City of Chicago

O2015-8045

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	11/18/2015
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Titles 3, 4, 9 and 10 regarding cigarette vending machines, licenses, immigration assistance, bill of rights regarding tax preparation services, and extension of produce stand on public way pilot program
Committee(s) Assignment:	Committee on License and Consumer Protection

LIC -

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

November 18, 2015

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 an ordinance amending various provisions of the Municipal Code.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Rahm Emanuel

Mayor

ORDINANCE

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

SECTION 1. Section 3-42-110 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and inserting the language underscored, as follows:

3-42-110 Confiscation of illegal cigarettes and cigarette-vending machines.

(Omitted text is unaffected by this ordinance)

(b) After issuing a notice of violation, the comptroller or the commissioner of business affairs and consumer protection shall institute an action with the 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 cigarette packages at the time of issuance of the notice of violation, were unstamped or improperly stamped in violation of the provisions 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 cigarette packages were unstamped or improperly stamped in violation of the provisions of this chapter, the administrative law officer shall enter an order requiring payment by the cigarette purveyor or the owner of the following penalty for cigarettes possessed in violation of Section 3-42-020: ~~$1,000.00~~ $2,000.00 for a first violation involving forty or fewer packages, and ~~$25.00~~ $50.00 per package for a violation involving over forty packages, and an additional ~~$2,000.00~~ $4,000.00 for the second and each subsequent offense occurring within 24 months, plus fees for the seizure and storage of any seized cigarette packages or cigarette-vending machines. Any penalty imposed for a violation of Section 3-42-020 shall be in addition to any penalty imposed for a violation of Section 3-42-025. If the administrative law officer determines a violation, all unstamped or improperly stamped cigarette packages seized under this section shall be forfeited to the city and subsequently destroyed or sold at public sale. Any money contained in a cigarette-vending machine seized under this section shall also be forfeited to the city, unless the administrative law officer determines that the evidence presented by the alleged violator at the hearing established that the money was not consideration for unstamped or improperly stamped cigarette packages. The cigarette purveyor and the owner of the unstamped or improperly stamped cigarette packages or cigarette-vending machines shall be jointly and severally liable for sanctions provided by this section.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 4-4-320 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and inserting the language underscored, as follows:

4-4-320 License denial, revocation or suspension for certain offenses.

(a) The commissioner, for good and sufficient cause, may deny an application for any license issued under this Title 4 if:

(1) during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any~~ judicial or administrative proceedings of committing or attempting to commit a willful violation, or two or more violations

which do not include a willful violation, of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, or any other federal or state law regulating the payment of wages;

(2) during the 5-year period prior to the date of the application, the applicant admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any~~ a judicial or administrative proceeding of committing or attempting to commit a violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, or the Collection Agency Act, 225 ILCS 425/1, or any other federal or state law regulating the collection of debt; ~~or~~

(3) during the 24-month period prior to the date of the application, the applicant admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any~~ judicial or administrative proceedings of committing three or more violations of Chapter 1-24 of this Code; or

(4) during the 5-year period prior to the date of the application, one or more determinations of disqualification from participation in the federal Supplemental Nutrition Assistance Program (SNAP) was imposed upon the applicant, where such determination or determinations imposed the sanction of permanent disqualification or disqualification for an aggregate of at least 12 months, whether consecutive or nonconsecutive.

(b) The commissioner, for good and sufficient cause, may revoke or suspend a license issued under this Title 4 if:

(1) during the previous 5-year period ~~a person holds a license; or~~

~~(2) during the five-year period prior to the issuance of the license~~, the licensee admitted guilt or liability or ~~has been~~ was found guilty or liable in ~~any~~ judicial or administrative proceedings of committing or attempting to commit, as applicable, ~~a~~ the designated number of violations ~~of any~~ of the laws set forth in subsections 4-4-320(a)(1), (a)(2), and (a)(3)~~.~~; or

(2) during the previous 5-year period, one or more determinations of disqualification from participation in the federal Supplemental Nutrition Assistance Program (SNAP) was imposed upon the licensee, where such determination or determinations imposed the sanction of permanent disqualification or disqualification for an aggregate of at least 12 months, whether consecutive or nonconsecutive.

