



City of Philadelphia

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

BILL NO. 200115

Introduced February 6, 2020

Councilmembers Henon and Bass

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

AN ORDINANCE

Amending Section 10-602 of The Philadelphia Code, entitled "Smoking," to prohibit establishments that are excepted from the indoor smoking prohibition from permitting minors to enter, and to require health informational signs; and amending Section 10-614, entitled "Electronic Smoking Devices," to prohibit establishments that are excepted from the indoor e-cigarette use prohibition from permitting minors to enter, and to require health informational signs; 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, a fact reflected in a 60% higher smoking prevalence for Philadelphians living in poverty compared to Philadelphians not living in poverty; and

WHEREAS, 90% of current adult smokers started smoking by age 18, and exposure to smoking in indoor public spaces can encourage addiction and normalize smoking, in addition to exacerbating asthma and other conditions and causing stroke, lung cancer, and heart disease; and

WHEREAS, there is a widespread and mistaken belief that water chambers make hookah a safe alternative to cigarettes by filtering toxins; and

WHEREAS, hookah use is associated with a wide variety of health risks, including heart disease, cancers, lung disease, and low birth weight; and

WHEREAS, signs designed to educate the public about health risks are empirically effective in increasing knowledge and minimally intrusive, and keeping minors out of public indoor spaces in which smoking is still permitted will greatly benefit their health; now, therefore,

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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.

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(3) Smoking Prohibited.

* * *

(c) *Minors. Any establishment excepted from the provisions of subsection 10-602(3)(a) shall permit minors neither to enter nor remain on the premises. This restriction shall not apply to sleeping quarters and shall apply regardless of whether or not smoking or e-cigarette use is occurring at the time.*

* * *

(5) Duties of Persons in Control of Premises.

(a) The owner, operator, manager, employer or other person in control in every place where smoking is regulated by this Section shall take the following actions, and shall not be cited for any violations of this Section if all such actions are taken:

(.1) Post "No Smoking" signs and other signs relating to smoking on the premises, in compliance with regulations to be promulgated by the Health Department, *prominently at each entrance and elsewhere as specified by regulation, including evidence-based signs informing of the health risks associated with hookah use to address an identified knowledge deficit among users. The requirement to post any such product-specific signs shall be limited by regulation to establishments at which the product may be used pursuant to an exception to subsection 10-602(3)(a).*

(.2) *Display an evidence-based health informational message in accordance with regulations promulgated by the Board of Health on any menu or menu board on which hookah, water pipe, or shisha, or other similar product if the Board of Health identifies a product-specific health knowledge deficit among users, appears as a menu item.*

(.3) *Any establishment subject to the restriction of subsection 10-602(3)(c) shall display a sign at least 8.5" x 11" prominently at each entrance and in each room or area where smoking is at any time permitted reading as follows in a clear, legible font with all*

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letters at least ½ inch high: “THIS ESTABLISHMENT HAS AN EXCEPTION TO THE CITY’S SMOKE-FREE LAW. YOU MUST BE 18 OR OLDER TO ENTER DUE TO THE HEALTH RISKS OF SECONDHAND SMOKE EXPOSURE.” If such an establishment elects to relinquish the benefit of exception from 10-602(3)(a) by written application to the Health Department, the requirement of this subsection (.3) shall no longer apply upon receipt of confirmation of such relinquishment from the Health Department.

(.24) Take reasonable *additional* measures to see to it that no person smokes in such place in violation of this Section *and, in the case of an establishment subject to the restriction of 10-602(3)(c), that minors neither enter nor remain on the premises.* The following measures shall be deemed sufficient to comply with this requirement:

(i) Informing any person who smokes in such place that smoking is prohibited by law, and requesting such person to immediately refrain from smoking or leave the area in which smoking is prohibited; and

(ii) *In the case of establishments excepted from subsection 10-602(3)(a), verifying age by checking identification, and informing any minor who enters or remains on the premises that the establishment cannot allow the minor to remain on the premises and requesting that the minor leave the establishment; and*

(iii) Reporting immediately to the Health Department or to any other person authorized to enforce this Section if a person does not comply with a request to immediately refrain from smoking or leave the area in which smoking is prohibited.

* * *

§ 10-614. Electronic Smoking Devices.

* * *

(2) Prohibition on Use.

* * *

(c) *Minors. Any establishment excepted from the provisions of subsection 10-614(2)(a) shall permit minors neither to enter nor remain on the premises. This restriction shall not apply to sleeping quarters and shall apply regardless of whether or not smoking or e-cigarette use is occurring at the time.*

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(4) Duties of Persons in Control of Premises.

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(a) The owner, operator, manager, employer or other person in control in every place where e-cigarette use is regulated by this Section shall take the following actions, and shall not be cited for any violations of this Section if all such actions are taken:

(.1) Post signs prohibiting e-cigarette use, separately or together with signs prohibiting smoking, on the premises in compliance with regulations to be promulgated by the Health Department, *prominently at each entrance and elsewhere as specified by regulation. Board of Health regulations may require the display of evidence-based signs informing of the health risks associated with the use of e-hookah or other similar products if the Board of Health identifies a product-specific knowledge deficit among users. The requirement to post any such product-specific signs shall be limited by regulation to establishments at which the product may be used pursuant to an exception to subsection 10-614(2)(a).*

(.2) *Display an evidence-based health informational message in accordance with regulations promulgated by the Board of Health on any menu or menu board on which e-hookah, or other similar product if the Board of Health identifies a product-specific health knowledge deficit among users, appears as a menu item.*

(.3) *Any establishment subject to the restriction of subsection 10-614(2)(c) shall display a sign at least 8.5" x 11" prominently at each entrance and in each room or area where e-cigarette use is at any time permitted reading as follows in a clear, legible font with all letters at least ½ inch high: "THIS ESTABLISHMENT HAS AN EXCEPTION TO THE CITY'S SMOKE-FREE LAW. YOU MUST BE 18 OR OLDER TO ENTER DUE TO THE HEALTH RISKS OF SECONDHAND E-CIGARETTE VAPOR EXPOSURE." If such an establishment elects to relinquish the benefit of exception from 10-614(2)(a) by written application to the Health Department, the requirement of this subsection (.3) shall no longer apply upon receipt of confirmation of such relinquishment from the Health Department. Ongoing compliance with subsection 10-602(5)(a)(.3) shall satisfy the requirement of this subsection (.3).*

(.24) Take reasonable *additional* measures to see to it that no person uses e-cigarettes in such place in violation of this Section *and, in the case of an establishment subject to the restriction of subsection 10-614(2)(c), that minors neither enter nor remain on the premises.*

SECTION 2. This Ordinance shall take effect immediately.

Explanation:

~~Strikethrough~~ indicates matter deleted.
Italics indicate new matter added.