



Jonathan Mintz
Commissioner

42 Broadway
8th Floor
New York, NY 10004

nyc.gov/consumers

July 13, 2012

Re: [REDACTED] LLC

Dear Mr. [REDACTED]

I write in response to your inquiry concerning [REDACTED] and his company, [REDACTED]. According to your letter, Mr. [REDACTED] has received from the Bronx County Clerk a State of New York Veteran's License to Hawk, Peddle and Vend Merchandise, dated October 18, 2005, as an honorably discharged veteran. Through [REDACTED] he offers an electronic device storage service to high school students. [REDACTED] stores the students' mobile electronic device in a truck located near a public school, charging the students \$1.00 a day for the service. [REDACTED] has put five such trucks into operation.

Your letter states that Mr. [REDACTED] would like to expand his business by providing the short-term storage service at multiple locations. Observing that it would be impossible to obtain general vendor licenses for each individual truck and prohibitively expensive to hire multiple licensed employees to provide the storage service, you ask whether [REDACTED] can operate multiple trucks under the umbrella of Mr. [REDACTED] license and register the trucks and their locations with the Department of Consumer Affairs. For several reasons, Mr. [REDACTED] may not provide the service you have described consistent with the New York City Administrative Code.

Section 20-453 of the Code makes it "unlawful for any individual to act as a general vendor without first having obtained a license in accordance with the provisions of the [Code]." Section 20-452(h) defines the term "vend" to mean "to hawk, peddle, sell, lease, offer to sell or lease, at retail, **goods or services** other than food in a public space." Accordingly, a general vendor license is required to provide the mobile device storage service in a public space. However, as explained in the interpretation letter annexed as Appendix A, Section 20-452(o) of the Code provides that "[n]o general vendor shall sell or offer for sale any item directly from any parked . . . motor vehicle."



Accordingly, Mr. [REDACTED] requires a general vendor license to provide mobile storage service in a public place, but may not provide that service from a parked truck.

Other provisions of the Code prohibit a licensed general vendor from providing such service at multiple locations simultaneously. Section 20-461(a) requires each general vendor to “carry his or her license on his or person,” and Section 20-461(b) provides that “a general vendor’s license shall contain his or her name, his or her license number, and a non-removable photograph of the licensee” and “shall be worn conspicuously by him or her at all times while he or she is operating as a general vendor.” As explained in the Department’s interpretation letter annexed as Appendix B, the Department has concluded that these provisions evince the City Council’s intention to limit issuance of a general vendor license to a natural person and not to a business entity such as Pure Loyalty, LLC.

In addition, Section 20-464(d) provides that a general vendor shall “[n]ot sell, lend, lease or in any manner transfer his or her license or any interest therein unless prior approval of the commissioner has been obtained.” The Department has issued several letters, annexed as Appendix C, interpreting that provision of the Code to permit a general vendor to employ an assistant provided that the assistant is restricted to (1) setting up and removing displays, (2) watching a stand during brief absences of the licensed vendor (provided that displayed goods are covered up and the assistant engages in no selling activity), and (3) placing merchandise in bags after the licensed vendor has completed the sale. The employee cannot be involved in vending or in accepting money from consumers. Consequently, the Code does not authorize Mr. [REDACTED] to employ a person not licensed as a general vendor to provide mobile device storage service under Mr. [REDACTED] license.

Please be advised that the Department has no record that Mr. [REDACTED] has applied for or received a general vendor license issued by the Department. Although Mr. [REDACTED] may have a currently valid State of New York license to vend issued under Section 32 of the New York General Business Law, Section 32(8) of the General Business Law authorizes the City to require a person holding a vendor license issued pursuant to GBL § 32 also to obtain a New York City general vendor license. The City has imposed that requirement in Section 20-453 of the Code.

Very truly yours,

[REDACTED]

cc: A [REDACTED]

APPENDIX A



Jonathan Mintz
Commissioner



42 Broadway
9th Floor
New York, NY 10004



nyc.gov/consumers

March 12, 2010



Re: Vending from a parked vehicle is prohibited

Dear Mr. [REDACTED],

This letter responds to your inquiry whether you may sell newspapers from a vehicle legally parked on the public street. The answer to your question is no.

Your letter states that you would like to operate a "mobile newsstand" from which you will sell newspapers. In order to operate the mobile newsstand, you propose to park your vehicle legally on a public street between the hours of 5:00a.m. and 9:00p.m. Under the New York City Administrative Code a General Vendor is a "person who . . .sell[s] goods. . .including newspapers. . .in a public space." However, section 20-465(o) of the Code specifically provides that "[n]o general vendor shall sell or offer for sale any item directly from any parked. . .motor vehicle."

We are sorry that the law does not accommodate your business idea.

Please feel free to contact me with any questions.