(c) ~~This~~ Subsections 4-4-320(a)(1), (a)(2), (a)(3), and (b)(1) shall not apply to any ~~person whose final~~ applicant or licensee where one or more of the designated number of pertinent administrative adjudications or judicial judgments or convictions was entered prior to June 1, 2013.

(d) The procedure for the revocation or suspension of a license shall be as set forth in Section 4-4-280. The procedure for the denial of an application for a license shall be as set forth in Section 4-4-060.

(e) The grounds provided in this section for denial of a license application, and for revocation or suspension of a license, shall render ineligible not only the applicant or licensee, as applicable, but also the parent, child, sibling, spouse, or domestic partner of such applicant or licensee, and any other corporation or legal entity in which the applicant or licensee has a substantial ownership or controlling interest. If the applicant or licensee is a corporation or other legal entity, the grounds provided in this section for denial of a license application, and revocation or suspension of a license, shall also render ineligible any person who has a

substantial ownership or controlling interest in that entity. As used in this subsection, "substantial ownership or controlling interest" means ownership of 25% or more of the entity, or, if the entity is a corporation, ownership of 25% or more voting shares of stock, or occupation as a principal officer, member of the board of directors, or manager of the entity.

SECTION 3. Section 4-6-240 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by adding the language underscored, as follows:

4-6-240 Immigration assistance.

(Omitted text is unaffected by this ordinance)

(c) Scope of license. A license under this section authorizes the licensee to perform only the following services: (1) providing ~~the customer~~ a person with a government agency form appropriate to the ~~customer's~~ person's needs if only that form can reasonably be considered appropriate and if the selection of the form does not involve a legal judgment; (2) transcribing responses to a government agency form which is related to an immigration matter, but not advising a ~~customer~~ person as to his or her answers on those forms; (3) translating information on forms to a ~~customer~~ person and translating the ~~customer's~~ person's answers to questions posed on those forms; (4) securing for ~~the customer~~ a person supporting documents currently in existence, such as birth and marriage certificates, which may be needed to submit with government agency forms; (5) translating documents from a foreign language into English; (6) notarizing signatures on government agency forms, if the person performing the service is a notary public of the State of Illinois; (7) making referrals, without fee, to attorneys who could undertake legal representation for a person in an immigration matter; (8) preparing or arranging for the preparation of photographs and fingerprints; (9) arranging for the performance of medical testing (including X-rays and A.I.D.S. tests) and the obtaining of reports of such test results; (10) conducting English language and civics courses; and (11) such other services that the commissioner determines by rule may be appropriately performed by such persons to help immigrants reside and work in the United States, establish and maintain stable families and business relationships, promote honesty and fair dealing and preserve the public confidence.

(Omitted text is unaffected by this ordinance)

(e) Legal duties. Each licensee engaged in the business of immigration assistance shall have a duty to:

(1) ~~before~~ prior to providing any assistance in an immigration matter, provide ~~the customer~~ the person with a written ~~contract~~ disclosure that includes the following ~~provisions~~: (i) an explanation of the services to be performed; (ii) a statement that prior to entering into any contract, the person will be provided with an estimate of the total compensation and costs ~~identification of all compensation and costs~~ to be charged ~~to the customer for the~~ based on the services selected by the person ~~to be performed~~; (iii) a statement that documents submitted in support of an application for non-immigrant, immigrant or naturalization status may not be retained by the licensee for any purpose, including payment of compensation or costs; (iv) a statement, which shall be on the face of the ~~contract~~ disclosure and shall be in print larger and more conspicuous than other print on the disclosure ~~contract~~, that the licensee is not an attorney and may not perform legal services~~;~~.

