



Comments Received by the Department of
Consumer and Worker Protection on
Proposed Rules related to Specialized Vending License

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From: [ZHEN ZHAO](#)
To: [rulecomments \(DCWP\)](#)
Subject: [EXTERNAL] Maps for general vendor
Date: Thursday, November 21, 2024 11:22:54 AM

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Good morning,

I want to ask if you have the maps for which location we can do our business? And which location that we can not stay.

Best wishes
Zhen Zhao

From: [OBA GRILL](#)
To: [rulecomments \(DCWP\)](#)
Subject: [EXTERNAL] Meeting ID: 289 503 447 68
Date: Thursday, November 21, 2024 10:41:12 AM

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Comments'

Hello everyone, first I would like to thank everyone who helped prepare this meeting. Since we have only 3 minutes to talk, I want to get straight to the point. My name is Ferah and I'm a business owner representing my partners for the restaurant named Oba Grill located at 7035 Austin Street Forest Hills NY. We are located half a block away from a food truck that nested and sells the same food as our restaurant. This food truck operates without paying any rent, taxes, insurance, employee salaries, employee taxes, electric gas money and all other expenses.

On the other hand, we are trying to make ends meet paying \$25,000 rent per month with all expenses and trying to keep our business open.

As you know we suffered significant loss during the pandemic. Now we have been further impacted by the unfair competition from the food truck over the past year. In the last 6 months alone we lost five employees due to the loss of customers and businesses caused by the food truck.

We have applied for help from all city organizations Health dept, sanitation dept, consumer affairs, department of transportation and to the forest hills chamber of commerce but unfortunately each time we received only a case number, and we said that help will be provided but the result is disappointment and sadness. This food trunk is still operating as of today and daily loss for our business continues, I apologize saying that, but I am not very hopeful about this meeting either, but I would love to be surprised and hopefully this time we receive support and help from all of you to solve this painful situation. Thank you very much.

Ferah Gulmez

From: [Jinkyu Han](#)
To: [rulecomments \(DCWP\)](#)
Subject: [EXTERNAL] Comments on the proposed rule for Specialized vending license.
Date: Wednesday, November 20, 2024 8:31:30 PM

You don't often get email from jinkh83@gmail.com. [Learn why this is important](#)

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Good evening,

This is Jinkyu Han and I'd like to comment on the proposed specialized vending license rule. As a Veteran, I wish we could hire someone so we do not have to be at the workplace. The NYC inflation is so high I need a second job to make a living. Please allow us to operate with you and be present.

Thank you.

Online comments: 4

- **Wajid Shah**

I submit this comment in opposition to the proposed rule that seeks to amend the regulations governing specialized vending licenses in New York City. While the intention behind the rule may be to streamline and expand vending opportunities for veterans, this proposal raises significant legal issues and is inconsistent with New York State General Business Law (GBL) Section 35-A. Specifically, the proposed rule introduces a problematic merging of distinct license categories, imposes an arbitrary restriction on the number of licenses a veteran can hold, and fails to establish a new priority system as required by state law.

1. Merging Two Distinct Licensing Systems Governed by Different Entities

One of the most troubling aspects of the proposed rule is its attempt to merge two separate and distinct licensing regimes—general vending and food vending—into a single specialized vending license. In New York City, general vending is governed by the Department of Consumer and Worker Protection (DCWP), while food vending is regulated by the Department of Health and Mental Hygiene (DOHMH). Each agency operates under its own rules, requirements, and processes, and each license serves different business operations: general vendors sell merchandise, while food vendors operate mobile food units.

The proposed rule would allow holders of DOHMH-issued mobile food vending licenses to apply for a specialized vending license typically governed by DCWP. This approach bypasses the clear distinction between general and food vending licenses established under New York law, particularly New York State General Business Law Section 35-A(2), which states that the official responsible by local ordinance for issuing vending licenses must issue such licenses based on the date of application.

Merging these two distinct categories of vending operations without creating a separate specialized vending system for food vendors introduces significant legal and administrative inconsistencies. It effectively forces food vendors into a licensing framework that was designed for general merchandise vending. This proposed rule neither respects the different operational requirements of these two categories of vendors nor aligns with the statutory scheme outlined in GBL 35-A.

2. Violation of the Priority System Required by GBL 35-A(2)

GBL Section 35-A(2) is explicit in stating that specialized vending licenses must be issued based on a priority system, which is determined by the date of the veteran's application. The law was designed to ensure that veterans who applied earlier would receive their licenses first, establishing a fair and transparent system that prioritizes veterans' access to vending opportunities based on when they applied.

The proposed rule fails to address how merging the two separate licensing systems will ensure compliance with the priority system mandated by GBL 35-A. By including mobile food vendors in the specialized vending system, the rule could effectively distort the existing priority system, as food vendors have not previously been part of the process for obtaining specialized vending licenses. Veterans who applied for general vending licenses years ago may now find themselves competing against food vendors who never participated in the original application process, thereby undermining the state law's intent to prioritize veterans based on their original application dates.

Furthermore, the rule does not create a mechanism to ensure that new priority numbers will be issued to those food vendors entering the specialized vending system for the first time. As GBL 35-A requires that licenses be issued in sequential order based on the date of application, the failure to assign brand-new priority numbers to food

vendors as they enter the system creates a legal issue. By attempting to merge these two categories into one specialized vending license without assigning new priority numbers to food vendors, the city is effectively violating the clear language of GBL 35-A(2), which demands a transparent, date-based priority system.

