



A Smokefree Air

Public Places

The Department of Health is authorized to conduct inspections of all “places of employment” and “public places” to ensure that the activity of smoking in such places, which is hereby prohibited, is not taking place. A “public place” is defined as an enclosed area to which the public is invited or in which the public is permitted, including restaurants and bars/taverns. The definition excludes a private residence, unless it is used as a child care, adult day care, or health care facility. Exemptions include: 1) a retail store that is used primarily for the sale of tobacco products and accessories in which the total annual revenue generated by the sale of non-tobacco products or accessories is no greater than 25 percent of total revenue, provided, that it does not share space with any other establishment; 2) tobacco bars as defined; 3) an outdoor area of a restaurant, tavern, club, brew pub, or nightclub; 4) hotel and motel rooms; 5) a medical treatment, research, or nonprofit institution where the activity of smoking is conducted for the purpose of medical research or is an integral part of a smoking cessation program; and 6) theatrical productions. An economic hardship waiver is also provided, see Other section.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Smoking is prohibited on public passenger vehicles that seat 12 or more. Carriers may refuse to transport violators. Violation is also punishable by a fine of \$10 to \$50 for the first offense, and by a fine of \$50 to \$100 and/or by up to 10 days imprisonment for subsequent violations.

D.C. CODE ANN. §§ 35-251 et seq. (1992).

Government Buildings

Smoking is prohibited in “places of employment,” which includes places of public employment. “Place of employment” is defined as an enclosed area under the control of a public employer that employees normally frequent during the course of employment, including work areas, employee

lounges, restrooms, conference rooms, classrooms, employee cafeterias, and hallways.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Private Workplaces

Smoking is prohibited in “places of employment,” which are defined as an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways and vehicles owned by a private employer, if the vehicle is used by more than one person, and excludes a private residence, unless it is used as a child care, adult day care, or health care facility.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Schools

Smoking is prohibited in educational facilities.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

The use of tobacco and tobacco products on public school premises shall be prohibited at all times, except that adults may use tobacco and tobacco products in designated smoking areas on public school premises established pursuant to guidelines promulgated by the Superintendent of Schools.

D.C. MUN.REG. § 3502.5 (1992).

Child Care Facilities

Smoking is prohibited in child care facilities. Child care and adult day care facilities in private residences are specifically included.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Health Care Facilities

Smoking is prohibited in health care facilities. Health care facilities in private residences are specifically included in the language of the law. A medical treatment, research, or nonprofit institution where the activity of smoking is conducted for

the purpose of medical research or is an integral part of a smoking cessation program is exempt.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Restaurants

Smoking is prohibited in restaurants.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Bars

Smoking is prohibited in “public places” the definition of which includes brew pubs, clubs, nightclubs and taverns. “Tobacco bars,” which are defined as restaurants, taverns, brew pubs, clubs or nightclubs that generate 10 percent or more of their total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines, or the rental of on-site humidors and outdoor areas of any of these types of establishments are permanently exempted.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Other

The Mayor may grant an economic hardship waiver from the requirements of this part; provided, that prior to the granting of a waiver, the applicant establishes, to the satisfaction of the Mayor, that compliance with the requirements of this part has caused or will cause undue financial hardship. An economic hardship waiver shall be based on regulations to be issued by the Mayor. Public places and places of employment who receive an economic hardship waiver shall have been in existence on or before January 1, 2007; not permit smoking in an area that exceeds 25 percent of the total area if the place of employment or public place is a restaurant; and be subject to conditions or restrictions as may be necessary to minimize the adverse effects of smoking.

D.C. CODE ANN. § 7-731, Part B, §§ 4915 to 4921 (2006).

Penalties/Enforcement

In any place, elevator or vehicle in which smoking is prohibited; the owner, manager, or person in charge of the place shall post or cause to be posted specified warning signs. Signs shall be visible to the public at the entrance to the area and on the interior of the area in sufficient number in a man-

ner that gives notice to the public of the applicable law. Smoking in a prohibited area is subject to a fine of \$100 to \$1,000 for a first offense, and \$200 to \$1,000 for subsequent offenses. Obscuring, removing, defacing, mutilating or destroying any posted sign is subject to a fine of \$500. Failing to post or maintain the required warning signs and failing to notify a person observed to be smoking to stop the activity shall be punishable by a fine of \$500; each day the violation continues is a separate offense. The D.C. Department of Health is the designated enforcement agency.

D.C. CODE ANN. §§ 7-731, Part B, §§ 4915 to 4921 (2006) & 7-1704 (1991).

