

Retailers Completing New and Renewal Online Applications for Tobacco Retailer Permits

Required Education Module

STOP:

The owner or the party legally responsible for this Tobacco Retailer Permit ***must*** complete the following Education Module by reviewing and certifying their understanding of the laws and regulations applicable to Tobacco Retailers. If you are not the owner or the party legally responsible for the Tobacco Retailer Permit of the establishment that is submitting this Tobacco Retailer Permit application, you shall not complete this Education Module or the Tobacco Retailer Permit application.

When is a Tobacco Retail Permit Required in Philadelphia?

A Tobacco Retailer Permit is required in the City of Philadelphia to sell any of the following products (See Philadelphia Code Section 9-631):

- Any substance containing tobacco leaf, including cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, snus, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco. (Section 9-631(1)).
- Any product containing or delivering nicotine intended or expected for human consumption, or any part of such a product, that has not been approved or otherwise certified for sale by the United States Food and Drug Administration as a tobacco use cessation product, or for other medical purposes. (Section 9-631(1)).
- Electronic smoking devices, e-cigarettes, e-hookah, or other vaping products intended to deliver nicotine to the person inhaling from the device, including any solution, compound, or other substance containing nicotine and manufactured for use with such a device. (Section 9-631(1)).

Locations Where Tobacco Retailer Permits Are Allowed

- Tobacco Retailers must exist at fixed, permanent locations. Sales from mobile vehicles are not permitted. (9-631(2)(c)(.6)).
- Tobacco Retailer Permits may not be transferred to a new owner or to a new location operated by the same Tobacco Retailer Permit holder. (9-631(2)(d)).
 - If your business moves or changes owners, you must apply for a new Tobacco Retailer Permit.
- **Planning District Density Restrictions** (Board of Health Regulation 12/8/2016)
 - Each Philadelphia Planning District cannot contain more Tobacco Retailer Permits than the number equal to the commuter-adjusted daytime population of the Planning District divided by 1,000, rounded up.

- **Planning District Density Restrictions** (Board of Health Regulation 12/8/2016)
 - The Philadelphia Department of Public Health keeps a waiting list for Planning Districts that have reached the Tobacco Retailer Density Limit.
 - Retailers have 30 days to submit a completed application after receiving notification that they have been moved off the waiting list.
- Link to the website:
<https://phl.maps.arcgis.com/apps/InformationLookup/index.html?appid=f9325181c4a74356b952448e788efec9>

Locations Where Tobacco Retailer Permits Are Allowed

500-foot School Buffer Zones (Board of Health Regulation 12/8/2016)

- A Tobacco Retailer Permit shall not be issued to a location within 500 feet of a K-12 school.
 - Link to the website:
<https://phl.maps.arcgis.com/apps/InformationLookup/index.html?appid=f9325181c4a74356b952448e788efec9>

● **Exemptions to the Density and Buffer Zones Requirements** (Board of Health Regulation 12/8/2016)

- Tobacco Retailers issued a permit before February 15, 2017 are exempt from the Planning District Density and School Buffer Zone requirements if the Tobacco Retailer Permit continues to be properly renewed each year.
- Tobacco Retailer Permits that have been exempt from Planning District Density and School Buffer Zone requirements can lose their exemptions if they receive a tobacco sales cease order or a cease operations order for violations of the Philadelphia Code Section 9-622(6)(e).

Compliance Requirements for Tobacco Retailer Permit Holders

Tobacco Retailer Permit holders must:

- Clearly display the Tobacco Retailer Permit at the permitted location. (9-631(2)(b)).
- Have a valid cigarette retailer license from the Pennsylvania Department of Revenue. (9-631(2)(c)(.4)).
- Have a valid Commercial Activity License from the City of Philadelphia. (9-631(2)(c)(.5)).
- Renew their Tobacco Retailer Permit annually online between August 1 and December 31 of each year and pay the annual fee of \$300.
 - Renewal Applications received after November 2 will need to pay a late fee of \$50.
 - Renewal Applications received after December 31st will not be accepted. Tobacco Retailers must apply for new permit and comply with the density limits and school buffer zone restrictions.
- Have no more than (2) two violations of Section 9-622 of the Philadelphia Code (related to sales of cigarettes, other tobacco products, or Electronic Smoking Devices to youth) within a two-year period.
 - Multiple violations that occur on the same day are treated as one violation.

Tobacco and Electronic Smoking Device Sales Requirements

- **Sales to Youth Prohibited:**
 - Sale of cigarettes, other tobacco products, or Electronic Smoking Devices to persons under 21 years of age is unlawful. (18 Pa. Cons. Stat. 6305(a)).
 - No person shall sell cigarettes, other tobacco products, or Electronic Smoking Devices unless the customer:
 - Shows proof of legal age by presenting a government-issued photo ID card. (9-622(1)(b)(.1)) and (9-633(2)(b)(.1))
- Tobacco Retailers shall clearly post warning signs at all points of sale for cigarettes, other tobacco products, or Electronic Smoking Devices stating that sale of such products to persons under 21 years of age is prohibited. (9-622(d)) and (9-633(2)(d)).
 - Link to sample sign: https://www.phila.gov/media/20220413130913/Tobacco-Age-Warning-Sign_4_22.pdf
- Tobacco Retailers that receive three (3) sales violations related to sale of cigarettes, other tobacco products, or Electronic Smoking Devices to persons under 21 years of age within a 2-year period will be issued an order to cease tobacco sales for one (1) year. (9-622(6)(e)) (BOH Reg. 9/8/2016).
- Sales of cigarettes, other tobacco products, or Electronic Smoking Devices outside of the package provided by the manufacturer (for example “loosies”) are unlawful. (9-622(2))

