

Legislation Details (With Text)

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On agenda:		Final action:		11/3/2011	
Title:	Amending The Philadelphia Code, principally Title 19, entitled "Finance, Taxes and Collections," and such other provisions as may be appropriate, to reduce the tax burden on existing and new businesses; and to eliminate, waive, or reduce certain fees and permit charges, all for the purpose of generating growth in existing businesses, the birth of new businesses, and the creation of jobs; all under certain terms and conditions.				
Sponsors:	Councilmember Kenney, Councilmember DiCicco, Councilmember Krajewski, Councilmember Reynolds Brown, Councilmember Blackwell, Councilmember Miller, Councilmember Sanchez, Councilmember Jones				
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Code sections:	Title 19 - FINANCE, TAXES AND COLLECTIONS				
Attachments:	1. CertifiedCopy110548-A02.pdf				

Date	Ver.	Action By	Action	Result	Tally
11/14/2011	2	MAYOR	SIGNED		
11/3/2011	2	CITY COUNCIL	READ AND PASSED	Pass	16:0
10/27/2011	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY'S FIRST READING CALENDAR		
10/27/2011	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
10/27/2011	2	CITY COUNCIL	AMENDED		
10/27/2011	1	CITY COUNCIL	READ		
10/27/2011	2	CITY COUNCIL	ORDERED PLACED ON FINAL PASSAGE CALENDAR FOR NEXT MEETING.		
10/24/2011	0	Committee on Finance	HEARING NOTICES SENT		
10/24/2011	0	Committee on Finance	HEARING HELD		
10/24/2011	0	Committee on Finance	AMENDED		
10/24/2011	1	Committee on Finance	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
9/8/2011	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending The Philadelphia Code, principally Title 19, entitled "Finance, Taxes and Collections," and such other provisions as may be appropriate, to reduce the tax burden on existing and new businesses; and to eliminate, waive, or reduce certain fees and permit charges, all for the purpose of generating growth in existing businesses, the birth of new businesses, and the creation of jobs; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 19 of The Philadelphia Code is hereby amended to read as follows:

TITLE 19. FINANCE, TAXES AND COLLECTIONS.

* * *

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

* * *

§19-2602. Licenses.

(1) Every person desiring to engage in or to continue to engage in any business within the City of Philadelphia shall, whether or not such person maintains a place of business in the City, prior to engaging in such business, procure a business privilege license from the Department of Licenses and Inspections.

(2) [Two (2) types of business privilege licenses as required by subsection 19-2602(1) shall be issued, subject to all other provisions of this Section:

(a) A permanent license shall be issued upon payment of a fee of three hundred (300) dollars.

(b) An annual license, valid for a tax year, shall be issued upon a payment of fifty (50) dollars.] *There shall be no fee for the issuance of the business privilege license required by this Section.*

* * *

CHAPTER 19-3800. NEW BUSINESSES.

(1) *Definitions. In this Chapter, the following definitions shall apply.*

(a) *Department. The Revenue Department.*

(b) *Family member. A parent, spouse, life partner, child, sibling or like relative-in-law of an owner of a New Business or affiliate.*

(c) *New Business. A business that is subject to business privilege tax under Section 19-2603, but was not subject to the business privilege taxes imposed by Section 19-2603 at any time during the five Tax Years preceding Tax Year 2012.*

(i) *An existing business that is not subject to business privilege taxes because it is not currently engaged in business within the City of Philadelphia is eligible to qualify as a New Business upon engaging in such business if it meets the requirements of the preceding definition.*

(ii) *Exclusions. The term “New Business” does not include:*

(.1) *a business affiliated with or sharing substantial common ownership or control with a business that has filed a business privilege tax return;*

(.2) *a business created through an ownership change of a business that has*

filed a business privilege tax return, including, but not limited to:

- (A) a merger, acquisition or reorganization;*
- (B) the transfer of an existing business to a person who maintains the same or substantially similar business; and*
- (C) the closing of an existing business and its subsequent reopening as the same or similar business;*
- (.3) a business formed for the purpose of evading or avoiding payment of taxes or fees that would otherwise be due but for the provisions of this Chapter 19-3800; or*
- (.4) a business, the primary business activity of which is holding, selling, leasing, transferring, managing or developing real estate.*

(2) Notwithstanding any provision to the contrary, but subject to the conditions set forth in subsection (3), with respect to the first two years that a business qualifies as a New Business:

(a) The business taxes imposed by Section 19-2603 shall be imposed on the New Business at the rate of zero (0) percent.

