

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Muriel Bowser introduced the following bill, which was referred to the Committee on _____.

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.

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 on site, this could include, 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.

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Sec. 3. Vending from public space.

(a) Except as set forth in subsection (b) of this section, no person shall vend from a sidewalk, roadway, or other public space in the District of Columbia unless the person holds:

(1) A basic business license properly endorsed for sidewalk or roadway vending;

(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.

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) No person shall 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 the 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 5377), as amended, shall remain designated vending locations.

(c) No more than 350 vending locations may be established in Ward 2.

1 (d) No authorization from the Mayor is required for those vending activities subject
2 to D.C. Official Code § 5-331.05(h).

3 Sec. 5. Assignment of vending locations.

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

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

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

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

11 (3) The vending location was permitted pursuant to the District of Columbia
12 Department of Transportation and Department of Consumer and Regulatory Affairs Vending
13 Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective
14 March 8, 2007 (D.C. Law 16-252; 54 DCR 631) and was assigned to an existing, licensed
15 vendor. Such locations shall remain assigned to the licensed vendor; provided, that the vendor's
16 license status remains in effect and in good standing.

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

23 Sec. 6. Vending development zones.

24 The Mayor may establish vending development zones, upon application and after public
25 notice, in which the Mayor may waive the regulatory provisions, such as the design standards,

1 the standards for designation of vending locations, and the procedure for assigning vending
2 locations, otherwise applicable to vendors; provided, that that the Mayor shall establish, by rule,
3 a procedure for reviewing applications for the establishment of a vending development zone.

4 Sec. 7. Public markets.

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

7 Sec. 8. Fees and funding.

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

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

14 (2) Deposits into the Fund shall include:

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

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

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

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

24 (E) Interest on funds deposited in the Fund.

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

5 (4) Funds in the Fund may be used to pay the costs of administering this act,
6 including costs associated with the issuance of licenses and permits described in paragraphs
7 (2)(A) of this subsection and the administration and enforcement of any rules issued under this
8 act.

9 Sec. 9. Penalties.

10 The Mayor may establish civil penalties for the violation of this act and rules
11 promulgated pursuant to this act, including the establishment of civil penalties pursuant to the
12 Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October
13 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

14 Sec. 10. Conforming amendments.

15 (a) Paragraph (3) of An act to authorize the Commissioners of the District of
16 Columbia to make police regulations for the government of said District, approved January 26,
17 1887 (24 Stat. 368; D.C. Official Code § 1-303.01(3)), is repealed.

18 (b) Section 2(5)(A)(iii) of An Act Relating to the adulteration of foods and drugs in
19 the District of Columbia, approved February 17, 1898 (30 Stat. 246; D.C. Official Code § 48-
20 102(5)(A)(iii)), is amended by striking the phrase “unless the vending locations are authorized by
21 the Council pursuant to An act to authorize the Commissioners of the District of Columbia to
22 make police regulations for the government of said District, approved January 26, 1887 (24 Stat.
23 368; D.C. Official Code § 1-303.01)” and inserting the phrase “unless the vending locations are
24 licensed by the Mayor pursuant to the Vending Regulation Act of 2009” in its place.

1 (c) Section 602(2) of the Fiscal Year 1997 Budget Support Act of 1996, effective
2 April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.02(2)), is amended by striking
3 the phrase “pursuant to paragraph 36 of section 7 of An Act Making appropriations for the fiscal
4 year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1,
5 1902 (32 Stat. 627; D.C. Code § 47-2834)” and inserting the phrase “issued by the Mayor
6 pursuant to the Vending Regulation Act of 2009” in its place.

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

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

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

10 “(a) For the purposes of this section, the term “street vendor” means a person licensed to
11 vend from a sidewalk, roadway, or other public space under the Vending Regulation Act of
12 2009.”.

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

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

18 (ii) Paragraph (4) is repealed.

19 Sec. 11. Repeal.

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

21 (b) The table of contents for Chapter 28 of Title 47 of the District of
22 Columbia Official Code is amended by striking the phrase “47-2834. Sales on streets or public
23 places.” and inserting the phrase “47-2834. Repealed.”

24 Sec. 12. Rulemaking.

1 The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act,
2 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules
3 to implement this act, including rules regulating the design and maintenance of vendor carts,
4 stands, vehicles, and other equipment and rules requiring that persons vending from public space
5 maintain insurance in such form and amount as may be required by the Mayor. The proposed
6 rules shall be submitted to the Council for a 30-day period of review, excluding weekends,
7 holidays, and days of Council recess; provided, that rules regarding fees may be submitted
8 separately. If the Council does not approve or disapprove the proposed rules, by resolution,
9 within the 30-day review period, the proposed rules shall be deemed disapproved.

10 Sec. 13. Fiscal impact statement.

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

14 Sec. 14. Effective date.

15 This act shall take effect following approval by the Mayor (or in the event of veto by the
16 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
17 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved
18 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the
19 District of Columbia Register.