



# City of Philadelphia

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

**BILL NO. 250213**

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**Introduced March 13, 2025**

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**Councilmember Ahmad**

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**Referred to the  
Committee on Public Health and Human Services**

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## **AN ORDINANCE**

Amending Section 9-633 of The Philadelphia Code, entitled “Sale of Electronic Smoking Devices and Unapproved Nicotine Delivery Products,” to update definitions and to provide for additional penalties, enforcement, and compliance options, all under certain terms and conditions.

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

Section 1. Section 9-633 of The Philadelphia Code is hereby amended to read as follows:

§ 9-633. Sale of Electronic Smoking Devices and Unapproved Nicotine Delivery Products.

\* \* \*

(1) Definitions.

(a) *Department means the Department of Public Health.*

[a] (b) \*\*\*

(c) *Minor means an individual under 21 years of age, or a member of the active or reserve components of any branch or unit of the armed forces of the United States under 18 years of age or a veteran who received an honorable discharge from any branch or unit of the active or reserve components of the armed forces of the United States under 18 years of age.*

[b] (d) \*\*\*

[c] (e) \*\*\*

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## (2) Sales to Minors Prohibited; Mandatory Identification; Warning Signs.

(a) It shall be unlawful for any person, including any retail business, to sell or furnish by gift, purchase or other means any electronic smoking device or unapproved nicotine delivery product to a *minor* [any person under the age of eighteen (18) years].

\* \* \*

### (c) Defenses.

(.1) It shall be a defense to a charge of unlawful sale to a *minor* [person under eighteen (18) years of age] that the seller reasonably relied on photographic identification pursuant to the preceding subsection (b), notwithstanding the fact the identification relied upon is subsequently proven to be fake. Reliance will be presumed not reasonable if the identification does not contain all of the following: a photo likeness, birth date, expiration date and signature; or if it contains bumps, tears or other damage.

(.2) It shall not be a defense to a charge of unlawful sale to a *minor* [person under eighteen (18) years of age] that the purchaser reasonably appeared to be at least twenty-seven years of age.

### (d) Warning Signs.

(.1) Every retail outlet that sells electronic smoking devices or unapproved nicotine delivery products shall post in a conspicuous place, clearly visible from any point of sale, a Warning Sign, as described below.

(.2) The Warning Sign shall state the following: "SALE OF ELECTRONIC SMOKING DEVICES AND UNAUTHORIZED NICOTINE DELIVERY PRODUCTS TO PERSONS UNDER 21 [18] YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. WILL BE REQUIRED. THIS LAW WILL BE STRICTLY ENFORCED." Such sign shall be printed on a white card in red letters at least one-quarter inch in height, or in such other format as the Department of Licenses and Inspections shall allow by regulation. This warning may be combined with the warning required by subsection [9-622\(1\)\(d\)](#), in a single statement.

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## (6) Enforcement and Penalties.

(a) Whenever any officer with authority to enforce ordinances, including for purposes of this Section, any Department of Public Health or Department of Licenses and Inspections inspector, becomes aware of a violation of this Section, such officer shall hand or deliver to the violator a printed notice of violation. [If the violator is a retail outlet, the officer

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shall hand or deliver the notice to the manager of the outlet or an on-site supervisor.] Such notice shall bear the date, time and nature of the violation, when known; the identity and address of the violator; the amount to be remitted in response to the notice; and the penalty which can be imposed by the court for the violation; and shall be signed by the person issuing the notice and shall bear the badge number or other official identification number of the officer issuing the notice. *If the violator is a retail outlet, the officer shall hand or deliver the notice to the manager of the outlet or an on-site supervisor.*

[(b) Any person who receives a notice of violation may, within ten (10) days, pay two hundred fifty dollars (\$250), admit the violation, and waive appearance before a Municipal Court Judge. The notice of violation shall contain an appropriate statement for signature by the violator for the purpose of admitting the violation and waiving a hearing, and shall be returned by the violator when the stipulated payment is remitted. Payment of the fine alone shall constitute admission of the violation, whether or not the violator signs the statement.]

