



City of Chicago



O2013-9185

Office of the City Clerk

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Meeting Date: 11/26/2013

Sponsor(s): Emanuel (Mayor)
Thompson (16)
Mitts (37)

Type: Ordinance

Title: Amendment of Chapter 4-64 of Municipal Code by adding new Section 4-64-098 regarding flavored tobacco products and amending Section 4-64-180 (a) No person shall sell tobacco products or accessories within 100 feet of any building, school or child care facility; (b) No person shall sell tobacco products at any location within 500 feet of public, private or parochial elementary school or secondary school

Committee(s) Assignment: Joint Committee: Finance; Health and Environmental Protection



JT. HEALTH +
FINANCE

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

November 26, 2013

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Public Health and the Commissioner of Business Affairs and Consumer Protection, I transmit herewith, together with Alderman Thompson and Alderman Mitts, an ordinance amending various provisions of the Municipal Code regarding flavored tobacco products.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor



ORDINANCE

WHEREAS, The City of Chicago is a home rule unit of government under Article VII, Section 6 (a) of the Illinois Constitution; and

WHEREAS, Pursuant to its home rule authority, the City may exercise any power and perform any function pertaining to its government and affairs, including promoting the public health; and

WHEREAS, To this end, the City's "Healthy Chicago" agenda seeks to reduce smoking among adults and youth; and

WHEREAS, Tobacco use is the single most preventable cause of disease and death in Chicago and the United States; and

WHEREAS, Tobacco use kills more people than murders, suicide, illegal drugs, alcohol, AIDS, and car crashes combined; and

WHEREAS, A disproportionate number of these deaths occur in minority communities; and

WHEREAS, For each tobacco-related death, another 20 people struggle with one or more serious tobacco-related illnesses, including lung, oral, and pharyngeal cancer, heart disease, and lung diseases such as emphysema and bronchitis; and

WHEREAS, Lifetime smoking and other tobacco use almost always begins before children graduate from high school; and

WHEREAS, According to the Surgeon General of the United States, approximately 90% of adult smokers started by age 18 and almost no one begins smoking after age 21; and

WHEREAS, The connection between children and tobacco is so strong that the United States Food and Drug Administration (FDA) has declared that smoking is "fundamentally a pediatric disease;" and

WHEREAS, In 2009, after the FDA removed candy-flavored cigarettes from the market, the tobacco industry immediately created candy-and fruit-flavored cigarillos and cigars; and

WHEREAS, White Owl blunts and cigarillos come in a variety of flavors including grape, strawberry, wild apple, pineapple, peach, and watermelon; and

WHEREAS, Phillies Sugarillo Cigarillos are advertised with the tagline "When sweet isn't enough;" and

WHEREAS, Swisher Sweets come in kid-friendly flavors like peach, strawberry, tropical fusion, chocolate, grape, and blueberry; and

WHEREAS, With colorful packaging and sweet flavors, these products are often hard to distinguish from the candy displays that they are frequently placed near the cash register in retail outlets; and

WHEREAS, Flavored tobacco products are often sold individually or in two-packs, increasing their affordability and appeal to children; and

WHEREAS, These dangerous and addictive products often cost less than a candy bar or an ice cream cone – at less than \$1.00 each, some flavored cigars are affordable to even the youngest customers and are an impulse purchase for many consumers; and

WHEREAS, Like traditional tobacco products, electronic smoking devices, such as e-cigarettes, come in numerous flavors, such as gummy bear, cotton candy, bubble gum, Atomic Fireball, cherry cola, cherry limeade, caramel candy, and orange cream soda; and

WHEREAS, Progress in reducing use of tobacco products among youth is beginning to plateau; and

WHEREAS, Research shows menthol-flavored cigarettes in particular have slowed efforts to reduce youth smoking; and

WHEREAS, There is evidence of the continued advertisement of menthol-flavored products to youth, especially in minority communities; and

WHEREAS, Children aged 12-17 smoke menthol-flavored products more than any other age group; and

WHEREAS, Use of menthol-flavored cigarettes is prevalent among child smokers in the Black (72%), Asian (51%), Hispanic (47%), and white (41%) communities; as well as among young lesbian/gay/bisexual/transgender (LGBT) smokers (71%); and

WHEREAS, The FDA has confirmed that menthol cigarettes are more addictive and harder to quit than unflavored cigarettes; and

WHEREAS, The anesthetic cooling effect of menthol facilitates initiation and early persistence of smoking by youth; and

WHEREAS, Through suppression of respiratory irritation, menthol may facilitate smoke inhalation and promote nicotine addiction and smoking-related morbidities; and

WHEREAS, Researchers at the Harvard School of Public Health have found that the tobacco industry employs “a deliberate strategy to recruit and addict young smokers by adjusting menthol to create a milder experience for the first-time smoker;” and

WHEREAS, Menthol may also inhibit the metabolism of nicotine, resulting in higher rates of addiction; and

WHEREAS, Tobacco retail density around schools has been shown to have a significant impact on the prevalence of youth experimental tobacco use; and

WHEREAS, After controlling for census tract-derived school neighborhood characteristics, Novak & Associates found the density of tobacco retailers in the Chicago area correlated with students' reported tobacco use; and

WHEREAS, A recent study reveals that the tobacco industry engages in predatory targeting of African American youth by increasing promotions for Newport cigarettes by as much as 42% in areas surrounding high schools with predominantly African American students; and

WHEREAS, This research also reveals that the industry lowers their prices for menthol-flavored cigarettes near schools where African American students attend; and

WHEREAS, Because the risk of moving from experimental smoking to habitual smoking is greatest for adolescents, new policies are needed to reduce both the availability of cigarettes and the visibility of cigarette ads in adolescents' environments; and

WHEREAS, Health experts recommend that local governments use zoning and licensing laws to limit tobacco retail density, including limiting the proximity of tobacco outlets near schools; and

WHEREAS, After thoroughly researching the issue, the City of Chicago has concluded that prohibiting the sale of flavored tobacco products within 500 feet of schools is the least-burdensome effective tactic to combat the serious problem of youth tobacco use; now, therefore

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

SECTION 1. Chapter 4-64 of the Municipal Code of Chicago is hereby amended by inserting a new section 4-64-098, as follows:

4-64-098 Flavored tobacco product defined.

As used in this chapter:

"Flavored tobacco product" means any tobacco product that contains a constituent that imparts a characterizing flavor. As used in this definition, the term "characterizing flavor" means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product, including, but not limited to, tastes or aromas of menthol, mint, wintergreen, chocolate, vanilla, honey, cocoa, any candy, any dessert, any alcoholic beverage, any fruit, any herb, and any spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate such statements, that a tobacco product has or produces a characterizing flavor shall establish that the tobacco product is a flavored tobacco product.

SECTION 2. Section 4-64-180 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-64-180 Prohibited locations.

(a) No person shall sell, give away, barter, exchange, or otherwise deal in tobacco products, tobacco product samples, or tobacco accessories at any place located within 100 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.

(b) No person shall sell, give away, barter, exchange, or otherwise deal in flavored tobacco products, samples of such products, or accessories for such products at any location that has a property line within 500 feet of the property line of any public, private, or parochial elementary, middle, or secondary school located in the City of Chicago. This subsection does not apply to retail tobacco

stores. For purposes of this subsection, "retail tobacco store" has the meaning ascribed to the term in Section 7-32-010.

(c) The commissioner of business affairs and consumer protection and the commissioner of health are each authorized to promulgate any rules necessary to enforce this section.

SECTION 3. This ordinance shall take effect six months after passage and approval.

