

City of Philadelphia Tobacco Ordinances

Cigarettes and Products Vending Machines

§9-622. Cigarettes and Products.[Note 529]

(1) *Sales to minors prohibited; mandatory identification; warning signs.*

(a) It shall be unlawful for any person, including any retail business, to sell or furnish by gift, purchase or other means any cigarette or other product to any person under the age of eighteen (18) years.

(b) No person shall sell any cigarette or other product unless the purchaser either:

(.1) Demonstrates proof of legal age by means of a photographic identification card issued by a government entity or school; or

(.2) Reasonably appears to be at least twenty-five (25) years of age.

(c) *Defenses.*

(.1) It shall be a defense to a charge of unlawful sale to a person under eighteen (18) years of age that the seller reasonably relied on photographic identification pursuant to the preceding subsection (b), notwithstanding the fact the identification relied upon is subsequently proven to be fake.

(.2) It shall not be a defense to a charge of unlawful sale to a person under eighteen (18) years of age that the purchaser reasonably appeared to be at least twenty-five (25) years of age.

(d) *Warning Signs.*

(.1) Every retail outlet that sells cigarettes or other products shall post in a conspicuous place, clearly visible from any point of sale, a Warning Sign, as described below.

(.2) Every cigarette vending machine shall conspicuously bear a Warning Sign, as described below. The proprietor of the establishment in which such machine is placed, and the vending machine operator, as defined by state law, shall be jointly responsible and liable to assure the display of such sign.

(.3) The Warning Sign shall state the following: "SALE OF CIGARETTES AND OTHER PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. WILL BE REQUIRED. THIS LAW WILL BE STRICTLY ENFORCED." Such sign shall be printed on a white card in red letters at least one-quarter inch in height, or in such other format as the Department of Licenses and Inspections shall allow by regulation.

(2) *Out-of-package sales prohibited.* It shall be unlawful for any person, including any retail dealer, to sell or offer for sale any cigarette or other product, 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.

(3) *Self-service sales prohibited.*

(a) Any person, including any retail dealer, who sells any cigarettes or other products, shall store or display such products in a locked case or in a storage case or display accessible only to the seller.

(.1) This subsection shall not apply to open or free standing counter-top displays, provided that the counter-top display is three (3) feet of a staffed and operational check out register.

(b) No person selling cigarettes or other products shall allow anyone other than the seller or the seller's agent to physically remove any such product or its package from its storage or display case.

(c) Nothing in this subsection shall prohibit the storage, display, or sale of cigarettes in or from a properly licensed vending machine.

(d) Nothing in this subsection shall prevent sales by one licensed cigarette dealer to another licensed cigarette dealer, provided that neither dealer is the ultimate consumer of the product.

(4) *Specialty Stores.* Notwithstanding the foregoing, subsection (2) relating to out-of-package sales and subsection (3) relating to self-service sales shall not apply to any retail store commonly known as a "specialty store," the primary business of which is the sale of or -related products.

(5) *Enforcement and Penalties.*

(a) Whenever any officer with authority to enforce ordinances, including for purposes of this Section any Department of Public Health or Department of Licenses and Inspections inspector, becomes aware of a violation of this Section, such officer shall hand or deliver to the violator a printed notice of violation. If the violator is a retail outlet, the officer shall hand or deliver the notice to the manager of the outlet or an on-site supervisor. Such notice shall bear the date, time and nature of the violation, when known; the identity and address of the violator; the amount to be remitted in response to the notice; and the penalty which can be imposed by the court for the violation; and shall be signed by the person issuing the notice and shall bear the badge number or other official identification number of the officer issuing the notice.

(b) Any person who receives a notice of violation may, within ten (10) days, pay one hundred (100) dollars, admit the violation, and waive appearance before a Municipal Court Judge. The notice of violation shall contain an appropriate statement for signature by the violator for the purpose of admitting the violation and waiving a hearing, and shall be returned by the violator when the stipulated payment is remitted.

(c) If a person who receives a notice of violation fails to make the prescribed payment within ten (10) days of the issuance of the notice of violation, a code enforcement complaint shall be issued for such violation in such manner as provided by law.

