

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To amend the District of Columbia Smoking Restriction Act of 1979 to allow property owners and ground-floor commercial tenants to post signs stating that smoking is not permitted within 25 feet of their property, to amend An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of Columbia to prohibit the purchase or possession of cigarettes or other tobacco product by a minor, to require a seller to check identification for a purchaser who the seller reasonably believes is under 27 years of age, to require posting of a more-detailed warning sign, to require the Mayor to maintain records of citations issued for violations, to prohibit the use of false identification by a minor attempting to purchase cigarettes or other tobacco product, to prohibit the sale of certain tobacco products through self-service displays, to prohibit the sale of cigarettes in packages of fewer than 20 cigarettes, to prohibit the sale of certain tobacco products from mobile vending motor vehicles and trailers that sell retail food products ready for immediate consumption, and to prohibit the selling of certain cigars as a single at convenience stores and gas stations; to amend Chapter 24 of Title 47 of the District of Columbia Official Code to create an enhanced licensing provision that covers all tobacco products and an enhanced vending machine restriction that applies to all tobacco products; and to amend the Drug Paraphernalia Act of 1982 to prohibit the sale or possession of blunt wraps.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prohibition Against Selling Tobacco Products to Minors Amendment Act of 2010".

Sec. 2. The District of Columbia Smoking Restriction Act of 1979, effective September 28, 1979 (D.C. Law 3-22; D.C. Official Code § 7-1701 *et seq.*), is amended by adding a new section 4c to read as follows:

“Sec. 4c. No smoking within 25 feet of property signs.

“(a) A property owner or ground-floor commercial tenant has the authority to post signs

on his or her property stating that smoking is not permitted on public space within a specified distance from and abutting the building wall. That distance shall not be greater than 25 feet or the distance to the far side of the adjacent public sidewalk, if any, whichever is less.

“(b) An authorized sidewalk café shall not be subject to a no-smoking sign posted pursuant to this section unless the sign has been posted by, or with the consent of, the owner or operator of the sidewalk café.

“(c) The penalties in section 7 shall not apply to this section.”.

Sec. 3. An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of Columbia, approved February 7, 1891 (26 Stat. 736; D.C. Official Code § 22-1320), is amended as follows:

(a) Designate the existing text as section 3.

(b) A new section 2 is added to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) “Other tobacco product” means a cigar, pipe tobacco, chewing tobacco, smokeless tobacco, snuff, roll-your-own tobacco, cigarette papers or tubes, pipes for smoking tobacco, or any other product containing tobacco that is intended for human consumption.

“(2) “Self-service display” means a display that contains tobacco products and is located in an area openly accessible to consumers, and from which consumers can readily access cigarettes or other tobacco product without the assistance of a sales clerk. A display case that holds cigarettes or other tobacco product behind locked doors does not constitute a self-service display.

“(3) “Tobacco specialty store” means a retail store that is used primarily for the sale of cigarettes, other tobacco product, and accessories in which the total annual revenue generated by the sale of non-tobacco products or accessories is no greater than 25% of the total revenue of the establishment.”.

(c) The newly designated section 3 is amended as follows:

(1) Add a section heading to read as follows:

“Sec. 3. Sale of tobacco to minors under 18 years of age.”.

(2) Subsections (a) and (b) are amended to read as follows:

“(a) No person shall sell, give, or furnish any cigarette or other tobacco product to, or purchase any cigarette or other tobacco product on behalf of, any person under 18 years of age.

“(b)(1) Any person who sells any cigarette or other tobacco product and who has reasonable cause to believe that a person who attempts to purchase the product is under 27 years of age shall require that the purchaser present identification that indicates his or her age.

“(2) It shall be an affirmative defense to a violation of paragraph (1) of this subsection that, at the time of the relevant sale, the person who attempted to purchase the product was 18 years of age or older, or presented identification to the seller that a reasonably

prudent person would believe to be valid under the same or similar circumstances.”.

