

Legislation Text

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Amending Chapter 9-600 of The Philadelphia Code, entitled "Service Businesses," to add new provisions to prohibit the sale, from certain retail establishments, of "blunts," "loosies," cigarette papers, cigars, and other items that may be otherwise legal but that are commonly used as drug paraphernalia, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is hereby amended as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

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CHAPTER 9-600. SERVICE AND OTHER BUSINESSES.

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§9-622. Cigarettes and Tobacco Products.

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(5) Retail Businesses

(a) It shall be unlawful for any retail business to sell or furnish by gift, purchase or other means any of the following:

(.1) Any cigarette, cigar, tiparillo, cigarillo or other tobacco product, singly or in packages of fewer than three or other than in the package, box, carton or other container provided by the

manufacturer, importer or packager which bears a health warning required by federal law, except that hotels, restaurants that seat at least 25 patrons, and specialty tobacco stores (as defined in Section 9-622(4)) may sell in small quantities cigars for which the retail price is at least one dollar (\$1) per cigar;

(.2) cigar or cigarette rolling papers;

(.3) any tobacco item that can be considered “drug paraphernalia” under Section 9-629.

(.4) any flavored tobacco item including any flavored cigarette, cigar, tiparillo, cigarillo or other tobacco product, except that the term “tobacco product” shall not include a package of loose tobacco, snuff, chewing tobacco, dipping tobacco, or pipe tobacco, where the package is that provided by the manufacturer, importer or packager which bears a health warning required by federal law, and provided that this subsection (.4) shall not apply to cigarettes in packages of 20 or more included in the directory published pursuant to Section 301 of the Pennsylvania Tobacco Product Manufacturer Directory Act, 35 P.S. Section 5702.301.

[(5)] (6) Enforcement and Penalties.

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(f) In addition to the above penalties, any person who violates subsection 9-622(5) shall be subject to the following penalties:

(i) Any person who violates the provisions of subsection 9-622(5) shall be subjected to a fine of not less than three hundred dollars (\$300) and not more than seven hundred dollars (\$700) for each violation committed during calendar year 2005; eleven hundred dollars (\$1,100) for each violation committed during calendar year 2006; fifteen hundred dollars (\$1,500) for each violation committed during calendar year 2007; nineteen hundred dollars (\$1,900) for each violation committed during calendar year 2008; and two thousand dollars (\$2,000) for each violation committed thereafter;

(ii) In addition to the penalties outlined above, the Department of Licenses and Inspections may revoke the business privilege license of any person violating the provisions of subsection 9-622(5).

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§9-629. Drug paraphernalia, blunt cigars, and similar items.

(1) It shall be unlawful for any person, including any retail business, to sell or offer for sale any of the following:

(a) Any item that constitutes drug paraphernalia, as that term is defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-102, where the seller knows, or under the circumstances reasonably should know, that it would be used to convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of that Act, especially any of the following:

(.1) Containers, bags, capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances, as well as cigars, cigarettes and related items intended for use in concealing or holding such substances;

(.2) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(a) Cigars sold singly, flavored cigars known as “blunts,” unflavored “blunts,” flavored and unflavored blunt wraps, cigarette rolling papers, cigarillos, and tiparillos;

(b) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(c) Water pipes;

(.d) Carburetion tubes and devices;

(.f) Smoking and carburetion masks;

(.g) Roach clips; meaning objects used to hold burning material such as a marihuana cigarette that has become too small or too short to be held in the hand;

(.h) Chamber pipes;

(.i) Carburetor pipes;

(.j) Electric pipes;

(.k) Air-driven pipes;

(.l) Chillums;

(.m) Bongs;

(.n) Ice pipes or chillers;

(.o) Miniature cocaine spoons and cocaine vials;

(.p) Rose and pen combinations.

(2) It shall be unlawful for any person, including any retail business, to sell or offer for sale within five hundred (500) feet of a school, recreation center, day care center, church, or community center any of the items identified in either Section 9-622(5) or Section 9-629(1), regardless of the intent as to use of the item.

(3) Exception. This Section shall not apply to cigarettes in packages of 20 or more included in the directory published pursuant to Section 301 of the Pennsylvania Tobacco Product Manufacturer Directory Act, 35 P.S. Section 5702.301.

(4) Penalties.

(a) In addition to the penalties as presently provided by law, any person in violation of this Section shall be subject to a civil penalty of seven hundred dollars (\$700) for each violation committed during calendar year 2005; eleven hundred dollars (\$1,100) for each violation committed during calendar year 2006; fifteen hundred dollars (\$1,500) for each violation committed during calendar year 2007; nineteen hundred

dollars (\$1,900) for each violation committed during calendar year 2008; and two thousand dollars (\$2,000) for each violation committed thereafter.

(b) In addition to the penalties outlined above, the Department of Licenses and Inspections may revoke the business privilege license of any person violating the provisions of this Section.

SECTION 2. Effective Date. This Ordinance shall be effective immediately.

Explanation:

Underlining indicates new matter added.
[Brackets] indicate matter to be deleted.