



Written by [Jack Kenny](#) on December 5, 2013

Ban on Girl's Mistletoe Sales Sparks Nationwide Orders

An 11-year-old who was banned from selling mistletoe (shown) in a public park in downtown Portland, Oregon, now has more orders for packages of the popular holiday plant than she can handle.



"There was never enough mistletoe for this," said Ashton Root, whose daughter Madison was ordered to stop when she began selling mistletoe at Skidmore Fountain in downtown Portland Saturday morning. The story of the aborted enterprise was aired on Portland TV station KATU Sunday evening. National networks and websites carried the news, and by Tuesday afternoon people from all over the country had contacted the KATU newsroom, wanting to buy the youthful entrepreneur's mistletoe.

"The newsroom has heard from CEOs, Army captains and people in Illinois, Missouri, Arkansas, Indiana, Virginia, South Carolina, Colorado, Massachusetts, California, Georgia, Pennsylvania, California, and Texas," the station reported on its [website](#). "And those are only the people who happened to mention where they live."

The reaction is reminiscent of the national attention a similar incident received in the summer of 2010, when Oregon's Multnomah County health officials forced a seven-year-old to shut down her lemonade stand because she didn't have a food handler's license. That inspired the formation of the Lemonade Revolt Group on Facebook and a [commentary](#) by NBC's *Tonight Show* host Jay Leno.

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"In Portland, Oregon, a seven-year-old girl's lemonade stand was shut down by the police because she didn't get a \$120 business license," the late-night comedian said. "Of course, on the bright side, by closing her business she's now eligible for a government bailout."

Root, who hails from Lake Oswego, about seven miles south of Portland, said she was hoping to raise a little money to contribute to the payment of the sizable bill her father will receive for the braces her dentist said will cost \$4,800.

She cut and chopped mistletoe from her uncle's farm in Newberg, hand-wrapped and tied them with a red bow, and was offering them for sale at \$4 a package at the downtown park where people gather for activities ranging from making speeches and music, to protesting. It is also the venue for the Portland Saturday Market.

A security guard told her that a city ordinance prevented any vending there without the approval of the Saturday Market. She could sell outside the park, he said, or simply [ask people for donations](#).

"I don't want to beg. I would rather work for something than beg," replied the enterprising sixth-grader. "I wouldn't think I'd have any problems because people are asking for money — people are



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selling stuff. This is a public place,” she added.

But the youngster was about to learn that beggars have more rights than sellers when vending restrictions are imposed at public parks. Begging is a form of free speech, protected by the First Amendment, explained a spokesman for the Portland Parks Bureau, which manages the city park and rents it to the Saturday Market.

A federal court in Michigan struck down as unconstitutional a state law banning begging in public places. A pending lawsuit in Massachusetts challenges an ordinance stipulating when and where people may panhandle. And [in Portland, Maine](#), three residents have filed suit in U.S. District Court to prevent the city from enforcing an ordinance prohibiting panhandling on street medians. Supporters of the ordinance say it is a safety measure as well as an effort to protect motorists from harassment.

“There’s a long line of case history that establishes that anti-panhandling laws are unconstitutional,” [said](#) Becky Straus of the ACLU of Oregon.

Yet numerous court rulings have held that regulations governing speech must not be “content-based,” favoring one kind of message over another. Allowing someone to ask for donations while not allowing someone to solicit a sale would appear to be a content-based restriction.

Portland Mayor Charlie Hales said he would contact the staff at Portland Saturday Market to see if procedures might be modified to allow youngsters such as Madison to sell rather than beg.

“Anybody who’s had a kid trying to earn money or been a kid trying to earn money empathizes with her,” the mayor [told](#) KGW-TV in Portland. “We also have a Saturday Market here that’s very successful, and part of the reason it’s so successful is because they have people who pay to have booths there, so they have to manage their space. She’s got to follow the rules. So hopefully there’s a way for her to do that and do what she wants to do.”

An executive from the Saturday Market told KATU that the mistletoe seller could apply to be a full member and sell at the site without having to pay the standard fee for vendors. The youngster got her braces on Monday and plans to return with the mistletoe to the Skidmore Fountain, her father said. “Madison is absolutely determined to once again hit Skidmore,” he told KGW News.



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