

A BILL 1

18-428 2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA 3

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To amend The District of Columbia Smoking Restriction Act of 1979 to allow the owners of 6
buildings to post “no smoking” signs within 25 feet of their property; amend An act to 7
prohibit the sale of tobacco to minors under 18 years of age in the District of Columbia to 8
prohibit the purchase or possession by a minor, create an enhanced ID check provision, 9
prohibit minor use of false ID, create an enhanced signage requirement; create a model 10
database provision; establish a minimum pack size requirement for cigarettes; prohibit the 11
sale of tobacco products from mobile vending motor vehicles and trailers that sell retail 12
food products ready for immediate consumption; amend Title 47 of the District of 13
Columbia Code to create an enhanced licensing provision that covers all tobacco products 14
and an enhanced vending machine restriction that applies to all tobacco products; and to 15
amend The Drug Paraphernalia Act of 1982 to prohibit the sale or possession of blunt 16
wraps. 17

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this 18
act may be cited as the "Prohibition Against Selling Tobacco Products to Minors Amendment 19
Act of 2009". 20

Sec. 2. The District of Columbia Smoking Restriction Act of 1979, effective September 21
28, 1979 (D.C. Law 3-22; D.C. Official Code § 7-1701 et. Seq) is amended by adding a new 4(c) 22
to read as follows: 23

“Sec. 4c. A property owner or first floor retail tenant has the authority to post signs on 24
his or her property stating that smoking is not permitted on public space within a specified 25

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distance from and ~~adjacent to~~ abutting the building wall. That distance shall not be greater than 1
25 feet or the distance to the far side of the adjacent public sidewalk, if any, whichever is less. 2
The provisions of this section are not applicable to sidewalk cafes. The penalties in Section 7 3
shall not apply to this section.”. 4

Sec. 3. An act to prohibit the sale of tobacco to minors under 18 years of age in the 5
District of Columbia approved February 7, 1891, (26 Stat. 736; D.C. Official Code § 22-1320) is 6
amended as follows: 7

(a) Chapter 117 (D.C. Code § 22-1320) is amended as follows: 8

(1) Subsections (a) and (b) are amended to read as follows: 9

“(a) No person shall sell, give, or furnish any cigarette or other tobacco product to, or 10
purchase any cigarette or other tobacco product on behalf of, any person under 18 years of age. 11

“(b)(1) Any person who sells any cigarette or other tobacco product and who has 12
reasonable cause to believe that a person who attempts to purchase the product is under 27 years 13
of age shall require that the purchaser present identification that indicates his or her age. 14

“(2) It shall be an affirmative defense to a violation of paragraph (1) of this 15
subsection that, at the time of the relevant sale, the person who attempted to purchase the product 16
was 18 years of age or older, or presented identification to the seller that a reasonably prudent 17
person would believe to be valid under the same or similar circumstances.”. 18

(2) Subsection (e)(1) is amended to read as follows: 19

“(e)(1) In any place or business where a person sells any cigarette or other tobacco 20

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product, the owner, manager, or person in charge of the place or business shall post a warning 1
sign that includes the following: “No person under 18 years of age shall purchase any cigarette or 2
other tobacco product. Sales clerks will ask for proof of age from any person seeking to purchase 3
any cigarette or other tobacco product who appears to be under 27 years of age. The United 4
States Surgeon General has issued a warning that smoking causes lung cancer, heart disease, 5
emphysema, and may complicate pregnancy.”. 6

(3) New subsections (f) and (g) are added to read as follows: 7

“(f) The Mayor shall collect and maintain a publicly available record of violations under 8
subsection (a) of this section by any retailer or vending machine operator licensed to sell 9
cigarettes or other tobacco products pursuant to § 47-2404, including but not limited to: 10

“(1) The name, address and phone number of the business where the violation 11
occurred; 12

“(2) The date of the violation; and 13

“(3) The name, address and phone number of the licensee of the location. 14

“(g) For the purpose of this act, the term “other tobacco product” means a cigar, pipe 15
tobacco, chewing tobacco, smokeless tobacco, snuff, roll-your-own tobacco, cigarette papers or 16
tubes, pipes for smoking tobacco, or any product containing tobacco that is intended for human 17
consumption.”. 18

(b) New Chapters 117a, 117b, 117c and 117d (D.C. Code § 22-1320a, § 22-1320b, § 22- 19
1320c, § 22-1320d) are added to read as follows: 20

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“117a. 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) shall be subject to a civil penalty of \$50.

