



Boston City Council

Committee on Government Operations

Rob Consalvo, *Chair*

December 9, 2011

Dear Councillors:

The Committee on Government Operations hereby submits to the Council for its consideration a redraft of Docket #1366, **an ordinance providing for the licensing of stores that sell certain knives**. This matter was sponsored by Councillors Michael Ross and Tito Jackson and was referred to the Committee on Government Operations on Wednesday, October 5, 2011 and was heard at a public hearing on Friday, November 18, 2011.

The current law prohibits the sale of certain knives to any person less than eighteen (18) years of age. CBC Chapter XVI section 39.1. This proposed ordinance would require the licensing of stores that sell knives having a fixed or locking blade of two (2") or more, but not cutlery. The term "cutlery" is defined as utensils used as tableware or used for cutting and eating foods. The licensing requirement would provide a mechanism allowing the Boston police Department (BPD) to monitor the sale of knives that are used as dangerous weapons. Department stores and hardware stores are exempt from the licensing provisions of this ordinance. Convenience stores would be subject to the licensing provisions. For purposes of this ordinance, a convenience store shall mean a retail business with a primary emphasis placed on providing the public with a convenient location to quickly purchase a limited variety of consumable products. The ordinance would address a legitimate public safety issue by requiring the licensing of certain stores, including convenience stores, in order to prevent the accessibility of knife purchases in stores where it is not appropriate to sell certain types of knives. Also, the ordinance would provide public safety officials with notice of the stores selling these knives.

Docket #1366 has been revised to clarify the definition of "department store". The revised version defines "department store" as a large retail store offering a variety of merchandise and services organized into separate departments and commonly part of a chain. In the previous draft, the issue arose that the definition of department store was overly broad. Concerns arose that stores that should be subject to the licensing provisions could argue that the department store exemption was applicable to their stores. The redraft addresses the concern that the definition is overly broad by providing clarification as to which stores would be subject to the licensing provisions. The revised version also adds the definition of "cutlery" to provide further clarification for that term.

Representatives from the BPD testified in support of the ordinance as a matter of public safety. The BPD stated that the licensing requirement in the proposed ordinance would provide a necessary tool by closing loopholes in the current law that prohibits the sale of knives to minors. The BPD described the process of the sting operations the department conducted in the summer that resulted in the citing of three stores that sold to minors in violation of the law. The BPD explained the department expends a significant amount of resources in setting up the sting operations, up to 1,000 hours to enforce one statute, and stated that the licensing requirement will provide a useful tool in investigating crimes. Officers from the MBTA testified in support of the proposed ordinance and addressed the problems that the MBTA faces with students carrying knives to and from school. The representatives from the MBTA explained that in most instances the students purchase the knives at local stores for an

inexpensive price of \$10.00 to \$15.00. The MBTA testified in support of the proposed ordinance because the knives are used as dangerous weapons and public safety officials should know what stores are selling them. Members of the organization Mothers for Justice & Equality also testified in support of the proposal stating that the licensing provisions would help prevent some of the violence.

Opposition testimony included representatives from knife rights organizations. The testimony in opposition focused upon constitutional issues indicating that the proposed ordinance violates the Massachusetts Constitution because it is inconsistent with state law and also raises equal protection issues because it treats similarly situated individuals or entities differently. Members of the Committee indicated that local governments have a right to enact ordinances and regulations that are more restrictive than state law. Furthermore, an ordinance may treat individuals differently when dealing with local economic regulations provided that the ordinance is rationally related to a legitimate government interest. In this circumstance that rationale for licensing certain stores that sell knives serves a legitimate government interest of public safety.

By the Chair of the Committee on Government Operations, to which the following was referred:

1366, an Ordinance Providing for the Licensing of Stores that Sell Certain Knives,

based upon information presented at the public hearings and comments gathered by the Committee and having considered the same, respectfully recommends that this matter ought to pass in a new draft.

For the Chair:


Rob Consalvo, *Chair*
Committee on Government Operations