

# SENATE . . . . . No. 1731

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act prohibiting sex offenders from operating school buses and ice cream trucks..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 8A of chapter 90 of the General Laws, as appearing in the 2004  
2   Official Edition, is hereby amended by striking out, in lines 23 to 24, “has been convicted of the  
3   crime of rape, unnatural act, sodomy, or ” and inserting in place thereof the following words:- is  
4   a sex offender, as defined in section 178C of chapter 6, or who had been convicted of

5           SECTION 2. Section 8A1/2 of said chapter 90, as so appearing, is hereby  
6   amended by striking out, in lines 20 to 21, “has been convicted of the crime of rape, unnatural  
7   act, sodomy, or ” and inserting in place thereof the following words:- is a sex offender, as  
8   defined in section 178C of chapter 6, or who had been convicted of

9           SECTION 3. Chapter 265 of the General Laws is hereby amended by adding the  
10   following section:- Section 45. A sex offender, as defined by section 178C of chapter 6, who  
11   engages in ice cream truck vending, as defined in section 25 of chapter 270, shall be punished by  
12   up to 2 ½ years in the house of correction or by a fine of \$1,000 or by both such fine and  
13   imprisonment. A police officer or officer authorized to serve criminal process may arrest  
14   without a warrant any person who he has probable cause to believe has violated this section.

SECTION 4. Chapter 270 of the General Laws is hereby amended by adding the following section:- Section 25. (a) For the purposes of this section, the following words shall have the following meanings:-

“Ice cream”, any frozen dairy or water-based food product.

“Ice cream truck”, any motor vehicle used for selling, displaying or offering to sell ice cream or any other frozen dairy or frozen water-based food product.

“Ice cream truck vending”, the selling, displaying or offering to sell ice cream, water-based food product or any other prepackaged food product from an ice cream truck

“Permitting authority”, the chief of police or the board or officer having control of the police in a city or town or person authorized by them.

(b) No person shall engage in ice cream truck vending unless issued a valid permit to do so by the permitting authority within the municipality wherein the permit applicant lives or intends to operate such ice cream truck. Such permit shall be conspicuously displayed and clearly visible on the windshield of such truck. Whoever violates this section shall be assessed a fine of \$500. Each day that such person is in operation in violation of this section may be considered a separate violation.

SECTION 5. The department of public safety shall adopt regulations relative to the annual permitting of ice cream truck vendors. Such regulations shall include, but not be limited to:

(1) a requirement that all applications for such permit or applications for a renewal of such a permit include a current photo of the applicant and the applicant’s fingerprints;

(2) adoption of a uniform permit application and permit form, to be used by all municipalities;

(3) requiring that all permitting authorities, as defined by section 25 of chapter 270, conduct an investigation into the criminal history of a permit applicant to determine eligibility for a permit;

(4) restricting any permitting authority, as defined by section 25 of chapter 270, from issuing an ice cream truck vending permit to any sex offender, as defined by section 178C of chapter 6 of the General Laws; and

(5) Establishing an appeal process for any persons denied such permit.

SECTION 6. The department of public safety shall adopt the regulations required under section 3 not later than 90 days from the effective date of this act.

SECTION 7. Section 2 shall take effect 180 days from the effective date of this act.