SUMMARY OF SELECT TOBACCO CONTROL LAWS – STATE AND CITY

City of Philadelphia

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

Citation[1]	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.	$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.	Philadelphia Department of Public Health ("**PDPH**"); Philadelphia Department of Licenses and Inspections ("**L&I**")
§ 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	$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; L&I.

[1] 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; L&I.
§ 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; L&I.
§ 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; L&I.

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
§ 9-2100 *et seq.*	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	$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. If the violation is a third violation, the seller must remove the vending machine.	PDPH; L&I.

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.	The following are exempt: Tobacco Products Distribution Business;[2] Specialty Tobacco Establishment;[3] up to 25% of the sleeping quarters within a Lodging Establishment;[4] Private Club;[5] and Drinking Establishment.[6] 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. *See 4 Pa.C.S. § 1518.3.*	$300 fine.	PDPH.

[2] "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.

[3] "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.

[4] "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.

[5] 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
§ 19-3700 *et seq.*	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, little cigar, or rolling papers. Rate of the tax: 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; For all other tobacco and tobacco-related products, $0.36 per ounce; and For rolling papers, $0.36 per pack.	Does not include a cigarette, little cigar, or rolling papers.	Collection of tax and other appropriate enforcement action.	Philadelphia Department of Revenue.

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.	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. 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.	For retailers, in addition to court costs: First offense, $100 - $500; Second offense, $500 - $1,000; Third offense, $1,000 - $3,000; and Fourth or subsequent offense, $3,000 - $5,000. For individuals, in addition to court costs: First offense, $100 - $250; Second offense, $250 - $500; Third offense, $500 - $1,000; and Fourth or subsequent offense, $500 - $1,000. 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.	Pennsylvania Department of Health; PDPH.

Clean Indoor Air Act

Citation	Requirements / Prohibition	Exceptions	Penalties	Enforcement
35 P.S. § 637.1 *et seq.*	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;[7] 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

[7] Cigarette licensing is designed to enforce the collection of the State cigarette tax ($1.60 per package).