(b) All fees charged by the City to the New Business for the following licenses and registrations shall be waived, provided that all such licenses and registrations shall continue to be required to the extent applicable to the New Business:

- (.1) Amusement license.*
- (.2) Food establishment license.*
- (.3) Sidewalk café license.*
- (.4) Curb market license.*
- (.5) Street vendor license.*
- (.6) Sidewalk sales license.*
- (.7) Center City vending license.*
- (.8) Neighborhood vending license.*
- (.9) Newsstand license.*
- (.10) Handbill distribution license.*
- (.11) Weights and measures registration.*
- (.12) Waste collection and recycling licenses.*
- (.13) Towing license.*
- (.14) Auto repair shop license or permit.*
- (.15) Hazardous chemical license or permit.*
- (.16) Business Privilege License.*

(c) The fees required by Section 14-1706 (relating to zoning and planning) shall be waived for the New Business, provided that all other requirements of that Section shall remain in effect.

(3) Conditions for tax and fee relief.

(a) Employment Requirement.

(.1) As a condition of maintaining “New Business” status, a business must:

(A) as of the 12-month anniversary of becoming subject to the business privilege tax and continuously thereafter through the 18-month anniversary of becoming subject to such tax, have at least three full-time employees who are not family members and who work in the City at least sixty percent of the time; and

(B) as of the 18-month anniversary of becoming subject to the business privilege tax and continuously thereafter through the 24-month anniversary of being subject to such tax, have at least six full-time employees who are not family members and who work in the City at least sixty percent of the time.

(.2) Opportunity to cure. If it is determined that, after a New Business hires the required number of qualifying employees, the number of qualifying employees subsequently drops below the required minimum, the business shall cease to be a New Business and shall be liable retroactively for all taxes, fees and charges as if it had never been a New Business, provided that, if the owner demonstrates that the shortfall was temporary and has been or will be cured within 30 days of the shortfall’s first occurrence, the department shall continue to treat the business as a New Business if all other conditions for qualifying as a New Business have been met.

(b) New Business Waiver Application. In order to claim any of the waivers or benefits set forth in subsection (2), a New Business must file with the Department a New Business Waiver Application, in such form as the Department shall determine, setting forth the New Business’s commitment to meet the employment and other requirements of this Chapter and such other information as the Department shall require.

(4) If the department finds that a taxpayer claiming the status of a New Business was not entitled to that status, the taxpayer shall be liable for any unpaid taxes, fees and charges that would otherwise have been due, and shall be subject to the provisions of Section 19-509 (“Interest, Penalties and Costs”), Section 9-102 (“Licenses and Permits”), and all other provisions applicable to the nonpayment of taxes, fees and charges.

(a) A business that otherwise qualifies as a New Business does not lose its status as such if, prior to the end of its second anniversary of becoming subject to business privilege taxes, the business ceases to exist.

(5) At the end of its second anniversary of becoming subject to business privilege taxes, a New Business shall cease to be a New Business.

(6) Nothing in this Chapter shall affect requirements in the Code that certain tax returns or other financial information be filed.

(7) The Department is authorized to promulgate regulations implementing the provisions of this Chapter, including, but not limited to, regulations regarding the determination of whether a business qualifies as a New Business and what documentation must be submitted by a business claiming “New Business” status, regulations specifying the procedure to follow when the years of operation of a New Business do not coincide with the tax year, and regulations specifying those licenses the fees for which shall be waived pursuant to this Chapter .

SECTION 2. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, it is the intention of City Council that the remainder of the Ordinance, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

SECTION 3. This Ordinance shall take effect beginning with Tax Year 2012, except for the amendments to Section 19-2602 of The Philadelphia Code, which shall take effect January 1, 2014. Nothing in this Ordinance shall affect the amount of estimated business privilege tax payments required to be paid in April 2012 for estimated Tax Year 2012 tax liabilities, and such estimated tax payments shall be calculated as if this Ordinance were not in effect for Tax Year 2012.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.