Preemption

No specific provision concerning preemption of smoking restrictions in city law; laws were approved by the District of Columbia city council and mayor, and there is no elected lawmaking body beneath the council/mayor.

B Tobacco Excise Taxes

Cigarettes

Tax rate per pack of 20: \$2.00

Date last changed: October 1, 2008 – \$1.00 to \$2.00

Year first enacted: 1949

D.C. CODE ANN. § 47-2402(a) (2008).

Revenue Collected

Revenue collected from the cigarette tax in FY2007 (July 1, 2006 to June 30, 2007): \$21,732,000

Other Tobacco Products

All Other Tobacco Products (except premium cigars and pipe tobacco): 12% of the gross receipts from the sale of or charges for the tobacco product.

D.C. CODE ANN. §§ 47-2001 & 47-2002 (2006).

C Youth Access

Age Restrictions on Sales of Tobacco Products

Minimum age for sales of tobacco products: 18

Compliance/Enforcement

None

Penalties for Sales to Minors

No person shall sell, give or furnish any tobacco products to any person less than 18 years of age. Violation is a misdemeanor punishable by a fine of between \$100 and \$500 and/or imprisonment for not more than 30 days for the first offense. A person who commits subsequent violations shall be fined \$500 to \$1,000, imprisoned for not more than 90 days, or both. Any license to sell cigarettes may be suspended for the first or second violation, and shall be revoked for a third violation.

D.C. CODE ANN. § 22-1320 (1991).

Photo ID

Any person who sells any cigarette or other tobacco product that has reasonable cause to believe that a person that attempts to purchase the product is under 18 years of age shall require that the purchaser present identification that indicates their age. Violation is a misdemeanor punishable by the same penalties as for selling or furnishing tobacco products to minors.

D.C. CODE ANN. § 22-1320 (1991).

Sign Posting

The owner or person in charge of a place of business that sells tobacco products shall post a warning sign that states that it is illegal for minors to purchase tobacco products and that includes a surgeon general's warning. The sign shall clearly state the maximum fine for a violation of this section. The sign shall be visible to the public at the entrance to the area and on the interior of the area in sufficient number to give notice of the law to the public.

D.C. CODE ANN. § 22-1320 (1991).

Penalties to Minors

None

Placement of Tobacco Products

None

Internet Sales of Tobacco Products

None

Preemption

No specific provision concerning preemption of laws restricting youth access to tobacco products

in city law; laws were approved by the District of Columbia city council and mayor, and there is no elected lawmaking body beneath the council/mayor.

D Restrictions on Distribution of Tobacco Product Samples or Sales of Single Cigarettes**Samples**

No person, agent, or employee of any person shall, in the course of doing business, distribute any free cigarettes or other tobacco product to any person on any public street, public sidewalk, public park, playground, in a public building, other public property, or private property open to the public, except that free cigarettes or other tobacco products may be distributed at a tobacco store, a convention, or a conference catering to adults. Violators will be fined not less than \$250 per violation.

D.C. CODE ANN. § 7-1731 (1991).

Single Cigarettes

Cigarettes may not be sold in numbers less than the number contained in the original package. The sale of loose cigarettes from opened or original packages is prohibited. Violation is subject to a fine of 500 percent of the retail value of the cigarettes involved or \$5,000, whichever is greater.

D.C. MUN. REGS. Tit. 9, § 1016 (2000).

No person shall sell or distribute in the District any cigarettes the package of which does not comply with all requirements imposed by or under federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including the precise warning labels specified in section Four of the Federal Cigarette Labeling and Advertising Act. Violation is subject to a fine of up to \$5,000 and/or up to three years in prison.

DC CODE ANN. §§ 47-2419 (2001) & 47-2421 (2005).

E Restrictions on the Sale of Tobacco Products in Vending Machines**Placement**

Tobacco vending machines are restricted to licensed taverns or nightclubs, establishments that

restrict admittance to persons under 18 years of age, or a licensed restaurant. These vending machines shall be located in an area that is in the immediate vicinity, in plain view and control of a responsible employee, so that any tobacco purchase is readily observable by an employee.

D.C. CODE ANN. § 47-2404(b)(3) (1991).

Penalty

Violation is subject to loss of the license to operate a vending machine.

D.C. CODE ANN. § 47-2404(f) (2003).

F Licensing Requirements

Requirements

Cigarette wholesalers, retailers, and vending machine operators must obtain a license from the Mayor. Licenses must be renewed at least annually unless suspended or revoked. Licenses are required for each place of business and vending machine.

