



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

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PROPOSED ORDINANCE AMENDMENT

AN AMENDMENT TO THE TOBACCO DEALER'S ORDINANCE

THEREFORE BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 54, Licenses, Permits, and Miscellaneous Business Regulations, Article V, Tobacco Dealers, of the Cook County Code is hereby amended as follows:

ARTICLE V. TOBACCO DEALERS

Sec. 54-300. Short title.

This article shall be known and may be cited as the Cook County Youth Tobacco Control Ordinance.

Sec. 54-301. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Distribute means to give, sell, deliver, dispense or issue or offer to give, sell, deliver, dispense or issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

Licensee means any person obtaining a tobacco product retailer's license under this article.

Live theatre location means any building, playhouse, room, hall, or other place utilized by live performers to present artistic representations of real or imagined events in front of a live audience.

Performance space means the portion or portions of a live theater location where performances occur. "Performance space" excludes all other portions of live theatre locations, including, but not limited to, hallways, lobbies, and public restrooms.

Person means an individual, firm, partnership, joint venture, association, corporation, estate, trust, trustee, or any other group or combination acting as a unit, excepting the United States of America, the State of Illinois, and any political subdivision thereof.

Photographic identification means any officially issued card containing the bearer's date of birth that includes

a photograph of the person seeking to purchase tobacco products and that is accepted as proof of age under Illinois law.

Point of sale means a store, stand, building, boat, vending machine or any other separate place of business maintained by a seller from which tobacco products are made available for sale or distribution to consumers. Point of sale does not include separate cash registers or service counters within a store or other place of business.

Public place means any area to which the public is invited or permitted.

Retailer means any person who sells tobacco products to individuals for personal consumption, or who operates a facility containing vending machines that dispense tobacco products or self-service displays of tobacco products in unincorporated Cook County.

Tavern means an enclosed place of business kept, used, maintained, advertised and held out to the public as a place that primarily serves alcoholic liquor for consumption on the premises and in which providing entertainment or the serving of food is only incidental or secondary to the sale of alcoholic beverages for immediate consumption. Examples of places of business not deemed to be taverns within the definitions of this paragraph include, but are not limited to, restaurants, catering halls, bowling alleys, billiard parlors, discotheques, theaters and arenas.

Theatre actor means an individual in the process of presenting an artistic representation of real or imagined events in front of a live audience, or in the process of rehearsing to do the same. The term “theatre actor” applies to both women and men.

Tobacco product sample means a tobacco product distributed to members of the general public at no cost or at nominal cost for purposes of promoting the product.

Tobacco products means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, snuff, smoking tobacco, and/or smokeless tobacco means any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from tobacco, which product is intended to enable human consumption of the tobacco or nicotine, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by other means. For the purposes of this article, the term “Tobacco products” excludes any product that has been specifically approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

Vending machine means any mechanical, electronic or self-service device which upon insertion of money, tokens or any other form of payment, automatically dispenses tobacco products.

Sec. 54-302. Jurisdiction.

This article applies to retailers of tobacco products in unincorporated Cook County, including any person who sells tobacco products to individuals for personal consumption or who operates a facility containing vending machines which dispense tobacco products or self-service displays of tobacco products.

Sec. 54-303. Enforcement and administration; penalties.

(a) *Duties of Department of Public Health.*

- (1) The Department of Public Health shall be responsible for the enforcement and administration of this article.
- (2) The Department of Public Health shall conduct random, unannounced inspections at locations where tobacco products are sold, including tobacco vending machines, to ensure compliance with this article.
- (3) The Department of Public Health shall promulgate reasonable rules and regulations consistent with this article to provide for the enforcement and administration of this article. The rules and regulations shall establish procedures for administrative action against those who violate this article and for a method of administrative adjudication of the violation or violations.
- (4) Any rules or regulations promulgated under this article shall be filed in the Department of Public Health's principal office and shall be made available for public inspection. Copies shall be made available upon request and payment of a reasonable fee as determined by the Department to cover the cost of providing the copy.

