

SUMMARY OF SELECT TOBACCO CONTROL LAWS – CITY, STATE, AND FEDERAL¹

City of Philadelphia

Sales to Minors; Identification; Warning Signs; Out-of-Package Sales; Self Service; Vending Machines

Citation ²	Requirements / Prohibition	Exceptions	Penalties	Enforcement
§ 9-622(1)(a)	Sale to minor. It is illegal to sell or furnish any cigarette or other tobacco product to any person under the age of 18.	There is a defense if the seller reasonably relied on photographic ID (even if the ID is fake), so long as the ID contains all of the following: photo likeness, birth date, expiration date, and signature. Further, the ID must not have bumps, tears, or other damage.	<p>\$250 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise \$300 - \$2,000 if found guilty in Municipal Court, plus court costs.</p> <p>If the violation is a third or subsequent violation within a 2-year period, the seller is subject to a cease operations order lasting at least 48 hours.</p>	Philadelphia Department of Public Health (“ PDPH ”)
§ 9-622(1)(b)	Identification. No person shall sell any cigarette or tobacco product unless the purchaser furnishes government-issued picture ID, or reasonably looks at least 27 years old.	N/A	<p>\$250 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise \$300 - \$2,000 if found guilty in Municipal Court, plus court costs.</p> <p>If the violation is a third or subsequent violation within a 2-year period, the seller is subject to a cease operations order lasting at least 48 hours.</p>	PDPH

¹ This document serves as a summary of select city, state, and federal tobacco control laws. It does not serve as an exhaustive list of all laws and regulations governing the sale, use, or distribution of tobacco or tobacco related products.

² All city citations reference The Philadelphia Code.

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
§ 9-622(1)(d)	Warning sign. Any retail outlet that sells cigarettes or other tobacco products shall post in a conspicuous place a warning sign stating the following: "SALE OF CIGARETTES AND OTHER TOBACCO PRODUCTS TO PERSON UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. WILL BE REQUIRED. THIS LAW WILL BE STRICTLY ENFORCED."	N/A	\$250 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise \$300 - \$2,000 if found guilty in Municipal Court, plus court costs.	PDPH
§ 9-622(2)	Out of package sale. It shall be unlawful for any person to sell or offer for sale any cigarette or other tobacco 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.	This does not apply to any retail store commonly known as a "specialty tobacco store", the primary business of which is the sale of tobacco or tobacco-related products.	\$250 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise \$300 - \$2,000 if found guilty in Municipal Court, plus court costs. If the violation is a third or subsequent violation within a 2-year period, the seller is subject to a cease operations order lasting at least 48 hours.	PDPH
§ 9-622(3)	Self service sale. Any person who sells any cigarette or other tobacco product must do so in a locked case or in a storage case or display accessible only to the seller. No person may remove any tobacco product from storage or display except the seller.	This does not apply to a free-standing counter-top display that is within 3 feet of a staffed and operational check out register. This does not apply to any retail store commonly known as a "specialty tobacco store", the primary business of which is the sale of tobacco or tobacco-related products.	\$250 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise \$300 - \$2,000 if found guilty in Municipal Court, plus court costs. If the violation is a third or subsequent violation within a 2-year period, the seller is subject to a cease operations order lasting at least 48 hours.	PDPH

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
§ 9-2100 <i>et seq.</i>	No person shall maintain a cigarette vending machine unless the machine is subject to an operational lock out device which is subject only to the control of the seller.	N/A	<p>\$100 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise up to \$300 if found guilty in Municipal Court, plus court costs.</p> <p>If the violation is a third violation, the seller must remove the vending machine.</p>	PDPH

Clean Indoor Air Worker Protection Law (“CIAWPL”)

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
§ 10-602	No smoking is allowed in an enclosed area to which the general public is invited; within 20 feet of any entrance to an enclosed area where smoking is prohibited; any area where a “No Smoking” sign is posted pursuant to an order by the Fire Department; any sidewalk café; any deck, patio, or similar service area that is part of a food and beverage establishment; any health care facility, including a private residence that is used as a health care facility (during hours of operation); and any child or adult care facility, including a private residence that is used as a child or adult care facility (during hours of operation); and any vehicle when it is used as public transportation of children or adults as part of day care transportation.	<p>The following are exempt:</p> <p>Tobacco Products Distribution Business;³ Specialty Tobacco Establishment;⁴ up to 25% of the sleeping quarters within a Lodging Establishment;⁵ Private Club;⁶ and Drinking Establishment.⁷</p> <p>Because of State preemption of City law, even though the City law does not allow casinos to permit smoking, 25% to 50% of the gaming floor of a casino may allow smoking. <i>See 4 Pa.C.S. § 1518.3.</i></p>	\$75 – pay within 10 days, admit violation, and waive appearance before a Municipal Court Judge, with penalties applied if payment after 10 days; otherwise \$300 if found guilty in Municipal Court, plus court costs.	PDPH

³ “Tobacco Products Distribution Business” is an establishment whose primary business is the retail and/or wholesale sale of tobacco, tobacco-related products and accessories for consumption on or off the premises. The term “primary” shall mean that 90% or more of the gross sales on an annual basis shall derive from tobacco, tobacco-related products and accessories.