(2) prior to entering into any contract or charging a person a fee for assistance in an immigration matter, provide a written estimate of the total compensation and costs to be charged based on the services selected by the person;

(3) prior to charging any fee or cost, provide a person with a written contract that includes the following conditions: (i) a list of the services to be performed: (ii) the total amount of compensation and costs to be charged based upon the services selected by the person; (iii) a provision that the documents submitted in support of an application for non-immigrant, immigrant or naturalization status may not be retained by the licensee for any purpose, including the payment of compensation or costs; (iv) ~~(v)~~ a ~~statement~~ provision that ~~the customer~~ a person may rescind the contract within 72 hours, which shall be conspicuously set forth in the contract in understandable language substantially similar to "You may cancel this contract within 3 days and get your money back for work not performed." The written contract required under this subsection ~~(e)(1)~~ shall be in both English and in the language of the person ~~customer~~. A copy of the contract shall be provided to ~~the customer~~ a person upon the ~~customer's~~ person's execution of the contract. ~~The customer~~ A person shall have the right to rescind such contract within 72 hours of ~~his or her~~ signing of the contract;

(~~2~~ 4) upon demand of ~~the customer~~ a person, return to the ~~customer~~ person any documents submitted in support of an application for non-immigrant, immigrant or naturalization status;

(~~3~~ 5) post signs at the licensee's place of business, setting forth in English and in every other language in which the person provides or offers to provide assistance in immigration matters. Each language shall be on a separate sign. Signs shall be posted in a location where the signs will be visible to people ~~customers~~. Each sign shall be at least 11 inches by 17 inches, and shall contain the following: (i) the statement "I am not an attorney"; (ii) if applicable, the statement that "I am not accredited to represent you before the United States Department of Homeland Security"; (iii) the fee schedule; (iv) the statement that "You may cancel any contract within three days and get your money back for services not performed"; (v) the statement that "If you have a complaint about this business, contact: City of Chicago, Department of Business Affairs and Consumer Protection (Insert the Department's current address). (Insert, within a box in bold-faced type, the Department's current telephone number and current web address to which complaints may be sent). Business name: (Insert legal name of business). Business address: (Insert address of business). Business phone: (Insert current business phone number); and (vi) such other additional information as the commissioner may require by rule;

(4 6) if the licensee or any other person is engaged in the business of fingerprinting or providing fingerprinting services at the licensed premises, conspicuously display in each location of business, in a clearly visible place, a sign stating the following: "This Office Is Not An Authorized Government Agency. This Office Is Not A Part Of And Is Not Associated With The United States Department of Homeland Security Or Any Government Agency. Fingerprints Taken At This Location Will Not Be Accepted By The United States Department of Homeland Security For Any Purpose." Such sign shall be (i) in black print on a white background, in letters no smaller than 48-point typeface; and (ii) posted in the following languages: English, Spanish, Polish, Korean, Arabic, Hindi and Mandarin.

(Omitted text is unaffected by this ordinance)

(g) Prohibited acts. It shall be unlawful for any licensee engaged in the business of immigration assistance to:

(1) ~~in the course of dealing with customers or prospective customers,~~ (i) make any statement that the person can or will obtain special favors from or has special

influence with the United States Department of Homeland Security or any other government agency; (ii) retain any compensation for service not performed; (iii) refuse to return documents supplied by, prepared by, or paid for by ~~the customer~~ a person upon the request of the person ~~customer~~, even if there is a fee dispute between the immigration assistant and the person ~~customer~~; (iv) represent or to advertise, in connection with the provision of assistance in immigration matters, other titles or credentials, including, but not limited to, "notary public" or "immigration consultant," that could reasonably cause a ~~customer~~ person to believe that the person possesses any form of license, accreditation, or official authorization to provide advice on an immigration matter. Provided, however, that a notary public appointed by the Illinois Secretary of State may use the term "notary public" if such use is accompanied by the statement that the person is not an attorney; and (v) to give any legal advice concerning an immigration matter;