(b) *Penalties.*

- (1) The Department of Public Health shall impose a fine upon any person who violates the provisions of Section 54-305. Each instance in which Section 54-305 is violated shall constitute a separate and distinct offense. Penalties imposed shall include the following:
 - a. For a first violation, an administrative penalty of \$250.00;
 - b. For a second violation, occurring after a final determination of liability for a first violation, and within a 12-month period, an administrative penalty of \$500.00 and a suspension of the license of the retail tobacco dealer for 30 days;
 - c. For a third violation, occurring after a final determination of liability for a second violation and within a 12-month period, an administrative penalty of \$1,000.00 and a revocation of the license of the retail tobacco dealer for one year.
- (2) The Department of Public Health shall impose a \$500.00 fine upon any person who sells tobacco products without a license as required by Section 54-304(a) or after a license issued pursuant to this article has been suspended. Each instance in which a person sells tobacco products in violation of Section 54-304(a) shall constitute a separate and distinct violation.
- (3) In addition to imposing the fines and other penalties provided by this article, the Department of Public Health may request the State's Attorney to make application on behalf of the County to the Circuit

Court of Cook County for an injunction requiring compliance with the provisions of this article or for such order as the court may deem necessary or appropriate to secure such compliance. The State's Attorney may then institute such proceedings on behalf of the Country as provided by law.

(c) *Judicial review.* A person may seek a writ of certiorari from the Chancery Division of the Circuit Court of Cook County according to applicable law, appealing any final determination of liability or decision of the Department of Public Health under this article.

Sec. 54-304. Licensing of tobacco product retailers.

(a) *License requirement.* No person shall engage in the retail sale of tobacco products or operate a facility containing vending machines that dispense tobacco products unless the person is authorized to do so by a license issued pursuant to this article, or is an employee or agent of a person who has been issued a license pursuant to this article. A separate license must be obtained for each point of sale maintained by the retailer. The license to sell tobacco products shall be displayed prominently at the point of sale for which it is issued.

(b) *License administration.* The Department of Public Health shall administer the licensing of retailers of tobacco products and shall approve or deny all applications for licenses and revoke existing licenses pursuant to this article.

(c) *License application.* An application for a tobacco retailer's license shall be filed in writing with the Department of Public Health on a form provided by the Department. Each application for a license shall contain the following:

- (1) The applicant's full name, the address and telephone number where the applicant is engaged in the business of the retail sale of tobacco products and the name, address and telephone number of the person authorized to receive notices issued pursuant to this article;
- (2) If the applicant is a corporation, the corporate name, the address and telephone number of the principal place of business; the date and state of incorporation; the names of the corporate officers and the name, address and telephone number of the person authorized to receive notices issued pursuant to this article;
- (3) If the applicant is a partnership, the name, address and telephone number of the principal place of business; the names of all partners; the name, address and telephone number of a person authorized to receive notices issued pursuant to this article.

Any retailer whose license is revoked for violating this article shall be prohibited from obtaining a tobacco retailer's license for one year.

(d) *Licenses for tobacco product vending machines.* The Department of Public Health shall issue an adhesive self-voiding license emblem to be placed on each licensed tobacco product vending machine. Each license emblem shall be coded to identify the retailer who has control over each tobacco product vending machine. The license emblem

shall bear the words County of Cook, Licensed Tobacco Product Vending Machine. The license shall designate the period of time for which the license is valid, shall contain a reproduction of the County seal along with the name of the County Board President; shall contain a space for a brief description of the name, style and type of vending machine to be licensed; the location of the vending machine and such other language as may be prescribed by the President of the County Board. A replacement license emblem will not be issued unless the application for such replacement emblem is accompanied by a police report of the incident in which the emblem to be replaced was lost, stolen or mutilated, or unless the remnants of the emblem being replaced are submitted with the replacement application.