⁴ “Specialty Tobacco Store” is a food or beverage establishment whose on-site sales or rentals of tobacco, tobacco-related products and accessories for consumption or use on the premises comprises 15% or more of gross sales on an annual basis.

⁵ “Lodging Establishment” is any hotel, motel, inn, resort, guest house, bed and breakfast establishment, or other building that provides overnight lodging for people seeking temporary accommodation.

⁶ Private Clubs and Drinking Establishments are “grandfathered in.” PDPH maintains a list of all such establishments; if an establishment was not already granted a waiver by PDPH, such establishment does not qualify as a Private Club or Drinking Establishment; audits of Drinking Establishments may reveal that some establishments no longer fall under the definition of “Drinking Establishment” (on-site sales of food for consumption must be no more than 20% of gross sales), in which case such an establishment would no longer be exempt.

Tax on Other Tobacco Products

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
<p>§ 19-3700 <i>et seq.</i></p>	<p>There is a tax on the sale of all tobacco and tobacco-related products. “Tobacco and tobacco-related products”, for the purpose of the tax, is a product containing tobacco for smoking or other consumption, including any cigar, smokeless tobacco, pipe tobacco or other loose tobacco. This does not include a cigarette or little cigar.</p> <p>Rate of the tax:</p> <p>For any tobacco and tobacco-related product that consists of individual items rolled for smoking, including, but not limited to, cigars, \$0.036 per item;</p> <p>For all other tobacco and tobacco-related products, \$0.36 per ounce; and</p> <p>For rolling papers, \$0.36 per pack.</p>	<p>Does not include a cigarette or little cigar.</p>	<p>Collection of tax and other appropriate enforcement action.</p>	<p>Philadelphia Department of Revenue</p>

Tobacco Retailer Permit

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
§ 9-631	<p>Any person that sells tobacco products, electronic smoking devices, and/or unapproved nicotine delivery products must obtain a Philadelphia tobacco retailer permit.</p> <p>An electronic smoking device is an electronic device that simulates tobacco smoking, and is designed to deliver nicotine to the person inhaling from the device.</p> <p>An unapproved nicotine delivery product is a product that contains or delivers nicotine to the person using the product, and which is not approved by the U.S. Food and Drug Administration for tobacco use cessation or for other medical purposes.</p>	N/A	Designated as a Class III offense, which is punishable by up to \$2,000 per violation.	PDPH

State of Pennsylvania

Sales to Minors; Identification; Out-of-Package Sales; Vending Machines

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
18 Pa.C.S. § 6305	No person shall sell or furnish any tobacco product to a minor; or place a tobacco vending machine in a location accessible to minors; display tobacco that allows an individual other than the seller to physically handle tobacco products; or display or offer cigarettes for sale out of a package of cigarettes.	<p>The provision relating to the physical handling of tobacco products does not apply to a retail store that derives 75% or more of sales revenues from tobacco products.</p> <p>There is a defense for a sale to a minor if the seller has done all of the following: adopted a written policy that has been implemented in the store; informed all employees of the law; documented employee training; posted a warning notice on the premises that states that sales of tobacco to minors is illegal; and established disciplinary sanctions for noncompliance with the written policy.</p>	<p>For retailers, in addition to court costs:</p> <p>First offense, \$100 - \$500;</p> <p>Second offense, \$500 - \$1,000;</p> <p>Third offense, \$1,000 - \$3,000; and</p> <p>Fourth or subsequent offense, \$3,000 - \$5,000.</p> <p>For individuals, in addition to court costs:</p> <p>First offense, \$100 - \$250;</p> <p>Second offense, \$250 - \$500;</p> <p>Third offense, \$500 - \$1,000; and</p> <p>Fourth or subsequent offense, \$500 - \$1,000.</p> <p>The Pennsylvania Department of Revenue may suspend a retailer's cigarette license for up to 30 days upon a third conviction in any 24-month period; and revoke a retailer's cigarette license for up to 60 days upon a fourth conviction during any 24-month period.</p>	Pennsylvania Department of Health; PDPH

