



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 140801

Introduced October 16, 2014

Councilmembers Reynolds Brown, Greenlee and Blackwell

**Referred to the
Committee on Finance**

AN ORDINANCE

Amending Title 19 of The Philadelphia Code, entitled "Finance, Taxes and Collections," by adding a new Section 19-1808, entitled "Authorization of School District Nicotine Products Tax," and by amending Chapter 19-3700 of The Philadelphia Code, entitled "Tobacco and Tobacco-Related Products Tax," by increasing the rates of the existing tax and by authorizing the School District of Philadelphia to impose a tax on the privilege of selling at retail electronic cigarettes and nicotine solutions, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1800 of The Philadelphia Code is amended to read as follows:

CHAPTER 19-1800. SCHOOL TAX AUTHORIZATION.

* * *

§ 19-1808. Authorization of School District Nicotine Products Tax.

(1) Imposition. The Board of Education of the School District of Philadelphia is authorized to impose a tax on the privilege of selling at retail electronic cigarettes and nicotine solutions as set forth in Section 19-3702(1.1).

SECTION 2. Chapter 19-3700 of The Philadelphia Code is amended to read as follows:

**CHAPTER 19-3700. TOBACCO AND TOBACCO-RELATED PRODUCTS, AND
NICOTINE PRODUCTS TAXES.**

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§ 19-3701. Definitions.

(1) "Cigarette." Any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of any substance or material other than tobacco regardless of the size or shape of the roll and regardless of whether or not the tobacco is flavored, adulterated or mixed with any other ingredient. The term cigarette shall not include cigars, little cigars or cigarillos.

(2) *"Electronic cigarette." Any electronic or mechanical device that delivers nicotine via vapor for inhalation. The term includes e-cigarettes, e-cigars, e-pipes, e-hookahs, and any other such devices, but does not include any device approved or otherwise certified by the United States Food and Drug Administration as a tobacco cessation product or for any other medical purpose.*

(3) *"Nicotine solution." Any nicotine in a solution or other form that is intended to be used with or in an electronic cigarette. The term includes electronic cigarette refills and replacement cartridges, e-juices, and any other such products, but does not include any product approved or otherwise certified by the United States Food and Drug Administration as a tobacco cessation product or for any other medical purpose.*

[(2)](4) "Little cigar." Any roll for smoking that weighs not more than four pounds per thousand, where the wrapper or cover is made of natural leaf tobacco or of any substance containing tobacco.

[(3)] (5) "Smokeless tobacco." A product containing finely cut, ground, powdered, blended or leaf tobacco made primarily for individual consumption which is intended to be placed in the oral or nasal cavity and not intended to be smoked. The term includes chewing tobacco, dipping tobacco and snuff.

[(4)] (6) "Tobacco and tobacco-related product." A product containing tobacco for smoking or other consumption, including any cigar, *cigarillo*, smokeless tobacco, pipe tobacco or other loose tobacco[,] (but not including a cigarette or a little cigar[;]), and rolling papers.

[(5)] (7) "Rolling Papers." Any product consisting of sheets, rolls, or leaves of paper or tobacco which are sold for use as the wrapper or cover for any roll for smoking.

§ 19-3702. Imposition and Rates of the Tobacco, and Tobacco-Related Products, *and Nicotine Products Taxes.*

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(1) There is hereby imposed a tax on the privilege of selling at retail any tobacco and tobacco-related product, except as excluded under subsection (2), including, but not limited to, sales from vending machines, at the following rates:

(a) For any tobacco and tobacco-related product that consists of individual items rolled for smoking, including, but not limited to, cigars, [three and six-tenths cents (\$0.036)] *thirty-six cents (\$.36)* per item;

[(b) For all other tobacco and tobacco-related products, thirty-six cents (\$0.36) per ounce.]

[(c)] (b) For rolling papers, [thirty-six cents (\$0.36)] *fifty cents (\$.50)* per pack[.];

(c) *For all other tobacco and tobacco-related products, fifty cents (\$.50) per ounce.*

(1.1) The tax that the Board of Education is authorized to impose pursuant to § 19-1808(1) shall be imposed on the privilege of selling at retail any electronic cigarette or nicotine solution, except as excluded under subsection (2), including, but not limited to, sales from vending machines, at the following rates:

(a) For each electronic cigarette sold, two dollars (\$2.00);

(b) For each milliliter (ml) of nicotine solution sold, other than in an electronic cigarette, fifty cents (\$.50), but not to exceed five dollars (\$5.00) in total per transaction.

(2) Exclusion. The taxes imposed under this Section shall not be imposed on the privilege of making any retail sale involving the bona fide delivery of tobacco [or]and tobacco-related products, *electronic cigarettes, or nicotine solutions* to a location regularly maintained by the other party to the transaction outside the limits of Philadelphia, and not for the purpose of evading or avoiding payment of [the]those taxes or any portion thereof.

§ 19-3703. Payment of Taxes.

(1) Every retail seller of tobacco *and tobacco-related* products, *electronic cigarettes, or nicotine solutions* shall submit annually, or on such other schedule as the Department shall determine by regulation, a return and payment of the taxes imposed under this Chapter, in such form as the Department shall provide.

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SECTION 3. This Ordinance shall be effective July 1, 2015, and shall apply in addition to any other applicable tax.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate matter added.