(e) *License term.* Every retailer's license shall be issued for an annual period beginning January 1 and ending December 31. Each license shall expire on the last day of the license year for which the license was issued.

(f) *License fee.* The annual license fee for a retailer shall be as set out in Section 32-1 per license. If a licensee operates more than one vending machine at the same premises, the licensee shall pay the annual license fee set out in Section 32-1 for the first vending machine license and the amount set out in Section 32-1 for each additional vending machine license.

(g) *License transfer prohibited.* The transfer of any license issued under this article is prohibited. Any such purported transfer is void.

Sec. 54-305. Prohibitions on sale or distribution of tobacco products.

(a) *Underage tobacco sales.*

(1) No retailer may sell or distribute tobacco products to any person under 18 years of age.

(2) Each retailer shall request and examine the photographic identification of any person purchasing tobacco products so as to verify that the purchaser is over 18 years of age. No such verification is required for any person who appears without reasonable doubt to be over the age of 27.

(b) *Sale of tobacco products other than in sealed packages.* No retailer may break or otherwise open any cigarette or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum cigarette package size of 20 cigarettes or any quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

(c) *Distribution of tobacco product samples prohibited.* No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco product samples, and/or any coupon redeemable for any tobacco products, on any public street, alley, sidewalk, or in any public park, ground or playground, or in areas open to the public in any publicly owned or operated building or at any place located within 500 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age.

(d) *Prohibited locations.* No retailer shall sell or distribute tobacco products at any place located within 500 feet of any building or other location used primarily as a school, child care facility, or for the education or recreation of children under 18 years of age. This prohibition shall not apply to those businesses engaged in the retail sale of tobacco products at a location that would otherwise be prohibited by this article that were in existence prior to passage of this article. This exemption shall apply to any new owner at the same location providing the same service.

(e) *Restrictions on tobacco product vending machines.*

(1) No retailer shall sell or distribute tobacco products through a vending machine unless the vending machine is located:

- a. In an area of factories, businesses, offices, private clubs and other places not open to the public; or
- b. In taverns.

(2) Tobacco products may be sold or distributed by a tobacco product vending machine in a tavern only in the following ways:

- a. The tobacco product vending machine must be placed at a distance of a minimum of 25 feet from any entrance to the premises; and
- b. The tobacco product vending machine must be directly visible by the owner or the lessee of the premises, or the licensee's employee or agent during the operation of such vending machine.

(f) *Posting of warning to minors.* Every retailer of tobacco products shall place and maintain, in legible condition, at each point of sale of tobacco products to consumers, including the front of each vending machine, a sign stating:

Warning

It is a Violation of the Law For Cigarettes Or Other Tobacco Products To Be Sold To Any Person Under The Age of 18.

The sign shall not be less than eight inches by 11 inches in size, except for a sign placed on the front of a vending machine. The sign for a vending machine shall not be less than four inches by four 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.

(g) *Self-service sales prohibited.* It shall be unlawful to sell, offer for sale, give away, or display tobacco products for sale at any location where the consumer can acquire those products through self-service. ~~All tobacco products will~~

~~be displayed from behind a sales/service counter so that no consumer can access tobacco products without assistance by an employee of the licensee~~ For the purposes of this section, “self-service” means displayed or stored in a manner that is physically accessible in any way to a member of the general public without a direct person-to-person transfer involving the employee of the licensee. This restriction shall not apply to customer self-service as described in Subsection (e) of this section, restrictions on tobacco product vending machines.

(h) *Minimum age to sell tobacco products.* It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any person under 18 years of age to sell tobacco products in any licensed premises.

Sec. 54-306. Exemptions.

(a) *Live theatre locations.*

(1) Notwithstanding any other provision of this chapter, theatre actors shall be allowed to use nicotine-free tobacco products within performance spaces, regardless of where they are located.

(Ord. No. 97-O-26, § 4, 11-6-1997; Ord. No. 02-O-08, § 4, 1-24-2002.)

Effective date: This amendment shall be effective immediately.