

520 CMR: DEPARTMENT OF PUBLIC SAFETY

520 CMR 15.00: PERMITTING OF ICE CREAM TRUCK VENDORS

Section

15.01: Authority, Purpose and Scope

15.02: Definitions

15.03: Permitting Requirements; Conspicuous Posting

15.04: Uniform Permit Applications and Permit Forms

15.05: Issuance of Permits; Renewals; Investigation by Permitting Authority into Criminal History of Applicant

15.06: Assessment of Fines; Hearings

15.01: Authority, Purpose, and Scope

(1) Purpose and Scope.

(a) 520 CMR 15.00 is promulgated by the Department of Public Safety pursuant to authority granted by M.G.L. c. 270, § 25(a).

(b) The purpose of 520 CMR 15.00 is to establish uniform standards and requirements for the issuance of permits to engage in ice cream truck vending.

(2) Applicability Provision. 520 CMR 15.00 shall apply to any person who engages in ice Cream truck vending as defined by 520 CMR 15.02: *Definitions*: Ice Cream Truck Vendor/Operator and M.G.L. c. 270, § 25(a).

15.02: Definitions

Department, the Department of Public Safety.

Ice Cream, any frozen dairy or frozen water-based food product.

Ice Cream Truck, any motor vehicle used for selling, displaying or offering to sell ice cream.

Ice Cream Truck Vending, the selling, displaying or offering to sell ice cream or any other prepackaged food product from an ice cream truck.

Ice Cream Truck Vendor/Operator, any person who owns, sells, displays, or offers to sell ice cream from an ice cream truck or any person who drives or operates such a vehicle.

Permitting Authority, the chief of police or the board or officer having control of the police in a city or town, or person authorized by them.

15.03: Permitting Requirements; Conspicuous Posting

(1) No person shall engage in ice cream truck vending, as defined in 520 CMR 15.02: *Definitions: Ice Cream Truck Vending*, unless the applicant has been issued a valid permit to do so by the Permitting Authority within the municipality where the permit applicant lives or intends to operate an ice cream truck. A permit issued by the Permitting Authority within the municipality where the permit applicant lives shall be valid in all municipalities throughout the Commonwealth. A permit must be issued for every person who intends to engage in ice cream truck vending.

(2) All permits issued pursuant to 520 CMR 15.00 shall be conspicuously displayed and clearly visible on the windshield of any ice cream truck operated or from which ice cream or any other prepackaged food product is sold.

#### 15.04: Uniform Permit Applications and Permit Forms

When issuing permits pursuant to 520 CMR 15.00, all Permitting Authorities must utilize the uniform application and permit form approved by the Department. The uniform permit shall include a current photograph of the applicant.

520 CMR: DEPARTMENT OF PUBLIC SAFETY

15.05: Issuance of Permits; Renewals; Investigation by Permitting Authority into Criminal History of Applicant

(1) Issuance. In order to obtain a permit, the following information shall be submitted to the Permitting Authority:

- (a) Completed application on the uniform application form approved by the Department;
- (b) A copy of applicant's fingerprints; and
- (c) Two current photographs of the applicant.

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(2) Renewals. The initial permit shall expire on January 1 and will expire annually thereafter. In order to renew a permit, the applicant shall submit the following to the Permitting Authority:

- (a) Completed application on the uniform application for renewal form approved by the Department;
- (b) A copy of applicant's fingerprints; and
- (c) Two current photographs of the applicant.

The applicant shall submit a fee required by the Permitting Authority for conducting the requisite criminal background check pursuant to 520 CMR 15.05(1)(b) and (2)(b).

(3) Investigation by Permitting Authority into Criminal History of Applicant. Upon receipt of the permit application or application for renewal, the Permitting Authority shall conduct an investigation into the criminal history of a permit applicant to determine eligibility.

(a) The investigation shall include performing a state and national criminal history records check as authorized by M.G.L. c. 6, § 172B½.

(b) A Permitting Authority may charge an appropriate fee for the investigation pursuant to M.G.L. c. 6, § 172B½.

(4) As part of this investigation, the Permitting Authority shall ensure that the identity of the new/renewal applicant is true and accurate and in the case of a renewal, that the applicant is linked to the original Permit number.

(5) In no case, however, shall a Permitting Authority issue a permit to any person who is a sex offender as defined by M.G.L. c. 6, § 178C.

(6) Any permit issued under 520 CMR 15.05 shall be the uniform Permit approved by the Department.

15.06: Assessment of Fines; Hearings

(1) The Permitting Authority may assess an administrative fine of \$500.00 against any person who violates 520 CMR 15.03(1) and (2).

(2) Each day that such person is in operation in violation of 520 CMR 15.03(1) and (2) may be considered a separate violation.

(3) The Permitting Authority shall send written notice of alleged violation(s) and intent to impose administrative fines to the person. The notice shall specify:

(a) The specific condition(s) which constitute the violation;

(b) The provision(s) of the regulation which are alleged to have been violated;

(c) The amount that is to be assessed for each alleged violation; and

(d) The procedure for requesting an administrative hearing.

(4) Hearings. Written requests for a hearing must be filed with the Permitting Authority within ten calendar days of receipt of the notice of violation issued pursuant to 520 CMR 15.06(3)(d).

(5) The failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing and warrant imposition of the fine set forth in the notice.

#### REGULATORY AUTHORITY

520 CMR 15.00; M.G.L c. 270, § 25(a).

2/15/13 520 CMR - 126

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