Tobacco and Electronic Smoking Device Sales Requirements

- **Fines**

- Violations of the requirements of Philadelphia Code Section 9-622 (related to youth sales), Section 9-631 (related to Tobacco Retailer Permits), and Section 9-638 (related to Electronic Smoking Devices) shall result in fines of \$250.
- Sale of cigarettes, other tobacco products, or Electronic Smoking Devices without a Tobacco Retailer Permit may result in a fine of up to \$2,000.

- **Appeals**

- If a Tobacco Retailer believes it has been ticketed incorrectly, an appeal can be filed with the City's Office of Administrative Review (OAR).

Reporting of Tobacco Retailer Violations

- Citizen Reporting of Tobacco Retailer Violations
 - Members of the public can report potential tobacco sale violations online and by phone.
 - Call 1-888-99-SMOKE (76653) to leave a message; or
 - Text the word "SALES" to 1-888-99-SMOKE (76653); or
 - Report online at <http://smokefreephilly.org/report-illegal-activity/>
 - Reports can be made by the public for any of the following issues:
 - Failure to ask for and check I.D.
 - Not posting an age warning sign
 - Not displaying a current Tobacco Retailer Permit
 - Selling "loosies" (single cigarettes) or tobacco products out of the package

The Clean Indoor Air Worker Protection Law (CIAWPL)

- Smoking cigarettes or other tobacco products and the use of electronic smoking devices is not permitted inside unless an application is made to qualify for one of the following exceptions:
 - **Specialty Tobacco Establishment Exception, or**
 - **Specialty Electronic Cigarette Establishment Exception, or**
 - **Tobacco Products Distribution Business Exception**
- Smoking of cigarettes or other tobacco products and the use of Electronic Smoking Devices is not permitted in outdoor service areas or sidewalk café portions of establishments that have a Specialty Tobacco Establishment Exception, Specialty Electronic Cigarette Establishment Exception, or Tobacco Products Distribution Business Exception (Board of Health Regulation 10/8/2015).

Specialty Tobacco Establishment Exception

- **Specialty Tobacco Establishment Exception**- to claim an exception to the CIAWPL as a Specialty Tobacco Establishment (STE), an establishment must demonstrate that on-site sales or rentals of tobacco, tobacco-related products and accessories for consumption or use on the premises comprises of fifteen percent (15%) or more of gross sales on an annual basis (10-602(2)(3)).
- **Link to application:** <https://www.phila.gov/media/20190415165756/Mar-2019-STE-Application.pdf>

Specialty Electronic Cigarette Establishment Exception

- **Specialty Electronic Cigarette Establishment Exception-** to claim exception to the CIAWPL as a Specialty Electronic Cigarette Establishment, the establishment must demonstrate that fifty percent (50%) of their gross annual revenue comes from the sale of e-cigarettes, related products, or their component parts, including e-cigarette atomizers, vaporizers, batteries, replacement cartridges, and any solution manufactured for use with those devices (10-614(1)(b)).
- **Link to application:** <https://www.phila.gov/media/20181003154351/Specialty-electronic-cigarette-establishment-exception-form.pdf>

Tobacco Products Distribution Business Exception

- **Tobacco Products Distribution Business Exception-** to claim an exception to the CIAWPL as a Tobacco Products Distribution Business, an establishment must demonstrate that their primary business is the retail and/or wholesale sale of tobacco, tobacco-related products and accessories for consumption on or off the premises. "Primary" shall mean that ninety percent (90%) or more of the gross sales on an annual basis shall derive from tobacco, tobacco-related products and accessories. (10-602(2)(h)).
 - **Link to application:** <https://www.phila.gov/media/20181003154352/Tobacco-products-distribution-business-exception-form.pdf>

Protecting the Community from Illegal Tobacco and Electronic Smoking Device Sales

- Nicotine addiction can begin with one loosie or pack
- 90% of smokers start before the age of 18
- For every 3 youth who try a cigarette, 1 becomes a lifetime smoker

Please comply with all tobacco sales laws and do not sell tobacco products to anyone under the age of 21.

I certify that:

- I am the owner or legally responsible party for the Tobacco Retailer Permit at the establishment referenced in this Tobacco Retailer Permit application; and*
- I have read the foregoing materials and understand the requirements described herein that apply to Tobacco Retailers issued Tobacco Retailer Permits by the City of Philadelphia; and*
- I am responsible for training and routinely supervising all employees at the establishment referenced in this Tobacco Retailer Permit application with regard to the requirements described herein; and*
- I have trained all current employees and that I will train all future employees with regard to the requirements described herein; and*
- I enforce a disciplinary policy against all employees that violate the requirements described herein to prevent repeated violations of the law; and*
- I swear the above statements are true to the best of my knowledge, information and belief, subject to the penalties of 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.*