



Comments Received by the Department of Consumer Affairs
On Proposed Amendments to Rules Governing General Vendors

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**COMMENTS SUBMITTED ON PUBLIC HEARING REGARDING THE
PROPOSED RULE CHANGE BY THE NEW YORK CITY DEPARTMENT
OF CONSUMER AFFAIRS REGARDING GENERAL VENDORS
Submitted on March 24, 2020 by Danny Rossi**

The proposed rule change by the New York City Department of Consumer Affairs (“DCA”) to eliminate the need to obtain a general vending license (“GVL”) in order to obtain a Specialized Veteran License (“SVL”), is not possible. The SVL issued by DCA can **only** be used by general vendors to sell non-food goods.

Both Article 4, Section 35-a of the New York State General Business Law (“GBL35-a”) and Appellate Court decisions, (see *Matter of Rossi v. New York City Department of Parks and Recreation*, (127 A.D.3d 463 (2015), 8 N.Y.S.3d 25, 2015 NY Slip Op 03047).

This was upheld again by the same court *In the Matter of DANNY Rossi, Appellant, v. NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION, Respondent. In the Matter of BARBARA MORRIS, Appellant, v. NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, Respondent*) in which it was ruled:

“Contrary to petitioners' contentions, requiring them to obtain special vending licenses pursuant to General Business Law § 35-a to vend on property under DPR's jurisdiction does not divest DOHMH of its powers to regulate mobile food vendors. DOHMH licenses mobile food vendors and food vending carts in New York City.

Vendors, including food vendors, seeking to avail themselves of the vending terms available to disabled veterans must comply with the additional licensing requirements applicable to disabled veterans, which in New York City are set forth in General Business Law § 35-a (*see Matter of Rossi v New York City Dept. of Parks & Recreation*, 127 A.D.3d 463.)"

Therefore, this rule change, if enacted, would seriously violate Article 4, Section 35-a of the New York State General Business Law and disavow the Appellate Court decision should DCA and not the New York City Department of Health and Mental Hygiene ("DOHMH") were to issue an SVL to be used in conjunction with a food operator license.

The entire structure and format that of GBL 35-a revolves entirely around the priority system it created to disabled veterans who hold SVL's issued by DCA for vending of general merchandise. This proposal completely ignores those disabled veterans that have held food operator licenses and food cart permits/licenses over a decade longer than the creation of GBL 35-a, and subsequent recent court decisions in support of DOHMH oversight for food vending.

Since 2013, DOHMH has been issuing SVL's in the form of food cart permits (LICENSES) without complying with GBL35-a(5) which states:

"Specialized vending licenses to vend shall be accompanied by a photographic color coded identification which shall include the priority number

established pursuant to paragraph (b) of subdivision one of this section, and shall be displayed by such specialized vending license holder.”

Yet, DOHMH has failed to issue an identification card with the disabled veteran’s photo and priority number, and despite the fact that every food cart inspected and issued a SVL permit/license did not comply with the conditions and restrictions of GBL35-a.

This proposal to enable DCA to use an outdated priority list is simply another deception by DCA to prevent disabled veterans from obtaining a city wide food vending cart permit (LICENSE) to vend on any street, avenue, lane, alley or park as do all disabled veterans throughout New York State.