

City's crackdown vs. illegal cigarette sellers

Written by Michael R. Bloomberg
Sunday, 20 October 2013 11:50



CHIEF Policy Advisor John Feinblatt, Corporation Counsel Michael A. Cardozo, Finance Commissioner Beth E. Goldman and I announced the first in a planned series of “padlocking” court actions aimed at closing cigarette retailers selling illegal cigarettes on which state and city taxes have not been paid.

An order, issued by Justice Michael Stallman of the State Supreme Court, New York County, resulted in the closure of Quicklane Candy Store — also known as Fastline Candy Tobacco Inc. and 2054 Lexington Candystore Inc. — as a public nuisance.

The investigation, conducted by the Office of the New York City Sheriff, a division of the city’s Finance Department, disclosed numerous violations of city health and tax regulations, including possession and sale of untaxed and counterfeit-stamped cigarettes, sale of cigarettes to minors, sales of cigarettes without health warnings and failure to possess a retail cigarette license.

The legal action is the product of an ongoing partnership between the Mayor’s Office of Special Enforcement, the city’s Law Department and the Sherriff’s Office.

This is the latest in a series of initiatives taken during our administration to address the serious public health concerns that result from cigarette smoking.

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Selling cigarettes to minors is never acceptable, and counterfeit and untaxed cigarettes poison the stream of commerce, hurting retailers who play by the rules and posing a greater danger to consumers.

The court's order is based on evidence gathered over the course of a two year investigation by the city of dozens of locations that reveal frequent, repeated sales of untaxed cigarettes.

The evidence submitted to the court shows that Quicklane Candy Store, the target of the first action brought on the basis of the Sheriff's Office investigations, is a repeat offender, using hidden compartments to conceal its bootleg product and adjacent areas of its retail store as a storage and distribution center for untaxed cigarettes.

Investigators from the Office of the New York City Sheriff cited numerous instances in which Quicklane Candy Store sold counterfeit stamped, unstamped or Virginia-stamped cigarettes, all of which are illegal under state and city law.

Under the law, public nuisances exist in locations where persons gather to conduct illegal activity, or where there are conditions that interfere with public health and safety.

The unlicensed operation of a business requiring licensure is also a public nuisance, as is maintaining a location where "false instruments" — counterfeit tax stamps — are present.

The evidence in support of the padlocking order issued showed that Quicklane Candy Store engaged in all of these forms of misconduct.

The New York City Public Nuisance Law authorizes the courts to direct the closing and padlocking of locations where there are public nuisances for as long as one year.

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“Padlocking” or closing orders have been used by the city to shutter operations injurious to public health and welfare, including locations where gambling, prostitution or counterfeit goods are sold.

After an initial court-ordered closure, the tenants or owners of the business charged with operating as a public nuisance are provided with a rapid opportunity to appear in court to contest the closing.

In instances where the landlord is shown to have been on notice of the nuisance, sanctions or fines may be imposed, including in some instances the transfer of the property to a temporary receiver.

Also named in the case were additional defendants, who are believed to be owners of the property where Quicklane Candy Store is located and principals of the companies operating there.

The city's action seeks, in addition to a permanent injunction against the continuation of the nuisance by Quicklane Candy Store and its principals, statutory penalties of up to \$1,000 for each day that the nuisance continued.