

City of Philadelphia



(Bill No. 110374)

AN ORDINANCE

Amending Chapter 9-600 of The Philadelphia Code, entitled “Service and Other Businesses,” to require tobacco retailers to obtain permits for the retail sale of tobacco products and certain other products containing nicotine, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-600. SERVICE AND OTHER BUSINESSES.

* * *

§ 9-631. Tobacco Retailer Permit.

(1) *Definitions. For purposes of this Section, the following terms shall have the following meanings:*

“Electronic Smoking Device.” An electronic device, the use of which simulates tobacco smoking, that is intended to deliver nicotine to the person inhaling from the device; the term includes any solution, compound, or other substance containing nicotine and manufactured for use with such a device. The term shall not include a tobacco product as defined in this Section.

“Tobacco Product.” Any substance containing tobacco leaf, including without limitation cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, snus, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

“Tobacco Retailer.” A person who, in the usual course of business, purchases or receives tobacco products, electronic smoking devices, or unapproved nicotine delivery products for the purpose of sale to a consumer.

“Tobacco Retailing.” The sale of tobacco products, electronic smoking devices, or unapproved nicotine delivery products to a consumer.

City of Philadelphia

BILL NO. 110374 continued

Certified Copy

“Unapproved Nicotine Delivery Product.” A product, other than an electronic smoking device or a tobacco product, containing or delivering nicotine intended or expected for human consumption, or any part of such a product, that has not been approved or otherwise certified for sale by the United States Food and Drug Administration as a tobacco use cessation product, or for other medical purposes.

(2) *Tobacco Retailer Permit Required.*

(a) *No person shall act as a Tobacco Retailer without a current Tobacco Retailer Permit for each location where the person engages in Tobacco Retailing. Acting as a Tobacco Retailer without a permit is hereby declared a nuisance as a matter of law.*

(b) *Each Tobacco Retailer shall prominently display the Tobacco Retailer Permit at each location where the person engages in Tobacco Retailing.*

(c) *A Tobacco Retailer Permit shall be issued to an applicant if, in addition to any other applicable requirement, all of the following requirements are met:*

(.1) *If the applicant is an individual, such applicant is at least eighteen (18) years of age.*

(.2) *The applicant has provided all material information required by the application.*

(.3) *The applicant has not made any material false statement in the application.*

(.4) *The applicant currently maintains a valid cigarette retailer license from the Pennsylvania Department of Revenue, if required.*

(.5) *The applicant currently maintains a valid business privilege license and any license or permit required under this Title.*

(.6) *The location for which the Tobacco Retailer Permit is sought is fixed, and not mobile.*

(.7) *Any other requirement adopted by the Board of Health which the Board deems appropriate for the protection of public health.*

(d) *A Tobacco Retailer Permit is valid for one person at one location and may not be transferred from one person to another or from one location to another.*

City of Philadelphia

BILL NO. 110374 continued

Certified Copy

A new Tobacco Retailer Permit is required whenever a Tobacco Retailer changes location or transfers ownership.

(3) *Expiration, Renewal, and Revocation.*

(a) *Term. A Tobacco Retailer Permit shall be effective through the thirty-first day of December of the calendar year for which it is issued.*

(b) *Renewal. Any person lawfully issued a Tobacco Retailer Permit pursuant to the provisions of this Section shall be entitled to renew such permit, provided that all the requirements of this Section, and any other applicable requirements, are met.*

(.1) *A Tobacco Retailer shall apply for renewal and submit the applicable renewal fee no later than sixty (60) days prior to expiration of the permit term. Renewal applications submitted less than sixty (60) days prior to the expiration of the permit term shall be subject to both the new application fee, and the renewal fee.*

(.2) *Applicants for renewal shall meet the requirements for Tobacco Retailer Permit set forth under Subsection (2).*

(c) *Revocation of Permit.*

(.1) *A Tobacco Retailer Permit may be revoked for any of the following reasons:*

(i) *Failure to provide all information required as a condition of issuing a Tobacco Retailer Permit;*

(ii) *Making a material false statement in an application for a Tobacco Retailer Permit or in a renewal application for a Tobacco Retailer Permit;*

(iii) *Failure to maintain a valid cigarette retailer license from the Pennsylvania Department of Revenue, if required;*

(iv) *Failure to maintain a valid business privilege license or any other license or permit required under this Title;*

(v) *The person issued a Tobacco Retailer Permit is delinquent in the payment of any City or School District of Philadelphia taxes, charges, fees, rents or claims, or any penalties or fines relating to the person's business for which the person is responsible, unless the person has entered into an agreement to pay any such delinquency and is abiding by the terms of such agreement.*

City of Philadelphia

BILL NO. 110374 continued

Certified Copy

(vi) *The person issued a Tobacco Retailer Permit engages in Tobacco Retailing at any other location in the City in violation of any provision of this Section, or any requirement adopted by the Board of Health with respect to Tobacco Retailing.*

(.2) *New Permit After Revocation. A new Tobacco Retailer Permit shall not be issued to a Tobacco Retailer within ten (10) days after the first revocation within any thirty-six (36) month period, within fifteen (15) days after the second revocation within any thirty-six (36) month period, or within sixty (60) days after the third or subsequent revocation within any thirty-six (36) month period.*

(4) *Fees. The application fee shall be \$50.00, and the renewal fee shall be \$50.00, except that the Board of Health may alter these fee amounts by regulation, based on the total cost of the administration and enforcement of this Section. The application fee shall be paid at the time the application is submitted. The renewal fee shall be paid at the time the renewal application is submitted.*

(5) *Enforcement. A violation of this Section shall be a Class III offense. Each day a violation continues shall constitute a separate offense.*

(6) *Severability. If a court of competent jurisdiction declares any part of this Section to be invalid, such judgment shall not affect the validity of this Section as a whole or any remaining part thereof. It is the intention of City Council that the remaining provisions of this Section would have been adopted as if such part found to be invalid had not been enacted.*

SECTION 2. This Ordinance shall take effect immediately, except that subsections (2)(a) and (2)(b) shall take effect on January 1, 2012.

Explanation:

Italics indicate new matter added.

City of Philadelphia

BILL NO. 110374 continued

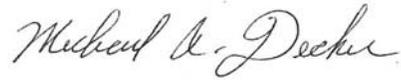
Certified Copy

City of Philadelphia

BILL NO. 110374 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 9, 2011. The Bill was Signed by the Mayor on June 22, 2011.



Michael A. Decker
Chief Clerk of the City Council