Clean Indoor Air Act

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
35 P.S. § 637.1 <i>et seq.</i>	No smoking is allowed in an enclosed area that serves as a workplace or an area where the public is invited or permitted.	The Pennsylvania Clean Indoor Air Act does not preempt the Philadelphia Clean Indoor Air Worker Protection Law except to the extent of the following exception: 25% to 50% of the gaming floor of a casino is exempt.	First violation, up to \$250; Second violation within one year of first violation, up to \$500; and Third or subsequent violation within one year of second violation, up to \$1,000.	Pennsylvania Department of Health; PDPH (through Board of Health election on 01/13/2011)

Cigarette Retailer Licensing; Mail-Order Sales

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
72 P.S. § 206-A	All cigarette retailers need to receive a license from the Pennsylvania Department of Revenue. The retailer license is \$25. Each license expires on the last day of February; the retailer must timely renew.	Licensing only applies to cigarettes and little cigars, and excludes other tobacco products (including cigars).	\$250 to \$1,000 and/or imprisonment for up to 30 days. These are in addition to court costs. The license may be suspended for up to 30 days.	Pennsylvania Department of Revenue
72 P.S. § 231-A	Among other things, prior to shipping tobacco products to the purchaser, retailers must receive a photocopy or image of a valid, government issued ID stating the date of birth of the purchaser.	N/A	Up to \$1,000 for the first violation; and \$1,000 to \$5,000 for the second or subsequent violation.	Pennsylvania Department of Revenue

Federal

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
<p>21 U.S.C. 301, <i>et seq.</i></p> <p>21 C.F.R. Part 1140</p>	<p>Sale to minor. No retailer may sell tobacco to any person younger than 18 years of age.</p> <p>Identification. No retailer shall sell any tobacco to anyone 26 years of age or younger without checking a photo ID that bears the person’s date of birth.</p> <p>Out of package sale. No retailer may break open any tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than 20 cigarettes, or any quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer.</p>	<p>N/A</p>	<p>Penalties range from a warning letter (for a first violation by a retailer with an approved training program) to a civil money penalty not to exceed \$10,000 (for a sixth or each subsequent violation at the same retail location within a 48-month period).</p> <p>No-tobacco-sale orders may also be issued for repeat violators.</p>	<p>U.S. Food and Drug Administration (“FDA”); Pennsylvania Department of Health (through tobacco retail inspection contract with FDA)</p>
<p>21 U.S.C. 301, <i>et seq.</i></p> <p>21 C.F.R. Part 1140</p>	<p>Direct face-to-face sale. A retailer may only sell tobacco in a direct, face-to-face exchange without the assistance of any electronic or mechanical device (such as a vending machine).</p>	<p>Mail-order sales are allowed unless they are mail order redemption of coupons or distribution of free samples through the mail.</p> <p>Vending machines are allowed so long as self-service displays are located in facilities where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.</p>	<p>Penalties range from a warning letter (for a first violation by a retailer with an approved training program) to a civil money penalty not to exceed \$10,000 (for a sixth or each subsequent violation at the same retail location within a 48-month period).</p> <p>No-tobacco-sale orders may also be issued for repeat violators.</p>	<p>FDA; Pennsylvania Department of Health (through tobacco retail inspection contract with FDA)</p>

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
21 U.S.C. 301, <i>et seq.</i> 21 C.F.R. Part 1140	Free samples. No tobacco manufacturer, distributor, or retailer may distribute any free samples of cigarettes, smokeless tobacco, or other tobacco products.	Restriction does not apply to a qualified adult-only facility for free samples of smokeless tobacco products. ⁸	Penalties range from a warning letter (for a first violation by a retailer with an approved training program) to a civil money penalty not to exceed \$10,000 (for a sixth or each subsequent violation at the same retail location within a 48-month period). No-tobacco-sale orders may also be issued for repeat violators.	FDA; Pennsylvania Department of Health (through tobacco retail inspection contract with FDA)

⁸ “Qualified adult-only facility” is a facility or restricted area: (A) that requires each person present to show photo ID showing that the person is of legal age to purchase tobacco; (B) does not sell, serve, or distribute alcohol; (C) is not located adjacent to or immediately across from a space that is used primarily for youth-oriented marketing, promotional, or other activities; (D) is a temporary structure operated as a distinct enclosed area for the purpose of distributing free samples of smokeless tobacco; (E) is enclosed by a barrier that is constructed of or covered with an opaque material (except for entrances and exits), and extends from no more than 12 inches above the ground to at least 8 feet above the ground, and prevents persons from outside the facility from seeing inside; and (F) does not display on its exterior any tobacco product advertising, a brand name other than in conjunction with words for an area or enclosure to identify an adult-only facility, or any words that would imply that the manufacturer, distributor, or retailer has a sponsorship of any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event.