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Proposed law stirs legal rights debate

Clark seeks wide scrutiny on peddler permits

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Last month, all Jimmy Bouras needed to put one of his 35 Good Humor trucks on the streets of Clark was a certificate from the Health Department declaring the truck's freezers cool and its counters clean.

But if a proposed ordinance passes, each truck driver will have to pass a criminal background check to sell SpongeBob SquarePants pops and vanilla sundae cups in the township.

Earlier last month, Councilman Patrick O'Connor read a story about an ice cream vendor in New Hampshire allegedly soliciting a 14-year-old boy for oral sex. The man later pleaded guilty.

That incident, along with other news stories about child abductions and abuse, prompted O'Connor to introduce the new licensing ordinance.

Some legal experts say the ordinance, if enacted, could prevent ex-convicts -- even those without convictions for sex crimes -- from starting over in society. But parents and township officials see the proposed ordinance as a proactive way to protect Clark's children.

"We just don't want to be one of those towns on the 6 o'clock news," said Mayor Sal Bonaccorso.

The Clark Municipal Council will hold a public hearing on the proposed ordinance at Monday night's council meeting.

The proposed Clark ordinance would require anyone applying for a peddler or solicitor license, required for all roaming concessionaires, to provide basic information such as date of birth, a three-year address history, a physical description and photograph, and driver's license details. It also would require the prospective peddler to pay \$18 for a State Bureau of Investigation criminal history record check.

Currently, the township has issued only three peddler licenses, two to sell ice cream and one for hot dogs, said health officer Nancy Ogonowski. The licenses are good for one year.

Bouras, manager of M&D Bouras Ice Cream Corp. in Roselle, holds one of those licenses, and said his company reviews the driving histories of his employees and relies on professional referrals.

"Anybody can put a sticker on a truck and sell ice cream," Bouras said. "Most of my people I hire from people who know people. And I don't just hire anybody."

Several other Union County towns -- including Berkeley Heights, Elizabeth, Linden, Mountainside, New Providence and Scotch Plains -- already have similar ordinances in place. But some towns' peddler license requirements are more vague. Westfield's municipal code, for instance, requires only that the peddler be "of good moral character."

In most towns, the police department is charged with investigating the license applicants and checking the

information they supply.

Many Clark parents were supportive of the proposed ordinance.

"If it's up to me, I'd have background checks on anyone who's around kids for any reason," said Danny Beck, a 36-year-old father of two daughters.

Even as he watched his daughters play softball on a sunny July afternoon, the specter of a suspicious stranger in a van wasn't far from his mind. "I don't go around trusting people on a regular basis," he said.

But the broad scope of the proposed Clark ordinance could keep people who have any type of criminal background from trying to make an honest living, said Nancy Fishman, senior law and policy analyst at the New Jersey Institute for Social Justice.

"If their real concern is that sex offenders who have a history of abuse (could work) on ice cream trucks, then they should write a statute that attempts to get at that, not at a peddler license, which is often the lowest rung for people trying to get to self-sufficiency," she said.

Finding a job is "the No. 1 factor" keeping former prisoners from becoming fully functioning members of society, said Christy Visher, principal research associate at the Justice Policy Center of the Washington, D.C.-based Urban Institute.

"The vast majority of people coming out of prison are not convicted sex offenders," Visher said. "Many, many of these people want to find jobs and are desperate for employment."

"I would just hope that cities and employers would look carefully at the type of crime that a prospective applicant has committed and weigh that against the type of job the person has applied for," she said.

If passed, the ordinance would likely give the Clark police the power to determine what type of criminal background would keep someone from getting a peddler license, said Councilman-at-large Alvin Barr. But the focus of the ordinance is on sexual predators, said Bonaccorso.

"With so many pedophiles and child molesters that you hear about, we feel that anybody that serves children ought to have a background check," said Barr. In his 35 years he spent raising three children in Clark, Barr was unaware of a sex crime involving a minor.

"Why wait 'til something happens?" he asked. "We're thinking ahead."

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