

# City of Philadelphia



(Bill No. 110552)

## AN ORDINANCE

Amending Section 10-602 of The Philadelphia Code, known as the "Clean Indoor Air Worker Protection Law," by providing a limited period of time, expiring January 1, 2012, during which certain Drinking Establishments, as defined, may apply for and obtain a waiver of the provisions of the Section prohibiting smoking in certain places, under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Section 10-602 of The Philadelphia Code is hereby amended to read as follows:

§10-602. Smoking.

\* \* \*

(2) Definitions. The following definitions apply to this Section:

\* \* \*

(a) "Drinking Establishment." Any Food or Beverage Establishment whose on-site sales of food for consumption on the premises comprises no more than 20% of gross sales of both food, non-alcoholic and alcoholic beverages on an annual basis, or on such other basis as the Department of Licenses and Inspections shall by regulation provide with respect to such establishments that have been open for less than one full year.

\* \* \*

(3) Smoking Prohibited.

\* \* \*

(b) Exceptions. The provisions of subsection 10-602(3)(a) shall not apply:

\* \* \*

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(.5) In a Drinking Establishment provided that all of the following conditions are satisfied:

(i) the Drinking Establishment is in legal operation and has a valid certificate of occupancy and business privilege license on the effective date of the Ordinance that added this subsection to The Philadelphia Code *and also at the time the Drinking Establishment applies for a waiver hereunder;*

(ii) *(.a) the Drinking Establishment applies for a waiver from the Health Department within ninety (90) days of the effective date of the Ordinance that added this subsection to The Philadelphia Code, or, (.b) in the case of a Drinking Establishment located in the same structure and directly above a tobacco products distribution business where both establishments share more than fifty percent common beneficial ownership, such Drinking Establishment applies for a waiver from the Health Department no later than January 1, 2012;*

(iii) all employees of the Drinking Establishment are notified in writing at least one week in advance of such application for a waiver and the owner certifies in writing as part of the waiver request that such notice was provided to all employees;

\* \* \*

(v) the owner must provide the previous tax year's receipts, expenses and revenue figures in such manner as prescribed by the Department of Revenue so as to verify the food and alcohol ratio to qualify for the waiver;

\* \* \*

(6) Duties of the Health Department on Waiver Requests.

\* \* \*

*(c) Compliance with subsection 10-602(3)(b)(.5)(v) shall not be required as a condition of obtaining a waiver pursuant to subsection 10-602(3)(b)(.5)(ii)(.b) for any period of time prior to the time the owner applying for such waiver acquired ownership of the Drinking Establishment. Any application for a waiver pursuant to subsection 10-602(3)(b)(.5)(ii)(.b) shall include certification by the owner that the Drinking Establishment is expected to meet the food and alcohol ratio to qualify for such waiver, and of the basis for such expectation.*

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**Explanation:**

*Italics indicate new matter added.*

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 3, 2011. The Bill was Signed by the Mayor on November 14, 2011.



Michael A. Decker  
Chief Clerk of the City Council