3. No Provision for a New Priority Number for Merged Licenses

Another critical flaw in the proposed rule is that it does not provide food vendors who are newly entering the specialized vending system with a new, distinct priority number. GBL 35-A(2) mandates that the official responsible for issuing specialized vending licenses must do so based on the date of the application. Veterans who hold general vendor licenses have been participating in this priority system for years, with their ranks determined based on when they applied.

However, this proposed rule offers no clarity on how the priority system will be handled for food vendors who are newly eligible for specialized licenses under DOHMH. Will these food vendors receive a retroactive priority number based on the date they first obtained their mobile food vendor license from DOHMH, or will they be issued a new priority number based on the date they apply for a specialized license under DCWP? The rule remains silent on this critical point, which raises concerns about the fairness of integrating food vendors into a system that was designed specifically for general vendors.

Moreover, by not establishing a mechanism for assigning new priority numbers, the rule effectively disregards the established process outlined in GBL 35-A(2). This creates the risk that veterans who have been waiting for their specialized vending licenses based on their priority ranking will now be forced to compete with food vendors who are suddenly eligible without any formal priority system to govern their entry into the specialized vending license pool.

4. Arbitrary Restriction on the Number of Specialized Vending Licenses

The proposed rule also introduces an arbitrary and unauthorized restriction that limits veterans to holding only one specialized vending license. As outlined in GBL Section 35-A(1)(a), the designated official in cities with populations over one million “shall issue” specialized vending licenses to qualified veterans. The state law does not impose a limit on the number of licenses a veteran may hold, nor does it grant the city the authority to do so.

By capping the number of licenses a veteran may hold at one, the proposed rule conflicts with the mandatory issuance requirement in GBL 35-A(1)(a). The state law was designed to ensure that veterans have broad access to vending opportunities, and there is no statutory basis for the city’s decision to impose this restriction. This limitation effectively infringes upon the rights granted to veterans under state law and denies them the opportunity to expand their business operations, which could be vital for their economic stability and growth.

Conclusion: The Proposed Rule is Legally Flawed

In conclusion, the proposed rule is inconsistent with New York State General Business Law Section 35-A, particularly in the following respects:

The rule merges two distinct vending systems (general and food vending) governed by separate entities (DCWP and DOHMH), without providing a separate specialized vending license system for food vendors, which bypasses the requirements of GBL 35-A(2).

The rule fails to establish a new priority system for food vendors entering the specialized vending system, thereby undermining the date-based priority system mandated by state law.

The limitation on veterans holding only one specialized vending license is an unauthorized restriction that conflicts with the “shall issue” requirement in GBL 35-A(1)(a).

The rule does not address the issue of assigning new priority numbers to food vendors, creating a legal and administrative discrepancy in

how licenses are distributed.

For these reasons, I urge DCWP to reconsider the proposed rule and ensure that any amendments to the specialized vending license system are fully compliant with New York State General Business Law Section 35-A, and do not introduce unnecessary restrictions or conflicts with the established legal framework.

Comment added October 27, 2024 1:49pm

- **Armando Crescenzi**

The DCWP and the Department of Health have no authority to amend the the promulgations in 2-315, to include veterans food vendors.

There is no reason to extend these prohibitions of 35a onto service-disabled veterans. It was illegal when they did it in 2011 and its even more sinister now. The amendment is null and void and unenforceable because it conflicts with NYS GBL35.

This is a time to correct a huge mistake. Instead, the city wants to perpetuate this fraud.

Comment added October 29, 2024 8:13am

- **Armando A Crescenzi**

1. The rule change only effects disabled-veterans who want to vend food. Thus, there is no need to change any rules. Disabled veterans who hold Mobile Food Vending Unit permits are already authorized to vend on all streets that are not listed in subdivision 7 of GBL 35a.

2. The city council is not authorized by The City Charter to strip away vending rights bestowed on disabled-veterans by NY State Legislature.

There initial statement is erroneous. And there is no real purpose stated.

Under the Preemption Doctrine any local law that conflicts with a State Law is null and void and unenforceable.

From its inception, 24 RCNY 6-13 enacted in 2011, always violated the Preemption Doctrine.

Any new legislation must include repealing this city regulation that creates excessive restriction on disabled veterans food vendors. Abridging the state vending rights of veterans is illegal and the local regulation 24 RCNY 6-13 must be found unenforceable.

Additionally, it discriminates only against disabled veterans. Presently there are 3,100 mobile food vendors are authorized to vend in midtown. Only 105 disabled veteran mobile food vendors allowed to work in midtown.

Any new legislation must first address these long-standing illogical regulations that basically penalize veterans for their service and sacrifice.

NYS GBL 35-a is arbitrary and capricious and NYS legislature is obligated to repeal it. The only vendors in the entire city bound by these prohibitions are disabled veteran vendors. Meanwhile 23,000 illegal vendors have overrun the streets.

There is nearly no enforcement except for time and place restrictions on veterans for whom the state created an exemption.

Bicycle racks, restaurant dinning sheds, endless bustops, sidewalk furniture and new sprawling sidewalk configurations – there is no logical reason to restrict the couple of hundred disabled veterans from vending.

Repeal GBL 35-a and any city regulations that force veterans to adhere to it.

Thank you,

Armando Crescenzi

Comment added November 19, 2024 8:25pm

- **Armando Crescenzi**

I attended the November 21, 2024 hearing regarding the propped rule change. This proposed rule change makes no logical sense. There

is no clear basis and purpose despite the certification by corporation counsel. The change will absolutely conflict with local regulations and NY State statutes as well and it is not narrowly draw to achieve any legitimate purpose.

Comment added November 21, 2024 1:44pm