(Omitted text is unaffected by this ordinance)

(4) make any guarantee or promise to a ~~customer~~ person, unless there is a basis in fact for such guarantee or promise, and the guarantee or promise is in writing;

(5) represent that a fee may be charged, or to charge a fee, for the distribution, provision or submission of any official document or form issued or promulgated by a state or federal governmental entity, for the referral of the ~~customer~~ person to another person or entity that is qualified to provide services or assistance which the licensee will not provide;

(6) disclose any information to, or file any forms or documents with, immigration or other authorities without the knowledge or consent of the person ~~customer~~.

(Omitted text is unaffected by this ordinance)

SECTION 4. Chapter 4-44 of the Municipal Code of Chicago is hereby amended by adding new sections 4-44-032 and 4-44-035, by deleting the language struck through and by adding the language underscored, as follows:

4-44-010 Definitions.

As used in this chapter, unless the context indicates otherwise:

"Assisted direct deposit" means a mechanism or agreement through which a ~~consumer's~~ person's individual income tax refund is deposited in a bank account other than the person's ~~consumer's~~ bank account, and then the remaining portion of the refund, minus fees, is deposited in the ~~consumer's~~ person's own bank account.

~~"Commissioner" means the commissioner of the department of business affairs and consumer protection.~~

~~"Consumer" means a person for whom an individual income tax return is being prepared by a tax preparer.~~

~~"Department" means the department of business affairs and consumer protection.~~

"Refund anticipation check" means a check or other payment mechanism representing the proceeds of ~~the consumer's~~ a person's individual income tax refund which was issued by a depository institution or other person that received a direct deposit of ~~the consumer's~~ a person's

individual income tax refund and for which the ~~consumer~~ person must pay a fee or other consideration.

"Refund anticipation loan" means any loan a ~~consumer~~ person may receive against his anticipated individual income tax refund.

"Refund settlement product" means assisted direct deposit, a refund anticipation check, a refund anticipation loan, or other similar mechanism, agreement, or transaction that allows a ~~consumer~~ person to receive an advancement of money against an anticipated individual income tax refund from a person other than state or federal government, or allows another person to collect fees from the proceeds of ~~the consumer's~~ a person's individual income tax refund.

"Tax preparation services" means advice or assistance in the preparation of individual income tax returns.

(Omitted text is unaffected by this ordinance)

4-44-020 ~~Consumer bill~~ Bill of rights regarding tax preparation services.

The department shall produce a document in English and Spanish known as a "~~Consumer~~ Bill of Rights Regarding Tax Preparation Services". The document shall be written in plain language, published on the department's website, and shall contain the following information:

a) a detailed explanation of commonly offered tax preparation services;

b) a statement that a ~~consumer~~ person has the right to file a complaint with the department concerning a tax preparer;

c) information on how to file a complaint with the department concerning a tax preparer;

d) a statement that a ~~consumer~~ person has the right to receive all of the information listed in Section 4-44-030 of this chapter from the tax preparer before the tax preparer renders any tax preparation services to the person ~~consumer~~;

e) a statement that a tax preparer, who individually or in conjunction with another, makes or offers to make a refund anticipation loan is required to make certain disclosures pursuant to Section 10 of the Tax Refund Anticipation Loan Disclosure Act, 815 ILCS 177/10; and

f) a statement that a ~~consumer~~ person is not required to utilize a refund settlement product in order to receive tax preparation services from the tax preparer.

4-44-030 Mandatory disclosures.

(a) ~~Prior to rendering any tax preparation services~~ No taxpayer shall render any tax preparation services to ~~a consumer~~, or have any discussion with, a person about the person's individual tax returns until the taxpayer provides the person ~~a tax preparer must provide the consumer~~ with the following information, in writing

1. a copy of the ~~Consumer~~ Bill of Rights Regarding Tax Preparation Services, which the department shall make available on-line for the tax preparer to print and give to the person ~~consumer~~;

2. a Disclosure Form that contains the following information:

(A) a written list, description, and price of the tax preparation service offered by the tax preparer;

(B) a written list, description, and price of all miscellaneous fees associated with tax preparation services, including filing fees and processing fees;

(C) a statement that prior to rending any tax preparation services, the taxpayer shall provide the person ~~will be provided~~ with a written estimate of the total charge ~~to the consumer~~ based upon the tax preparation services ~~the consumer has~~ selected by the person in compliance with section 4-44-032 ~~to purchase~~;

(D) a written estimate of the period of time the ~~consumer~~ person can reasonably expect to wait for his tax refund; and

(E) a certification from the tax preparer indicating that the tax preparer has reviewed each disclosure with the ~~consumer~~ person and that the tax preparer has verbally reviewed all the required disclosures with the person ~~consumer~~.

(b) The Disclosure Form shall be approved annually by the department prior or to any tax preparation services being rendered to any person ~~consumer~~.

(c) The tax preparer must verbally review each and every disclosure contained on the Disclosure Form with the ~~consumer~~ person before the tax preparer renders any tax preparation services to the person ~~consumer~~. No tax preparation services shall be rendered to any person ~~consumer~~ until the tax preparer has reviewed the Disclosure Form with the ~~consumer~~ person and has certified to such review on the Disclosure Form.

(d) The tax preparer must offer the ~~consumer~~ person the choice between English and Spanish versions of the Disclosure Form and must verbally review each and every disclosure in English or Spanish as appropriate. If ~~the consumer~~ a person does not understand English or Spanish, the tax preparer must allow the ~~consumer~~ person an opportunity to secure the services of a translator prior to continuing with the tax preparation services.

4-44-032 Written estimate of total charges.

Prior to rendering any tax preparation services, a tax preparer shall provide a written estimate of the total charge a person will incur based upon the tax preparation services the person has selected to purchase.

No tax preparation services shall be rendered to any person until the tax preparer has reviewed the written estimate total charges with the person.

4-44-035 Postings of required information.

A tax preparer shall post the following information, in a form and format prescribed in rules, in a conspicuous location on the premises where the tax preparer renders any tax preparation services:

(a) the Bill of Rights regarding tax preparation services:

(b) a written description and price of the tax preparation services offered by the tax preparer; and

(c) a written description and price of all miscellaneous fees associated with the tax preparation services, including filing and processing fees.

The information shall be posted in English and Spanish.

4-44-040 Prohibited activity.

No tax preparer shall require as a condition of offering or rendering tax preparation services to a person ~~consumer~~ that ~~the consumer~~ the person utilize a refund settlement product.

SECTION 5. Section 9-104-080 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-104-080 License issuance, renewal.

(a) A chauffeur's license shall be issued for a two-year period; provided, however, the commissioner is authorized to issue initial chauffeur's licenses or renewals for less than a two-year period to establish a system for renewing chauffeur's licenses on a staggered basis in a manner that the commissioner determines by rule. The commissioner may renew a chauffeur's license upon application made upon a form furnished by the commissioner which shall state, in addition to any other information required by the commissioner, the full name and address of the applicant, the date upon which his original license was granted and the number thereof.

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 10-28-060 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

10-28-060 A produce stand on the public way pilot program.

(Omitted text is unaffected by this ordinance)

(m) This pilot program shall expire on ~~December 31, 2015~~ June 30, 2016. Sixty (60) days before the expiration of the pilot program, the commissioner, the commissioner of transportation, the commissioner of planning and development, and the commissioner of health shall evaluate the effectiveness of the pilot program and may recommend the continuation of the program with or without changes as may be adopted by ordinance.

SECTION 7. Section 5 of this ordinance shall take effect upon passage and approval, the remainder of this ordinance shall take effect 10 days after its passage and publication.