(3) Subsection (e)(1) is amended to read as follows:

“(e)(1) In any place or business where a person sells any cigarette or other tobacco product, the owner, manager, or person in charge of the place or business shall post a warning sign that includes the following: “No person under 18 years of age shall purchase any cigarette or other tobacco product. Sales clerks will ask for proof of age from any person seeking to purchase any cigarette or other tobacco product who appears to be under 27 years of age. The United States Surgeon General has issued a warning that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy.”.

(4) A new subsection (f) is added to read as follows:

“(f) Notwithstanding section 1-1004 of the District of Columbia Municipal Regulations, the Mayor shall collect and maintain a publicly available record of violations under subsection (a) of this section, including:

“(1) The date of the violation; and

“(2) The location where the citation was given.”.

(d) New sections 4, 5, 6, 7, and 8 are added to read as follows:

“Sec. 4. Purchase or possession of tobacco by minors under 18 years of age; use of false identification.

“(a)(1) No person under 18 years of age shall purchase any cigarette or other tobacco product, possess any cigarette or other tobacco product, or attempt to purchase or possess any cigarette or other tobacco product.

“(2) Paragraph (1) of this subsection shall not apply to a person under 18 years of age who is handling or transporting cigarettes or other tobacco product under the terms of his or her employment.

“(b) No person under 18 years of age shall falsely represent his or her age, or possess or present as proof of age an identification document which is in any way fraudulent, for the purpose of purchasing, possessing, or consuming cigarettes or other tobacco product in the District.

“(c)(1) Any person who violates subsection (a) of this section shall be subject to a civil penalty of \$50.

“(2) Any person who violates subsection (b) of this section shall be subject to a civil penalty for each offense of:

“(A) \$100 the first time the offense or offenses occurred;

“(B) \$200 the second time the offense or offenses occurred; and

“(C) \$300 the third and subsequent times the offense or offenses

occurred.

“(3) A violation of subsection (a) or (b) of this section shall be a civil infraction for the purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

“(4) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to increase the amount of the fine for a violation of subsection (a) or (b) of this section.

“Sec. 5. Self-service sale of tobacco.

“(a) No person shall sell or distribute cigarettes or other tobacco product, except cigars, through a self-service display.

“(b) Subsection (a) of this section shall not apply to:

“(1) Vending machines that are permitted under D.C. Official Code § 47-2404(b)(3); or

“(2) Self-service displays that are located in a tobacco specialty store.

“(c)(1) Any person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500 nor less than \$100, imprisoned not more than 30 days, or both, for the first offense. Any person convicted of a subsequent violation of subsection (a) of this section shall be fined not more than \$1,000 nor less than \$500, imprisoned not more than 90 days, or both.

“Sec. 6. Package requirements.

“(a) No person shall sell or distribute to any person within the District of Columbia any cigarettes except in packages containing no less than 20 cigarettes.

“(b) This section does not apply to a tobacco specialty store.

“(c)(1) Any person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500 nor less than \$100, imprisoned not more than 30 days, or both, for the first offense. Any person convicted of a subsequent violation of subsection (a) of this section shall be fined not more than \$1,000 nor less than \$500, imprisoned not more than 90 days, or both.

“(d) Any license to sell cigarettes or other tobacco product issued pursuant to D.C. Official Code § 47-2404 may be suspended for a first or second violation of subsection (a) of this section. The license shall be revoked for a third or subsequent violation of subsection (a) of this section.

“Sec. 7. Prohibited sellers.

“(a) Except as provided in subsection (b) of this section, no cigarette or other tobacco product shall be sold to individual customers from mobile vending motor vehicles and trailers that sell retail food products ready for immediate consumption.

“(b) Cigarettes may be sold at hotdog stands and construction site food wagons by vendors who are licensed pursuant to D.C. Official Code § 47-2404.

“(c) No single cigar containing reconstituted tobacco products shall be sold to individual customers at convenience stores and gas stations.

“(d) Any person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500 nor less than \$100, imprisoned not

more than 30 days, or both, for the first offense. Any person convicted of a subsequent violation of subsection (a) of this section shall be fined not more than \$1,000 nor less than \$500, imprisoned not more than 90 days, or both.