*(b) Each sale of, or attempt to sell or furnish by gift, purchase, or other means, any electronic smoking device or unapproved nicotine delivery product to a minor in violation of this Section shall constitute a separate violation.*

*(c) Any person, except a retail outlet, found in violation of this Section shall be subject to the following penalties:*

- (i) First offense: A civil penalty of two hundred fifty dollars (\$250).*
- (ii) Second offense: A civil penalty of five hundred dollars (\$500).*
- (iii) Third or subsequent offense: A civil penalty of one thousand dollars (\$1,000).*

*(d) Any retail outlet found in violation of this Section shall be subject to the following penalties:*

- (i) First offense: A civil penalty of five hundred dollars (\$500).*
- (ii) Second offense: A civil penalty of one thousand dollars (\$1,000).*
- (iii) Third or subsequent offense: A civil penalty of three thousand dollars (\$3,000).*
- (iv) Fourth or subsequent offense: A civil penalty of five thousand dollars (\$5,000).*

*(e) Any retail outlet cited for a violation under this Section shall be subject to random, unannounced compliance inspections on a quarterly basis for a period of two (2)*

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years. No retail outlet shall be subject to a compliance inspection more than once every thirty (30) days.

(f) Any retail outlet cited for a violation under this Section who completes a city-approved compliance training program on age verification and legal sales requirements after their first offense shall be subject to a civil penalty of two hundred fifty dollars (\$250) instead of the civil penalty of five hundred dollars (\$500).

(i) Any retailer cited two (2) or more offenses within a two-year period shall be required to display a city-issued notice of violation in a visible location at their place of business for a period of ninety (90) days.

[(c)] (g) If a [person] retail outlet who receives a notice of violation fails to make the prescribed payment within ten (10) days of the issuance of the notice of violation, a code enforcement complaint shall be issued for such violation in such manner as provided by law.

(h) The Department of Public Health shall maintain and publish an annual list of retailers who have been fined under this Section.

[(d) If the person named in a code enforcement complaint is found to have violated any provision of this Section or fails to appear on the date set for hearing, such person shall be subject to a maximum fine of two thousand dollars (\$2,000) for each such violation, or such lesser fine (not less than three hundred dollars (\$300)) as the court deems appropriate given the relative willfulness or repetitiveness of the violation, plus the imposition of court costs. Such a complaint may be issued irrespective of whether a notice of violation was previously issued for such violation.]

[(e)] (i) Upon a finding of a third violation of this Section committed at a single location or within a single business establishment, or of a combination of three or more violations of this Section or subsections 9-622(1) - (4), within a two-year period, the person shall also be subject, depending on the severity of the violations, to an order of the Department to either (A) cease the sale of electronic smoking devices, unapproved nicotine delivery products, and cigarettes; or (B) cease operations. Such order shall be for a period not less than forty-eight (48) hours and not to exceed *thirty days*, at the Department's discretion, based on the severity of the violations. *Such orders may be increased to sixty days for a fourth or subsequent violation within a two-year period.* For purposes of this subsection (e), multiple violations shall be considered to have occurred at a single location or within a single business establishment, even if ownership of the location or business has been transferred between the time of violations, unless the transfer was pursuant to an arm's length transaction for fair market value between two unrelated persons or unaffiliated companies.

(j) Fifty percent (50%) of all fines collected under this Section shall be

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*allocated to youth vaping prevention and education programs within the City of Philadelphia. The Department of Public Health shall oversee the distribution of these funds to school-based and community-led initiatives focused on nicotine addiction prevention and youth education.*

(7) *Severability. If any provision of this Section or its application is held invalid, the validity of the remainder of this Section and the application of such provision to other persons and circumstances shall not be affected.*

SECTION 2. This Ordinance shall take effect in thirty (30) days.

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Explanation:

[Brackets] indicate matter to be deleted.

*Italics* indicate new matter added.