

City of Philadelphia



(Bill No. 180457)

AN ORDINANCE

Amending Chapter 9-600 of The Philadelphia Code, entitled "Service and Other Businesses," to add a new Section 9-637, entitled "Sale of Flavored Tobacco Products," prohibiting offering for sale and selling certain tobacco products other than cigarettes with characterizing flavors and fixing penalties; all under certain terms and conditions.

WHEREAS, Tobacco use kills more than 3,500 Philadelphians each year and the average smoker loses 10 years of life as a result of tobacco use; and

WHEREAS, The health and economic burdens of tobacco use disproportionately fall on low-income Philadelphians, reflected in a 60% higher smoking prevalence for Philadelphians living in poverty compared to Philadelphians not living in poverty; and

WHEREAS, Characterizing flavors in tobacco products can increase the likelihood of tobacco use initiation and long-term addiction, are associated with fewer attempts to quit smoking as an adult, and can decrease the likelihood of successfully quitting; and

WHEREAS, 90% of current adult smokers started smoking by age 18 and 70% of teenagers who use tobacco in Philadelphia report using flavored tobacco; and

WHEREAS, Cigar use among black youth in Philadelphia doubled from 2011 to 2013 and has continued to rise since, driven by the wide availability of inexpensive, flavored cigars and the fact that stores in predominantly black neighborhoods are 74% more likely to display tobacco advertisements near children's products; and

WHEREAS, National and local data show that, while federal, state, and local laws prohibit the sale of tobacco products to minors, many young people are able to access tobacco products without directly purchasing them, so that complementary efforts to reduce the overall availability of flavored tobacco products in Philadelphia are needed; now, therefore

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.

* * *

§ 9-637. *Flavored Tobacco Products.*

City of Philadelphia

BILL NO. 180457 continued

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

“Characterizing Flavor.” A taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, any taste or aroma relating to fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, herb, or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.

“Flavored Cigar.” Any item rolled for smoking containing tobacco, including cigars and cigarillos, that imparts a Characterizing Flavor, except any cigarette subject to the tax authorized by Section 19-1807.

“Flavored Roll-Your-Own Tobacco.” Any Tobacco Product that imparts a Characterizing Flavor and that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for rolling and smoking.

“Tobacco Product.” As defined in Section 9-631(1) of this Code.

“Tobacco Products Distribution Business.” An establishment that prohibits minors from entering; provides neither food nor beverage to customers; and derives ninety percent (90%) or more of gross sales on an annual basis from Tobacco Products and accessories used in the consumption of Tobacco Products, including from sales via the internet which are delivered only upon verification of identity and age.

(2) *Sale of Flavored Tobacco Products Prohibited. It shall be a violation of this Section for any person to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Cigar or Flavored Roll-Your-Own Tobacco.*

(3) *Exception. Section 9-637(2) shall not apply to any Tobacco Products Distribution Business.*

(4) *Enforcement.*

(.a) *A violation of this Section shall be a Class III offense. Each day a violation continues shall constitute a separate offense. The amount required to be remitted in response to a notice of violation of this Section pursuant to § 1-112 shall be two hundred and fifty dollars (\$250).*

City of Philadelphia

BILL NO. 180457 *continued*

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(.b) Any person applying for or renewing a Tobacco Retailer Permit pursuant to § 9-631 shall be denied such permit if the person has violated Section 9-637(2) two or more times within the preceding twenty-four (24) months.

SECTION 2. This Ordinance shall take effect immediately.

Explanation:

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

City of Philadelphia

BILL NO. 180457 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 5, 2019. The Bill was Signed by the Mayor on December 18, 2019.



Michael A. Decker
Chief Clerk of the City Council