

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To authorize the Mayor to regulate vending in the District, to require vendors to vend only from designated locations, to grandfather existing vendors into designated vending locations, to authorize vending development zones within which alternative forms of regulation of vending may be tested, to authorize the Mayor to charge fees for licenses and other authorizations to vend from public space, to authorize the imposition of civil fines for the violation of this act or rules issued pursuant to this act, and to authorize the regulation of public markets; and to amend An act to authorize the Commissioners of the District of Columbia to make police regulations for the government of said District, the Fiscal Year 1997 Budget Support Act of 1996, Title 47 of the District of Columbia Official Code, and An Act Relating to the adulteration of feed and drugs in the District of Columbia to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Vending Regulation Act of 2009”.

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) “Fund” means the Vending Regulation Fund established by section 8(b).
- (2) “Public market” means a vending operation that takes place in an area of public space set aside and permitted on a regular basis for the sale of goods, merchandise, or services provided onsite, which vending operation includes a farmers market, flea market, or antique market.
- (3) “Vending locations” means the specific locations designated by the Mayor on sidewalks, roadways, and other public space at which a person may vend.
- (4) “Vending site permit” means a permit or other authorization issued by the Mayor for a vending location.

Sec. 3. Vending from public space.

(a) Except as set forth in subsection (b) of this section, a person shall not vend from a sidewalk, roadway, or other public space unless the person holds:

(1) A basic business license properly endorsed as provided in subsection (c) of this section;

(2) A vending site permit, or other authorization issued by the Mayor, setting forth the specific location on public space from which the person may vend; and

(3) Such other licenses, permits, and authorizations that the Mayor may require by rule.

(b) The Mayor may authorize the following persons to vend from public space without a basic business license or vending site permit:

(1) An employee or youth assistant of a licensed vendor;

(2) A person vending at a licensed special event; and

(3) A person vending at a public market that has been issued a valid permit by the Mayor.

(c)(1) An endorsement to vend food pursuant to this act shall be issued as a Food Establishments: Retail endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47 of the District of Columbia Official Code.

(2) An endorsement to vend merchandise or engage in street photography pursuant to this act shall be issued as a General Sales endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47 of the District of Columbia Official Code.

Sec. 4. Vending locations.

(a) The Mayor shall designate the specific vending locations on sidewalks, roadways, and other public spaces where a person may vend.

(b) A person shall not vend from a location on a sidewalk, roadway, or other public space other than a vending location designated by the Mayor unless the person is vending at a special event or public market that has been issued a valid license or permit by the Mayor; provided, that notwithstanding any other provision of this act, vending locations established pursuant to section 6(c-1)(3) of the Vending Regulation Temporary Act of 2008, effective June 5, 2008 (D.C. Law 17-172; 55 DCR 9144), and the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 631), shall remain designated vending locations unless:

(1) The space is to be used for a public purpose, including a roadway or public transportation needs, or to protect public safety; or

(2) The use of the real property in the immediate vicinity of the vending location changes and the Mayor determines, in his or her reasonable discretion, that the vending location is incompatible with such use.

(c) No more than 350 vending locations shall be established in Ward 2 at any time; provided, that vending locations on the National Mall shall not be included in this limitation.

(d) An authorization from the Mayor shall not be required for vending activities subject to section 105(h) of the First Amendment Rights and Police Standards Act of 2006, effective April 13, 2005 (D.C. Law 13-352; D.C. Official Code § 5-331.05(h)).

Sec. 5. Assignment of vending locations.

(a) A vendor shall not vend from a vending location without first obtaining a vending site permit from the Mayor.

(b) Vending locations shall be assigned by lotteries conducted by the Mayor, unless:

(1) The Mayor establishes an alternate means of assignment by rule;

(2) The vending location is located in a vending development zone, in which case the vending location may be assigned by lottery or such other means as may be established for the vending development zone; or

(3)(A) The vending location was permitted pursuant to the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 631), and was assigned to an existing, licensed vendor.

(B) A vending location identified in subparagraph (A) of this paragraph shall remain assigned to the existing, licensed vendor; provided, that the vendor's license status remains in effect and in good standing.

(c) Vendors who are licensed as of the effective date of this act and had been, at any time, assigned a vending location pursuant to section 6(c-1)(3) of the Vending Regulation Temporary Act of 2008, effective June 5, 2008 (D.C. Law 17-172; 55 DCR 5377), shall be given a preference in lotteries conducted by the Mayor for assigning those vending locations. The lotteries shall be conducted monthly or on an alternative schedule as determined by the Mayor.

(d) Notwithstanding any provision of this section, a vending site permit shall constitute a revocable license and a vendor shall not acquire a property interest in the vending site permit.

Sec. 6. Vending development zones.

The Mayor may establish vending development zones, upon application and after public notice, in which the Mayor may waive the regulatory provisions, such as the design standards, the standards for designation of vending locations, and the procedure for assigning vending locations, otherwise applicable to vendors; provided, that the Mayor shall establish, by rule, a procedure for reviewing applications for the establishment of a vending development zone.

Sec. 7. Public markets.

The Mayor may require the permitting of public markets on public space and may require the licensing of managers of public markets on public space and private space.

Sec. 8. Fees and funding.

(a) The Mayor may establish fees, by rule, for the application for, and issuance of, each license, permit, and authorization required under this act or the rules issued pursuant to this act. The Mayor may establish the fees based on the class of license, vending location, or other relevant factors.

(b)(1) There is established as a nonlapsing fund the Vending Regulation Fund, which shall be used solely for the purposes set forth in paragraph (4) of this subsection.

