File #: 251097, **Version:** 1

Amending Chapter 9-4400 of The Philadelphia Code, entitled "Responsible Business Operations," to add illegal sales of tobacco products to minors and unlicensed tobacco retailing as nuisance behaviors, and require completion of a Department-approved Tobacco Retailer Education and Compliance Training as a condition of lifting a Cease Operations Order, all under certain terms and conditions.

WHEREAS, The City of Philadelphia has experienced a significant increase in the number of unlicensed or improperly licensed "smoke shops," convenience retailers, and other establishments selling tobacco and nicotine products, many of which have opened without proper zoning approval, business licensing, or compliance oversight; and

WHEREAS, The Philadelphia Department of Public Health and community stakeholders have documented a rapid rise in illegal tobacco sales to individuals under twenty-one (21) years of age, including flavored nicotine products and other youth-targeted items, contributing to addiction, chronic absenteeism, and school-based safety concerns; and

WHEREAS, Illegally operating tobacco retailers frequently generate additional nuisance conditions-including loitering, public disorder, drug activity, and inadequate visibility into storefronts-that undermine neighborhood quality-of-life and disproportionately impact commercial corridors in communities of color and lower-income neighborhoods; and

WHEREAS, The City has a compelling public health and public safety interest in curbing illegal tobacco activity, ensuring that retailers comply with State and local law, and preventing youth access to tobacco products; and

WHEREAS, Requiring tobacco retailers who violate the law to complete a standardized education and compliance training will promote lawful operations, reduce repeated violations, and ensure that businesses understand their obligations under City, State, and Federal regulations; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

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

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

* * *

CHAPTER 9-4400. RESPONSIBLE BUSINESS OPERATIONS

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§ 9-4401. Definitions.

* * *

(3) Nuisance Behavior. Behavior that interferes with the health, safety, or welfare of the community, including, but not limited to, the following:

(b) Illegal sale of tobacco products in violation of state *or federal* law, *including, but not limited to, the sale or distribution of tobacco products to individuals under twenty-one (21) years of age, or operation of a tobacco retail establishment without a valid permit as required by Chapter 9-631 of this Code;*

* * *

§ 9-4403. Enforcement.

(1) Upon a determination that a business is a chronic nuisance business or critical nuisance business, the Department or the Police Department may issue a Notice of Intent to Cease Operations to the business owner, stating that the business has been identified as a chronic nuisance business or critical nuisance business and that the Department may impose a Cease Operations Order pursuant to the procedures set forth in Section A-505 of the Philadelphia Administrative Code unless the business owner either:

(a) Demonstrates to the issuing department that adequate remedial measures have been taken to address the conduct that led to the designation of the business as a chronic nuisance business or critical nuisance business; or

(b) Enters into a nuisance abatement plan pursuant to Section 9-4404.

Such Notice of Intent to Cease Operations may include proposed remedial measures such as some or all of those identified in Section 9-4404. Any Notice of Intent to Cease Operations issued to a nuisance business based *in* whole or in part on such business's unlawful sales of drug paraphernalia shall include the remedial measures set forth in subsections 9-4404(1)(n) and 9-4404(1)(o) and the remedial measures set forth in subsections 9-4404(1)(f) and 9-4404(1)(p), as appropriate. *Any Notice of Intent to Cease Operations issued to a nuisance business based in whole or in part on such business's unlawful sales of tobacco products shall include the remedial measure of training set forth in subsection 9-4404(r), as appropriate.*

* * *

(4) The Department shall lift a Cease Operations Order upon execution by the business owner of a nuisance abatement plan. A Cease Operations *Order* issued to a nuisance business based on whole or in part on such business's unlawful sales of drug paraphernalia may not be lifted unless the nuisance abatement plan includes, at a minimum, the remedial measures set forth in subsections 9-4404(1)(n) and 9-4404(1)(o) and the remedial measures set forth in subsections 9-4404(1)(f) and 9-4404(1)(p), as appropriate. *A Cease Operations Order issued to a nuisance business based in whole or in part on such business's illegal sales of tobacco products may not be lifted unless the nuisance abatement plan includes the remedial measure of training set forth in subsection 9-4404(r).*

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§ 9-4404. Nuisance Abatement Plans.

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(r) Tobacco Retailer Education and Compliance Training. If a business is determined to be a nuisance business under this Chapter as a result of violations described in § 9-4401(3)(b), the business owner shall ensure that the owner and/or person in charge complete a Department-approved Tobacco Retailer Education and Compliance Training within sixty (60) days of executing a nuisance abatement plan.

(.1) Training Administration. The Department of Public Health shall establish the standards, content, and format of the required training and may authorize qualified third-party providers to deliver such training.

(.2) Proof of Completion. Businesses shall provide proof of compliance with the training requirement in a form and manner determined by the Department of Public Health prior to the lifting of any Cease-Operations Order or the renewal of any Tobacco Retailer Permit.

(.3) Non-Compliance. Failure to complete the required training within the prescribed period shall constitute non-compliance with the nuisance abatement plan.

(.4) Savings Clause. Nothing in this subsection shall be construed to regulate or restrict the sale, marketing, or distribution of tobacco products, nor to supersede any licensing or enforcement authority of the Commonwealth of Pennsylvania. This subsection applies solely to the administration and conditions of the City of Philadelphia's Tobacco Retailer Permit and constitutes a valid exercise of the City's authority to promote public health, education, and compliance.

* * *

SECTION 2. This Ordinance shall become effective ninety (90) days after enactment.

Explanation:

Italics indicate new matter added.

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