(d) If the person named in a code enforcement complaint is found to have violated any provision of this Section or fails to appear on the date set for hearing, such person shall be subject to a fine of three hundred (300) dollars for each such violation, plus the imposition of court costs. Such a complaint may be issued irrespective of whether a notice of violation was previously issued for such violation.

(e) Upon a finding of a third cigarette-sales violation committed at a single location or within a single business establishment, any and all cigarette vending machines located at such location or within such establishment shall be removed by the owner of such machine, and no person shall install or maintain any cigarette vending machine at such location or in such establishment. For purposes of this subsection, a cigarette-sales violation shall be any violation of this Section; or any violation of Section 9-2102, relating to cigarette vending machines. The Department of Licenses and Inspections may remove any machine maintained in violation of this Section and may bill the owner of the establishment where such machine is located or the owner of the machine for the cost of removal.[\[Note 530\]](#)

Chapter 9-2100. **Cigarette Vending Machines** [\[Note 636\]](#)

§9-2101. Definitions.

(1) *Cigarette Vending Machine.* Any mechanical, electrical or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco or tobacco products either exclusively, or as one kind of available item.

(2) *Tobacco product.* Any substance containing tobacco leaf including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(3) *Lock-out device.* An electronic device which renders a vending machine inoperable except when activated or unlocked by remote, electronic authorization transmitted on a per-transaction basis.

§9-2102. Prohibition of Cigarette Vending Machines.

No person shall install or maintain a cigarette vending machine at any location in the City of Philadelphia unless such machine is subject to an operational lock-out device which is subject only to the control of the proprietor of the establishment or his or her agent and not subject to control by the general public.

§9-2103. Penalties and Enforcement.

(a) The penalty for violation of this Chapter shall be a fine not exceeding three hundred (300) dollars, together with imprisonment not exceeding ninety (90) days, if the fine and any costs are not paid within ten (10) days.

(b) Whenever any officer with authority to enforce ordinances, including for purposes of this Section any Department of Public Health or Department of Licenses and Inspections inspector, becomes aware of a violation of this Chapter, such officer shall hand or deliver to the violator a printed notice of violation. If the violator is a retail outlet or other business establishment, the officer shall hand or deliver the notice to the manager of the outlet or establishment or an on-site supervisor. Such notice shall bear the date, time and nature of the violation, when known; the identity and address of the violator; the amount to be remitted in response to the notice; and the penalty which can be imposed by the court for the violation; and shall be signed by the person issuing the notice and shall bear the badge number or other official identification number of the officer issuing the notice.

(c) Any person who received a notice of violation may, within ten (10) days, pay one hundred (\$100.00) dollars, admit the violation, and waive appearance before a Municipal Court

Judge. The notice of violation shall contain an appropriate statement for signature by the violator for the purpose of admitting the violation and waiving a hearing, and shall be returned by the violator when the stipulated payment is remitted.

(d) If a person who receives a notice of violation fails to make the prescribed payment within ten (10) days of the issuance of the notice of violation, a code enforcement complaint shall be issued for such violation in such manner as provided by law. Such a complaint may be issued irrespective of whether a notice of violation was previously issued for such violation.

(e) Upon a finding of a third cigarette-sales violation committed at a single location or within a single business establishment, any and all cigarette vending machines located at such location or within such establishment shall be removed by the owner of such machine, and no person shall install or maintain any cigarette vending machine at such location or in such establishment. For purposes of this subsection, a cigarette-sales violation shall be any violation of this Section; or any violation of Section 9-622, relating to cigarettes and tobacco products. The Department of Licenses and Inspections may remove any machine maintained in violation of this Section and may bill the owner of the establishment where such machine is located or the owner of the machine for the cost of removal.

Endnotes

[Note 636] 636. Added, Bill No. 960367-A (approved June 23, 1998). Enrolled bill read "Chapter 9-2000" in error, since a Chapter 9-2000 already exists. Chapter heading and all included Section numbers have been changed by the Code editor to conform to Chapter 9-2100. Section 3 of Bill No. 960367-A read: "This Ordinance shall be effective one hundred eighty (180) days after enactment."