“Sec. 8. Civil penalties.

“Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of sections 3, 5, 6, and 7, or any rules or regulations issued under the authority of this act for these sections, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*) (“Civil Infractions Act”). Adjudication of any infraction of these sections shall be pursuant to the Civil Infractions Act.”.

Sec. 4. Chapter 24 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2401 is amended as follows:

Amend  
§ 47-2401

(1) Designate paragraph (1) as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

“(1) The term “cigar” means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, except that the term shall not include products treated as cigarettes.”.

(3) Paragraph (5) is amended to read as follows:

“(5) The term “original package” means a sealed package into which cigarettes, cigars, or other tobacco products are put up by the manufacturer for sale to consumers; provided, that if the package contains smaller-size packages that are also intended by the manufacturer for sale to consumers, only the smallest-size sealed package intended for sale to consumers shall be considered the original package.”.

(4) Designate paragraph (5A) as paragraph (5B).

(5) A new paragraph (5A) is added to read as follows:

“(5A) The term “other tobacco product” means a cigar, pipe tobacco, chewing tobacco, smokeless tobacco, snuff, roll-your-own tobacco, or any other product containing tobacco that is intended for human consumption.”.

(6) A new paragraph (8A) is added to read as follows:

“(8A) The term “smokeless tobacco” means any finely cut, ground, or powdered tobacco that is not intended to be smoked or any leaf tobacco that is not intended to be smoked.”.

(b) Section 47-2404 is amended as follows:

Amend  
§ 47-2404

(1) Strike the word “cigarettes” wherever it appears and insert the phrase “cigarettes or other tobacco product” in its place.

(2) Subsection (b)(3) is amended by adding new subparagraphs (D) and (E) to read as follows:

“(D) Any cigarette or other tobacco product vending machine that is located in a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this paragraph shall display the warning sign required by § 22-1320(e)(1).

“(E) Any cigarette or other tobacco product vending machine that is located in a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this paragraph shall not contain any non-tobacco product, other than matches.”.

(c) Section 47-2409 is amended by striking the word “cigarettes” wherever it appears and inserting the phrase “cigarettes or other tobacco product” in its place.

Amend § 47-2409

(d) Section 47-2422 is amended as follows:

Amend § 47-2422

(1) A new subsection (a-1) is added to read as follows:

“(a-1) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of § 47-2404, or any rules or regulations issued under the authority of that section, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of § 47-2404, or any rules or regulations issued under the authority of that section, shall be pursuant to Chapter 18 of Title 2.”.

(2) Subsection (b) is amended by striking the word “cigarettes” and inserting the phrase “cigarettes or other tobacco product” in its place.

Sec. 5. The Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48-1101) is amended as follows:

Amend § 48-1101

(1) Designate paragraph (1) as paragraph (1A).

(2) A new paragraph (1) is added to read as follows:

“(1) Blunt wrap” means any product that is manufactured for encasing, wrapping, or rolling materials of any kind for purposes of smoking, if such product is designed to be filled by the consumer and is:

“(A) Made wholly or in part of tobacco; or

“(B) Made of paper or any other material that does not contain tobacco,

and is:

“(i) Intended, when filled by the consumer, to produce a finished wrap that measures more than 120 millimeters on its longest side; or

“(ii) Sold as a pre-rolled hollow cone, the circumference of which is not equal at both ends.”.

(3) Paragraph (3)(L)(xv) is amended by striking the phrase “cigar leaf wrappers” and inserting the phrase “cigar wrappers” in its place.

(b) Section 4(e) (D.C. Official Code § 48-1103(e)) is amended as follows:

Amend § 48-1103

(1) Paragraph (1)(D) is amended to read as follows:

“(D) Cigar wrappers, including blunt wraps.”.

(2) Paragraph (2) is amended by striking the phrase “or cigar leaf wrappers”.

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(3) Paragraph (3) is amended by striking the phrase “or cigar leaf wrappers”.

**Sec. 6. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 7. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia