

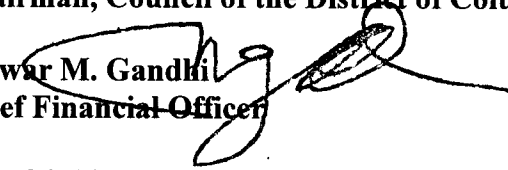
**Government of the District of Columbia
Office of the Chief Financial Officer**



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: June 24, 2009

SUBJECT: Fiscal Impact Statement – “Vending Regulation Act of 2009”

REFERENCE: Bill Number 18-257 – As Introduced

Conclusion

Funds are sufficient in the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The proposed legislation is not anticipated to have a fiscal effect on the District’s budget and financial plan.

Background

The proposed legislation would amend the District of Columbia Official Code by repealing existing vending legislation (§ 1-303.01(3) and § 47-2834) and authorizing the Mayor to regulate vending in the District of Columbia.

Until 1998, vending in the District of Columbia was a first-come, first-served industry, whereby the District had no systematic means of collecting taxes and other fees, and no means of preventing the sale of stolen or counterfeited goods. In 1998, the Council imposed a moratorium¹ on new licenses for vending and required the Department of Consumer and Regulatory Affairs (DCRA), the District’s oversight agency for vending activities, to undertake a study of necessary changes to regulate vending. DCRA’s report of the vending best practices recommended a fundamental shift in the administration of vending, which included assignment of a specified vending site for each vendor. This system would prevent daily fighting over locations and provide the District with a means to track locations for enforcement purposes.

¹ Establishment of Council Contract Review Criteria, Alley Closing, Budget Support, and Omnibus Regulatory Reform Amendment Act of 1998,” effective April 27, 1999 (D.C. Law 12-265).

Under this system, the Department of Transportation (DDOT), with its expertise in mapping and public space use, would take responsibility for identifying potential vending locations, and DCRA would focus on distributing the vending licenses and permits.

The vending license moratorium ended on October 15, 2006². In December of 2006, emergency and temporary legislation³ granted DCRA and DDOT the authority to implement the new vending program and determine all vending site locations. DCRA was selected as the coordinating agency and was authorized to distribute public space permits authorized by DDOT. The emergency and temporary bills further established that in order to vend in public space, a vendor would be required to have both a vending license and a public space occupancy permit. These bills also authorized the Director of DDOT, with the approval of the Director of DCRA, to develop "design standards for vending stands, food carts, and roadway vehicles." In March 2008, and again in January 2009 the Council passed new emergency and temporary bills⁴ to maintain the authority necessary to continue the new vending program. The latest, Vending Regulation Temporary Act of 2009⁵, will expire in December 2009.

The proposed legislation would make permanent the temporary measures currently in place.⁶

Financial Plan Impact

Funds are sufficient in the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation.

The establishment and implementation of a vending site permit program as well as the Vending Development Zones are currently in effect through the Vending Regulation Temporary Act of 2009. License fee renewals are currently in a two year cycle. In 2008, there were 725 applications for license renewal and \$255,708 in revenues were generated from application fees, endorsement, and license fees. In 2009, 741 vendors were approved for vending license on

² Vending Licensing Moratorium Amendment Act of 2005, effective March 8, 2006 (D.C. Law 16-72).

³ Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Emergency Amendment Act of 2006, enacted December 19, 2006 (Bill 16-1015) and 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).

⁴ Vending Regulation Emergency Act of 2008, enacted March 19, 2008 (Bill 17-652) and Vending Regulation Temporary Act of 2008, effective June 5, 2008 (D.C. Law 17-172).

⁵ D.C. Law 18-4, enacted on February 23, 2009, will expire on December 11, 2009.

⁶ Specifically, the legislation would require vendors to hold a "vending site permit" in addition to the basic business license properly endorsed for vending that current law requires, allow for vending locations to be assigned by lottery or other means as determined by the Mayor, allow for the creation of Vending Development Zones by the Mayor, and authorize the Mayor to waive the regulatory provisions that would otherwise apply to vendors. It would also authorize the Mayor to require permitting of public markets on public space as well as the licensure of public market managers, and establish fees for the application for and issuance of each license, permit and authorization required by the proposed legislation. The fees paid for the application, issuance and renewal of permits would be deposited into the Vending Regulation Fund ("Fund"), a non-lapsing, unrestricted fund dedicated to paying the costs of administering and enforcing the vending laws and regulations of the District of Columbia. Finally, under the proposed legislation, the number of vending locations in Ward 2 would be limited to 350. These provisions were also a part of the temporary and emergency measures that have been in place since 2006.

inauguration day, with a license fee of \$225. Additionally, a public space fee of \$100 was collected from 649 vendors and \$70 was collected from 1,277 vendor helpers, for total revenue of \$321,015.

The establishment and use of a dedicated, non-lapsing Fund for the deposit of all related fees would have no impact on the General Fund, as current basic business license fees for the existing vending program are deposited into a similar O-type fund, the Basic Business License Fund, and current expenses for the program draw on this fund. The proposed legislation would turn the currently temporary Vending Regulation Fund within the General Fund into a permanent fund, and have no fiscal impact on the proposed FY 2010 through FY 2013 budget and financial plan.