

Bill 140095 – Prohibiting indoor e-cigarette use – April 2014

1. Which business and indoor spaces are impacted?

This law prohibits the use of e-cigarettes in workplaces, restaurants (including outdoor seating areas), bars, clubs, and other indoor public spaces, including: retail/wholesale stores; movie theaters, museums, performance spaces; childcare, daycare, schools, hospitals; common areas of apartment buildings and hotels; at least 75% of hotel rooms; and casinos. The law applies to all electronic smoking devices, such as e-cigarettes, e-cigars, e-hookahs, and vape pens. **The law goes into effect July 1, 2014.**

2. Why was this law passed?

This law will protect and promote public health in a number of ways: 1) helping avoid confusion and difficulty with enforcing the Clean Indoor Air Worker Protection Law, which prohibits conventional cigarette smoking in indoor spaces; 2) protecting people from the potential harms of secondhand e-cigarette vapor, which can contain harmful chemicals; 3) ensuring that a behavior mimicking cigarette smoking does not make smoking normal again; and 4) setting a consistent citywide standard for all workplaces so that expectations for managers, employees, clients, visitors, students, and residents are clear.

3. How will this law be enforced?

Ultimately, businesses affected by the law are responsible for notifying staff, clients, and visitors about this new policy, including posting signs (or modifying existing signs) stating that e-cigarette use is prohibited. Sample signs will be available at: <http://www.phila.gov/health/permitsForms.html>.

To enforce this law, the Philadelphia Department of Public Health (PDPH) will use the same process it used for the Clean Indoor Air Worker Protection Law. PDPH will educate businesses through fact sheets, online presentations, press releases, and communications to business associations. PDPH will begin inspecting businesses this summer. (It will also set up a system for the public to report violations by phone and online.) For approximately the first 6 months (July-December 2014), PDPH will provide education and warnings to businesses if violations are noted. Beginning in 2015, PDPH will issue \$300 tickets for violations. Tickets will be issued to business owners, not e-cigarette users.

4. Are there exemptions from this law?

Three types of businesses are exempted from this law:

- a. **E-cigarette specialty establishments** (“vape shops”), with at least 50% of revenue coming from e-cigarette sales. An application to register as an e-cigarette specialty establishment will soon be available at <http://www.phila.gov/health/permitsForms.html>.
- b. **Tobacco products distribution businesses** (“cigar shops”), with at least 90% of revenue coming from tobacco sales. To apply to be a tobacco products distribution business, visit <http://www.phila.gov/health/permitsForms.html>.
- c. **Drinking establishments** and **private clubs** with an existing waiver from the Clean Indoor Air Worker Protection Law. Businesses cannot apply for this exemption.

Bill 140096 – Prohibiting e-cigarette sales to minors – April 2014

1. What is required of businesses that sell e-cigarettes?

Philadelphia retailers may not sell e-cigarettes or accessories (refill cartridges, batteries, vaporizers/atomizers) to youth under 18 years-of-age. E-cigarettes include all electronic smoking devices, such as e-cigars, e-hookahs, and vape pens. **The law goes into effect immediately.**

Clerks must ask for official photo ID from anyone who looks under age 27 years. E-cigarettes must be stored and displayed behind the counter or in a locked cabinet. They must be sold in their original packaging. Stores selling e-cigarettes must post a sign stating that e-cigarette sales to minors are illegal, and they must obtain a tobacco retail permit from the Philadelphia Department of Public Health. Sample signs and permits will be available at <http://www.phila.gov/health/permitsForms.html>.

2. What will this law accomplish?

This law will prevent youth from purchasing e-cigarettes, refill cartridges, and other e-cigarette accessories. This will protect kids from the potential harms of e-cigarette use, and help prevent youth from becoming addicted to nicotine. Currently, e-cigarettes are unregulated at the federal level. They often contain nicotine and other harmful chemicals, and e-cigarette liquid is available with candy and fruit flavorings that are appealing to kids. E-cigarette use among youth in the U.S. has doubled in the past few years, and may serve as a gateway to use of conventional cigarettes.

3. How will this law be enforced?

The Philadelphia Department of Public Health (PDPH) will use the same process it uses to investigate cigarettes sales to minors. PDPH will educate businesses through fact sheets, online presentations, press releases, and communications to business associations.

Undercover youth (under the age of 18 with valid photo ID) will be sent to stores to attempt to purchase e-cigarettes. (They will be accompanied by adult chaperones.) If they are able to purchase an e-cigarette, they tag and label the product and complete a survey documenting the purchase. This information is then shared with PDPH's Environmental Health Services unit to issue tickets. In the last 3 years, this process has led to a 30% decrease in tobacco sales to minors.

4. What happens if businesses do not comply?

PDPH will issue tickets of \$250 if businesses are found to have sold an e-cigarette to a minor. Businesses may also receive additional fines for not checking ID (\$250), selling an e-cigarette out of its original packaging (\$250), not having appropriate signage (\$250), or not having a tobacco retail permit (\$75). If a business receives three separate violations in 2 years, the City can cease its business activities for 48 hours or more. If a business believes it has been ticketed inappropriately, an appeal can be issued with City's Office of Administrative Review.