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## Ice-cream vendor tries to change city's tune

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PORTSMOUTH, Va. (AP) — An ice-cream vendor who has been fined repeatedly for playing music from his truck has challenged the city's regulations stipulating such peddlers can only use a bell for a maximum three seconds.

Claudio Jose Sanchez appeared Friday in Portsmouth Circuit Court to seek the dismissal of a recent misdemeanor charge. His attorney, Kevin Martingayle, stated in court papers that Portsmouth's prohibition against ice-cream trucks playing music is unconstitutional and a restriction on commercial speech.

Chief Circuit Judge Mark S. Davis gave the city several weeks to respond and said he likely would issue a written opinion in the case.

Mr. Sanchez drives a truck for Norfolk-based Jumpn' G's Ice Cream. He was convicted three times this summer in Portsmouth General District Court for the illegal use of noise from an ice-cream truck.

He appealed the last conviction, which stemmed from a stop Sept. 5 by Police Officer Jim Conrad.

Officer Conrad has been enforcing the city's ice-cream-vendor regulations since a 10-year-old girl was hit by a car as she walked away from an illegally parked ice-cream truck in May. The girl suffered cuts and bruises.

Mr. Sanchez also has been convicted in Portsmouth of driving without a license and not having proper equipment. He and his employer have paid conviction fees and costs of \$496, court records show.

Mr. Martingayle said he does not dispute that his client was driving an ice-cream truck and playing music as part of his job on the date in question.

But he pointed to cases in Newport News, New Jersey and Rhode Island in which judges ruled in favor of commercial speech. Two of the cases he cited also involved ice-cream vendors.

