

Legislation Text

File #: 130693-A, Version: 1

Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by prohibiting the use of automated purchasing machines for the purchase of personal property; providing for the seizure and forfeiture of the machines used in violation; establishing certain exceptions; and imposing fines and penalties; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

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

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

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CHAPTER 9-4000. AUTOMATED PURCHASING MACHINES

§9-4001. Definitions.

(1) Automated Purchasing Machine or "APM." Any self-service automated device that, without the physical presence of a human agent, is capable of taking possession of and dispensing payment for any one or more types of personal property, other than cash (also known as reverse vending machines).

(2) Operate. As used in this Chapter, the term operate shall include ownership of an APM operated in violation of this Chapter, unless the owner can show that the illegal operation was without his knowledge or consent.

(3) Person. As used in this Chapter, an individual, or a partnership, firm, association, corporation, or other entity of any kind, other than a government entity or instrumentality.

(4) Secure Location. Any location where an Automated Purchasing Machine was lawfully installed as of September 1, 2014, and any other location specifically identified by City Council ordinance.

§9-4002. Use of APMs.

No person shall operate an APM, except under one or more of the following conditions:

- (1) The APM is located in a Secure Location;*
- (2) The APM is owned and operated by, or on behalf of, the Southeastern Pennsylvania Transportation Authority (SEPTA);*
- (3) The APM is owned or operated exclusively by a wireless service provider or its agent to conduct transactions where the trade-in value, if any, is available solely as a credit with the provider - either*

against the seller's account or as a gift card;

(4) *The APM is used exclusively for collecting recyclable materials pursuant to a recycling program approved by the City.*

§9-4003. *Penalties and Enforcement.*

(1) *Penalties.*

Any person who violates Section 9-4002 above shall be subject to a civil penalty of up to two thousand dollars (\$2,000). Each day of operation shall constitute a separate offense.

(2) *Enforcement.*

(a) Notices of violations shall be issued by any person authorized to enforce ordinances, pursuant to the procedures set forth in Section 10-1606 of this Code. Contested charges of violations shall be resolved, penalties shall be imposed, and payments shall be collected and processed by the Director of Finance and the Office of Administrative Review (or such other office as the Director of Finance shall designate), all pursuant to the procedures set forth in Sections 10-1604 through 10-1609, except that any person to whom a ticket is issued may, within eight (8) days of receipt, agree to forfeit the APM in lieu of contesting the violation and in lieu of any other fines or penalties.

(b) Removal. In addition to issuance of a notice of violation, whenever any officer with authority to enforce ordinances, including, for purposes of this Section, any Department inspector, reasonably believes an APM is being used in violation of this Chapter, the officer may remove the APM using the following procedure:

(.1) The officer shall post notice on the APM that it is operating illegally and that it will be removed if still operating illegally after forty-eight (48) hours (weekends and legal holidays excluded from that calculation);

(.2) If the officer returns after those forty-eight (48) hours and the APM still is operating illegally, the officer may remove the APM, but shall leave notice as to where and how the APM may be recovered;

(.3) The Department shall establish, either by regulation or by written internal policy, any additional procedures for removal and recovery of APMs.

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SECTION 2. Effective Date. This Ordinance shall become effective 30 days after enactment.

Explanation:

Italics indicate new matter added.

