

Legislation Text

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Amending Chapter 9-600 of The Philadelphia Code, entitled "Service and Other Businesses," to prohibit the sale of tobacco products, electronic smoking devices, and unapproved nicotine delivery products at establishments where health care services are provided, including where pharmaceutical drugs are sold; amending definitions and enforcement provisions related to retail permits for the sale of cigarettes and tobacco; and providing for penalties for certain sales of cigarettes, tobacco and electronic smoking devices and unapproved nicotine delivery products; all under certain terms and conditions.

WHEREAS, Tobacco use is one of the leading causes of death and disease in the City of Philadelphia, which has the highest smoking rate of the ten largest U.S. cities;

WHEREAS, Tobacco is a unique and deadly consumer product with no safe level of use;

WHEREAS, The sale of tobacco products and electronic smoking devices at establishments where health care services are provided, including pharmacies, is contrary to the health-promoting mission of these organizations;

WHEREAS, The availability of tobacco products and electronic smoking devices at establishments where health care services are provided can promote smoking initiation among youth, promote consumption, and prevent successful cessation among adults; and

WHEREAS, Prohibiting tobacco sales at establishments where health care services are provided can lead to lower tobacco purchases community-wide; 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.

\* \* \*

§ 9-631. Tobacco Retailer Permit *and Tobacco-Free Health Care Establishments.*

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

\* \* \*

"Electronic Smoking Device." [An electronic device, the use of which simulates tobacco smoking, that is intended to deliver nicotine to the person inhaling from the device; the term includes any solution, compound, or other substance containing nicotine and manufactured for use with such a device. The term shall not include a tobacco product as defined in this

§ 9-637. *Flavored Tobacco Products.*

Section.] *As defined in Section 9-633.*

*“Health Care Establishment.” Any establishment at which health care services are provided, including the sale of pharmaceutical drugs, including, but not limited to, hospitals; clinics; health centers; pharmacies; opticians’, physicians’, and dentists’ offices; and any retail establishment containing any of the foregoing, such as a department or grocery store containing a pharmacy.*

\* \* \*

(2) Tobacco Retailer Permit Required.

\* \* \*

(c) A Tobacco Retailer Permit shall be issued to an applicant if, in addition to any other applicable requirement, all of the following requirements are met:

\* \* \*

(.7) *The location for which the Permit is sought is not a Health Care Establishment.*

[(.7)] (.8) Any other requirement adopted by the Board of Health which the Board deems appropriate for the protection of public health.

\* \* \*

(5) *Sales Prohibited at Health Care Establishments.*

*No person shall sell or permit to be sold any Tobacco Product, Electronic Smoking Device, or Unapproved Nicotine Delivery Product at a Health Care Establishment.*

[(5)] (6) *Enforcement and Penalties.* [A violation of this Section shall be a Class III offense. Each day a violation continues shall constitute a separate offense.] *The enforcement and penalty provisions of Section 9-633(6) shall apply to violations of this Section.*

[(6)] (7) \* \* \*

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

\* \* \*

(6) Enforcement and Penalties.

\* \* \*

(e) 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] § 9-622(1)-(4), *or § 9-631(2) or (5)*, 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 one year, at the Department's discretion, based on the severity of the violations. 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.

SECTION 2. Section 9-622 of The Philadelphia Code is hereby amended to read as follows:

§ 9-622. Cigarettes and Tobacco Products.

\* \* \*

(6) Enforcement and Penalties.

\* \* \*

(e) Upon a finding of a third cigarette-sales violation, or of a combination of three or more violations of this Section, [and] § 9-631(2) *or (5) or § 9-633(2)-(4)*, committed at a single location or within a single business establishment:

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**Explanation:**

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