D.C. CODE ANN. § 47-2404 (2003)

Fee

\$50 annually for a wholesaler's license; \$15 annually for a retailer's license; \$15 for each vending machine for vending machine operators. The mayor may adjust license fees by regulation.

D.C. CODE ANN. § 47-2404 (2003).

License Suspension for Sales to Minors

The Mayor may suspend any license issued under this law to any person convicted of a first or second violation of selling, giving or furnishing tobacco products to minors and shall revoke the license for a third or subsequent offense.

D.C. CODE ANN. §§ 47-2404 (2003) & 22-1320 (1991).

G Smoker Protection Laws

No person shall refuse to hire or employ any applicant for employment, or discharge or otherwise discriminate against any employee with respect to compensation or any other term, condition, or privilege of employment, on the basis of the use of tobacco products by the applicant or employee. An employee or applicant for employment who is aggrieved by violation of this section shall have the right to a private cause of action against the person after exhausting all other options. The person is

entitled to recover any damages, including lost or back wages and salary.

D.C. CODE ANN. § 7-1703.3 (1993).

H Advertising & Promotion

The Washington Metropolitan Area Transit Authority prohibited tobacco and alcohol advertising on all system rail cars and buses.

I Product Disclosure

None

J Tobacco Divestment

None

K Tobacco Liability

None

L Tobacco Control Program Funding/ Tobacco Settlement

Tobacco Control Program Funding

The District of Columbia allocated \$3,600,000 for tobacco prevention and cessation programs in FY2009 (October 1, 2008 to September 30, 2009) from sale of part of the District's Master Settlement Agreement payments. The same amount was allocated in FY2008.

B16-913 passed by the City Council 12/19/06, signed by mayor 12/29/06, passed U.S. Congressional Review period and effective 3/14/07.

Note: B16-913 appropriated \$10 million over three years to the American Lung Association of the District of Columbia to run a tobacco prevention and cessation program. Out of this amount \$3.6 million has been allocated to this program in FY2009.

A Community Health Care Financing Fund was established within the city general fund where proceeds from the 2006 sale of future MSA payments were deposited. Money in the fund shall be to directly pay to promote health care and for the delivery of health care related services in the District, including the construction of health care facilities and the operation of health care related programs. The monies are then dedicated to a variety of purposes, including \$10 million being granted to the American Lung Association of the

District of Columbia over three years to implement a tobacco cessation program in partnership with the American Cancer Society and the DC Department of Health.

B16-913 passed by the City Council 12/19/06, signed by mayor 12/29/06, passed U.S. Congressional Review period and effective 3/14/07.

Securitization

In 2000, the District of Columbia securitized most of its Master Settlement Agreement revenue, and in 2006 transferred additional money to the Tobacco Settlement Financing Corporation. Proceeds from the initial bond sale went into a trust to pay off some of the city's debt, and an additional bond sale by the Tobacco Settlement Financing Corporation was authorized in 2006 to finance the costs of the National Capital Medical Center, healthcare related issues, other capital projects, or for debt defeasance.

D.C. CODE ANN. §§ 7-1801.01 et seq. & 7-1831.01 et seq. (2006).

M Fire Safety Standards

To help prevent cigarette-caused fires, no cigarette may be sold or offered for sale in the District of Columbia unless: It has been tested in accordance with the test method specified in section 4(a)(2); it meets the performance standard required by section 4(a)(4); the manufacturer has filed a written certification with the Mayor, or the Mayor's delegate, in accordance with section 5; and it has been marked in accordance with section 5(b). A manufacturer or wholesale dealer, who knowingly fails to comply with any of the provisions of this act, or regulations promulgated pursuant to this act, shall be subject to a civil penalty not to exceed \$10,000 for each violation, not to exceed \$100,000 during any 30-day period. A retail dealer, who knowingly fails to comply with any of the provisions of this act, or regulations promulgated pursuant to this act, shall be subject to a civil penalty not to exceed \$5,000 for each violation, not to exceed \$25,000 during any 30-day period. Each day of violation shall constitute a separate violation and, unless provided otherwise by regulation, the prescribed penalty shall be applicable to each separate violation. In addition to any other penalty, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a

false certification shall be subject to a civil penalty of at least \$75,000 and not to exceed \$250,000 for each such false certification.

B17-373 passed by the city council 3/8/08, signed by the mayor 3/20/08, passed U.S. Congressional Review Period 5/13/08 and effective 7/1/08.