(2) The following shall be deposited into the Fund:

(A) Fees paid for the application for, and issuance or renewal of, a basic business license endorsed for vending;

(B) Fees paid for the application for, and issuance or renewal of, a vending site permit or other licenses, permits, or authorizations issued by the Mayor under this act;

(C) Funds authorized by an act of Congress, reprogramming, or intra-District transfer to be deposited into the Fund;

(D) Any other funds designated by law or rule to be deposited into the Fund; and

(E) Interest on funds deposited in the Fund.

(3) All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in paragraph (4) of this subsection, subject to authorization by Congress.

(4) Funds in the Fund may be used to pay the costs of administering this act, including costs associated with the application for, and issuance and renewal of, a basic business license as set forth in paragraph (2)(A) of this subsection, and the administration and enforcement of any rules issued under this act.

Sec. 9. Penalties.

The Mayor may establish civil penalties for the violation of this act and rules promulgated pursuant to this act, including the establishment of civil penalties pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

Sec. 10. Establishment of the Citywide Vending Task Force.

(a) Within 30 days after the effective date of this act, the Mayor shall create and convene the Citywide Vending Task Force (“Task Force”), consisting of representatives from the street vendor, small business, downtown business, and other affected communities, including District residents.

(b) The Task Force shall evaluate existing vending laws and rules to ensure maximum comprehensiveness, uniformity, and fairness for all stakeholders. Specifically, the Task Force

shall consider issues of grandfather clauses, insurance fees, lottery selection, and possible clarification of existing grounds of revocation of a vending license.

(c) Within 120 days after the effective date of this act, the Task Force shall conclude its work by presenting a report and recommendation to the Council on its specific findings, including a legislative recommendation on whether to establish a permanent vending commission.

Sec. 11. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement this act, including rules regulating the location, the design, and the maintenance of vendor carts, stands, vehicles, and other equipment, and rules requiring that persons vending from public space maintain insurance in such form and amount as may be required by the Mayor. The proposed rules shall be submitted to the Council for a 60-day period of review, excluding weekends, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 60-day review period, the proposed rules shall be deemed disapproved.

Sec. 12. Conforming amendments.

(a) Paragraph (3) of An act to authorize the Commissioners of the District of Columbia to make police regulations for the government of said District, approved January 26, 1887 (24 Stat. 368; D.C. Official Code § 1-303.01(3)), is repealed.

Amend § 1-303.01

(b) Section 602(2) of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.02(2)), is amended by striking the phrase “pursuant to paragraph 36 of section 7 of An Act Making appropriations for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (32 Stat. 627; D.C. Code § 47-2834)” and inserting the phrase “by the Mayor pursuant to the Vending Regulation Act of 2009 passed on 2nd reading on July 14, 2009 (Enrolled version of Bill 18-257),” in its place.

Amend § 10-1141.02

(c) Title 47 of the District of Columbia Official Code is amended as follows:

(1) Section 47-2002.01 is amended as follows:

(A) Subsection (a) is amended to read as follows:

Amend § 47-2002.01

“(a) For the purposes of this section, the term “street vendor” means a person licensed to vend from a sidewalk, roadway, or other public space under the Vending Regulation Act of 2009, passed on 2nd reading on July 2, 2009 (Enrolled version of Bill 18-257).”

(B) Subsection (b) is amended as follows:

(i) Paragraph (2) is amended by striking the phrase “Class A license, Class B license, Class C nonfood license, Class C food license, or any combination of these licenses” and inserting the phrase “license authorizing the vending of merchandise, food, or services from public space or from door to door, including a temporary license” in its place.

(ii) Paragraph (4) is repealed.

(2) Sections 47-2020(d) and 47-2834 are repealed.

(3) The table of contents for Chapter 28 of Title 47 of the District of Columbia Official Code is amended by striking the phrase “47-2834. Sales on streets or public places.” and inserting the phrase “47-2834. Sales on streets or public places. [Repealed]” in its place.

Amend
§ 47-2020
Repeal
§ 47-2834

(4) Section 47-2851.13(b) is amended to read as follows:

“(b)(1) Except as provided in paragraph (2) of this subsection, all fees collected for the issuance of a basic business license and endorsements, including renewals and fines, shall be deposited in the Fund. The entire cost of the basic business licensing system shall be paid from the Fund and no other appropriated funds may be used for that purpose.

Amend
§ 47-2851.13

“(2) Fees paid for the application for, and issuance or renewal of, a basic business license and endorsements to the basic business license for vending pursuant to section 3(c)(2) of the Vending Regulation Act of 2009, passed on 2nd reading on July 14, 2009 (Enrolled version of Bill 18-257), shall be deposited in the Vending Regulation Fund established by section 8(b) of the Vending Regulation Act of 2009, passed on 2nd reading on July 14, 2009 (Enrolled version of Bill 18-257).”

(d) Section 2(5)(A)(iii) of An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 246; D.C. Official Code § 48-102(5)(A)(iii)), is amended by striking the phrase “unless the vending locations are authorized by the Council pursuant to An act to authorize the Commissioners of the District of Columbia to make police regulations for the government of said District, approved January 26, 1887 (24 Stat. 368; D.C. Official Code § 1-303.01)” and inserting the phrase “unless the vending locations are licensed by the Mayor pursuant to the Vending Regulation Act of 2009, passed on 2nd reading on July 14, 2009 (Enrolled version of Bill 18-257)” in its place.

Sec. 13. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 14. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

ENROLLED ORIGINAL

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia