

Philadelphia Code §10-614 – Prohibiting indoor e-cigarette use Question and Answer for retailers

1. 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.

2. 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.

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. Examples of signage will soon be available for download 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 (CIAWPL). PDPH will educate businesses through fact sheets, online presentations, press releases, and local business associations. PDPH will begin inspecting businesses in Summer 2014. (PDPH 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 staff will provide education and warnings to businesses if violations are noted. Beginning in January 2015, PDPH will issue \$300 tickets for violations. As with any violation of the CIAWPL, this violation will be issued to the business owner, not the e-cigarette user.

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. To apply to be an e-cigarette specialty establishment, forms 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.

Question and Answer for retailers

1. 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. There is increasing evidence that e-cigarettes may be a bridge to traditional cigarettes for youth.

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

Philadelphia retailers may not sell e-cigarettes or their accessories (refill cartridges, batteries, vaporizers/atomizers) to youth under 18 years-of-age. E-cigarettes include all electronic smoking devices, such as e-cigs, e-hookahs, and vape pens.

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. Examples of signage will soon be available for download at <http://www.phila.gov/health/permitsForms.html>. All stores selling tobacco products and e-cigarettes must obtain a tobacco retail [permit](#) from the Philadelphia Department of Public Health and a license from the Pennsylvania Department of Revenue.

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. Undercover youth (under the age of 18 with valid photo ID) will be sent to stores to purchase e-cigarettes, accompanied by an adult chaperone. 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 driven down rates of youth sales by over 30%. PDPH will educate businesses through fact sheets, online presentations, press releases, and local business associations. The law goes into effect April 9, 2014.

4. What happens if businesses do not comply?

PDPH's Environmental Health Services unit 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 have a tobacco retail permit (\$75). Any retailer that is selling tobacco without a valid



Tobacco Retailer Permit will be fined \$75 per day. 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.