APPENDIX B



Jonathan Mintz
Commissioner

April 8, 2009



42 Broadway
5th Floor
New York, NY 10004



nyc.gov/consumers



Re: General Vendor License [REDACTED]

Dear Mr. [REDACTED]:

I am writing in response to your request for information about the provisions of New York City's licensing law applicable to a general vendor. You asked whether the Department of Consumer Affairs ("DCA") issues a General Vendor license to an individual or to a corporation, and for verification that your General Vendor license (#1080087) was issued to you as an individual and not as a corporation. You also asked whether DCA licenses hand trucks.

DCA issues General Vendor licenses to individuals, not to corporations. Title 20 of the New York City Administrative Code ("Code") Section 20-453 prohibits "any individual [from] act[ing] as a general vendor without having first obtained a license..." Similarly, Code Section 20-461(a) requires each general vendor to "carry his or her license on his or her person," and Section 20-461(b) provides that "a general vendor's license shall contain his or her name, his or her license number, and a non-removable photograph of the licensee" and "shall be worn conspicuously by him or her at all times while he or she is operating as a general vendor." These provisions demonstrate the City Council's intention to limit the issuance of a general vendor's license to natural persons. The attached Certificate of Licensure shows that license #1080087 is issued solely in your name and not that of a corporation.

The general vendor provisions of the Administrative Code do not authorize DCA to license auxiliary equipment, such as a hand truck used by a general vendor licensee. However, Section 20-455(b)(2) requires an applicant for a general vendor's license to provide to the Department a "description of any . . . pushcart . . . to be used in the vending business." A pushcart is defined as "any wheeled vehicle or device used by a general vendor in a public space, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and which does not require registration by the department of motor vehicles." A handtruck falls within the definition of a pushcart and, if used, should be described on the general vendor application.

Sincerely,



Licensing Attorney
Licensing Division

APPENDIX C



Department of
Consumer Affairs

40 years

of ensuring a fair and
vibrant marketplace

Jonathan Mintz
Commissioner

March 17, 2010

42 Broadway
9th Floor
New York, NY 10004

Re: Clarification on Vendor's Helper

Dear Mr. [REDACTED]:

nyc.gov/consumers

You requested clarification from the Department of Consumer Affairs ("DCA" or "Department") regarding the use of a helper by a disabled veteran vendor with a specialized license under General Business Law §35-A. Specifically, you wanted to know if the "helper" could speak to customers regarding the price of an item while in the presence of the veteran vendor, or answer customers' questions.

The Department has addressed this question in the past. In two previous interpretation letters, the Department has stated that individuals not licensed by the Department to act as general vendors may assist licensed general vendors, provided that assistance is restricted to setting up and removing the displays, watching the stand during brief absences of a vendor (provided that displayed goods are covered up and the assistant engages in no selling activity), and placing the merchandise into bags after the vendor has completed the sale.

Accordingly, the assistant should not be engaged in the actual selling of merchandise or any activities related to the selling of merchandise, which includes discussing the nature or price of merchandise with consumers or accepting money from consumers.

Attached are copies of the two previous letters explaining the Department's policy.

Please feel free to contact me with any questions.

Very truly yours,

[REDACTED]



The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716

Gretchen Dykstra
Commissioner

December 23, 2004



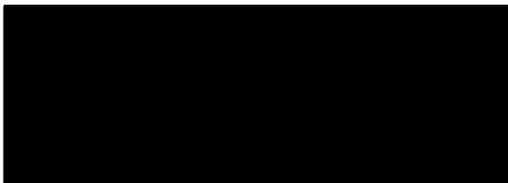
Re: General Vendor's Assistant

Dear Mr. 

You had asked me to provide you with the rules relating to the employment of helpers by disabled veteran vendors who hold a specialized license pursuant to General Business Law Sect. 35-a. There are no specific rules on point. However, by way of past interpretation letters we have said that a "helper" can be used to assist the vendor provided that assistance is restricted to setting up and removing the displays, watching the stand during the brief absence of a vendor (providing displayed goods are covered up and the assistant engages in no selling activity), and bagging the merchandise after the vendor has completed the sale.

The assistant should not be engaged in the actual selling of merchandise or any activities related to the selling of merchandise, which includes discussing the merchandise, promoting a sale or accepting money.

Sincerely,

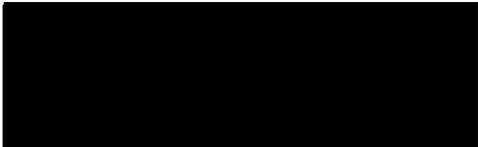




The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716

Gretchen Dykstra
Commissioner

May 25, 2004



Re: General Vendor's Assistant

Dear Mr. :

This is in reference to your inquiry about using the help of an assist during the time you are vending on the streets.

A licensed general vendor is permitted to use an assistant, provided that s/he does not engage in any activities related to selling, which includes discussing the merchandise, promoting a sale or accepting money.

The assistant is restricted to helping the general vendor set up and remove the displays, watching the stand during the brief absence of a vendor (providing displayed goods are covered up and the assistant engages in no selling activity), and bagging the merchandise after the vendor has completed the sale.

You would have to contact the Department of Labor for information regarding any age requirement any assistant must satisfy to be allowed to work. Their contact number is 212-621-0703.

Sincerely,

