tax a self-voiding adhesive tax emblem to be placed on each device. Such emblem shall bear the words "City of Chicago EPPK Tax", the names of the mayor and the city clerk, and such other wording as may be prescribed by the mayor. It shall be unlawful for any person to mutilate said tax emblem during the year for which it was issued. A Redemption vault is not required to display a Tax emblem.

#### **\*\*\_\*\*\*\* License and Background investigation.**

Operators of electronic product promotion kiosks must apply for a general/limited business license and submit to a background investigation conducted by the Department. No license under this Chapter shall be issued to any person or entity if, following a background investigation it is determined that the applicant, or licensee, as applicable, or any person with a controlling interest in the applicant or licensee has ever been convicted of a felony criminal offense of whatever degree that is rationally related to such person's fitness or capacity to engage in the covered business activity.

#### **\*\*\_\*\*\*\* Installation prerequisites.**

It shall be unlawful for the owner or lessee of any premises or person in control of such premises to permit the

installation or use of an electronic product promotion kiosk within the City of Chicago for gain or profit unless the tax has been paid and is evidenced by a tax emblem affixed to the electronic product promotion kiosk in a conspicuous location. Each such device shall be plainly labeled with the name, address and telephone number of its owner. No person shall remove, alter or deface the tax emblem or label required by this section, or allow use of an electronic product promotion kiosk if the tax emblem or label has been removed, altered, defaced or become illegible. The owner or lessee of the premises where the device is placed for operation by the public and every person responsible for the premises shall be jointly and severally liable for a violation of this section.

**\*\*\_\*\*\*\* Seizure for unlawful use.**

If the mayor, superintendent of police, or the comptroller, the commissioner of business affairs and consumer protection, the city clerk or their duly authorized enforcement officer shall have a reasonable basis for believing any electronic product promotion kiosk is an illegal device due to connecting directly or indirectly to the Internet, either by hardwire or wireless connection, or to a set of interconnected networked devices in order to participate in the contest or game, said device or any part or contents thereof may be seized by any duly authorized enforcement official, followed by an administrative hearing with notice to the owner within seven days of such seizure for the purpose of reviewing the appropriateness of the seizure, and held until such time as the owner of such device pays the delinquent tax, reimburses the department of finance, business affairs and consumer protection or the city clerk for actual cartage cost incurred in the seizure and pays to the department of finance, business affairs and consumer protection or the city clerk \$20.00 for each day or part of day said device has been in storage. If criminal charges involving the use or condition of the device are pending, the device shall be held until disposition of the criminal charges. If it is determined at the hearing by a preponderance of the evidence that the seized device is not an illegal amusement device, it shall be returned to the owner without charge. If it is determined at the hearing that the electronic product promotion kiosk device was used for illegal gambling because of connecting directly or indirectly to the Internet, either by hardwire or wireless connection, or to a set of interconnected networked devices in order to participate in the contest or game or because it failed to sell a bona fide product, it shall be destroyed by the city, and all money found within the device at the time of confiscation shall become the property of the city, and shall be used to defray the costs of cartage, notice, storage and hearings. If the owner of the device does not claim the electronic product promotion kiosk within 14 days after the mailing of the notice, the device and its contents will be treated as abandoned property and the device will be destroyed:

**\*\*\_\*\*\*\* Violation penalty.**

(a) The owner, manager, licensee or person in control of premises where an electronic product promotion kiosk is used for illegal gambling because of connecting directly or indirectly to the Internet, either by hardwire or wireless connection, or to a set of interconnected networked devices in order to participate in the contest or game or because it failed to sell a bona fide product, shall be subject to a fine of \$5,000.00 for each device so used. Any person violating any other provision of this chapter by possession or use of an illegal electronic product promotion kiosk of connecting directly or indirectly to the Internet, either by hardwire or wireless connection, or to a set of interconnected networked devices in order to participate in the contest or game or because it failed to sell a bona fide product, shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense. Every day such violation continues shall constitute a separate and distinct offense. Fines under this section shall be in addition to suspension or revocation of business licenses issued under this Code, and in addition to confiscation and destruction of illegal electronic product promotion devices.

(b) Upon a third violation of the provisions of this chapter relating to possession or use of an illegal electronic product promotion kiosk occurring on the same premises for a period of five

years, all City licenses issued for business activity on those premises shall be revoked, and no electronic product promotion kiosks or automatic amusement device as defined in 4-156-150 may be placed on the premises for a period of one year from the date Of revocation. Nothing in this section limits the authority of the Commissioner to revoke a license on a licensee's first or second violation during such period. For purposes of this subsection (b), "licensee" includes an employee or agent of a licensee.

Gilbert Villegas Alderman,  
36<sup>th</sup> Ward

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