“(2) Any person who violates subsection (b) shall be subject to a civil penalty for each offense of \$100 the first time the offense or offenses occurred; shall be fined \$200 the second time the offense or offenses occurred; and shall be fined \$300 the third and subsequent times the offense or offenses occurred.

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

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“(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 increase the amount of the fine for a violation of subsection (a) or (b).

“117b. 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 § 47-2404(b)(3); or

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

“(c) For purposes of the act, the term “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.

“(d)(1) Any person who violates subsection (a) of this section shall be fined \$250 for each violation. A violation of this act shall be a civil infraction for purposes of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; § 2-1801.01 *et seq.*).

“(2) 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 increase the amount of the fine.

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“117c. Package requirements. 1

“(a) No person shall sell or distribute to any person within the District of Columbia, a 2
package of cigarettes containing less than 20 cigarettes. 3

“(b) This subsection does not apply to a tobacco specialty store. 4

“(c)(1) Any person who violates subsection (a) of this section shall be fined \$250 for 5
each violation. A violation of this act shall be a civil infraction for purposes of the Department 6
of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 7
(D.C. Law 6-42; § 2-1801.01 *et seq.*). 8

“(2) The Mayor, pursuant to Title 1 of the District of Columbia Administrative 9
Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), 10
may increase the amount of the fine. 11

“(d) Any license to sell cigarettes or other tobacco product issued pursuant to D.C. 12
Official Code § 47-2404 may be suspended for a first or second violation of subsection (a) of this 13
section. The license shall be revoked for a third or subsequent violation of subsection (a) of this 14
section. 15

“117d. Prohibited Sellers. 16

“(a) No cigarette or other tobacco product shall be sold to individual customers from 17
mobile vending motor vehicles and trailers that retail food products ready for immediate 18
consumption. 19

“(b) Any person who violates subsection (a) of this section shall upon conviction, be 20

fined not less than \$250 for each violation.”. 1

Sec. 4. Title 47 of the District of Columbia Code is amended as follows: 2

(a) D.C. Official Code § 47-2401 is amended as follows: 3

(1) Paragraph (5) is amended to read as follows: 4

“(5) The term “original package” means a sealed package into which cigarettes, 5
cigars, or other tobacco products are put up by the manufacturer for sale to consumers; provided, 6
however, that if any such package contains smaller size packages that are also intended by the 7
manufacturer for sale to consumers, only the smallest size sealed package intended for sale to 8
consumers will be considered the original package.”. 9

(2) The following new paragraphs are added to read as follows: 10

“(11) The term “cigar” means any roll of tobacco wrapped in leaf tobacco or in 11
any substance containing tobacco, except that the term shall not include products treated as 12
cigarettes. 13

“(12) The term “other tobacco product” means cigar, pipe tobacco, chewing 14
tobacco, smokeless tobacco, snuff, roll-your-own tobacco, cigarette papers or tubes, pipes for 15
smoking tobacco, or any other product containing tobacco that is intended for human 16
consumption. 17

“(13) The term “self-service display” means a display that contains tobacco 18
products and is located in an area openly accessible to consumers, and from which such 19
consumers can readily access cigarettes or other tobacco product without the assistance of a 20

responsible employee. A display case that holds cigarettes or other tobacco product behind 1
locked doors does not constitute a self-service display. 2

“(14) The term “smokeless tobacco” means any finely cut, ground, or powdered 3
tobacco that is not intended to be smoked or any leaf tobacco that is not intended to be smoked. 4

“(15) The term “tobacco specialty store” means a retail store that is used 5
primarily for the sale of cigarettes, other tobacco product, and accessories in which the total 6
annual revenue generated by the sale of non-tobacco products or accessories is no greater than 7
25% of the total revenue of the establishment.”. 8

(b) D.C. Official Code § 47-2404 is amended as follows: 9

(1) by inserting the phrase “or other tobacco product” after the word “cigarettes” 10
wherever it appears; and 11

(2) by adding 2 new paragraphs (3)(D) and (E) to read as follows: 12

“(D) Any cigarette or tobacco product vending machine that is located in 13
a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this 14
paragraph shall display the warning sign required pursuant to § 22-1320(e)(1). 15

“(E) Any cigarette or tobacco product vending machine that is located in a 16
tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this 17
paragraph shall not contain any non-tobacco product, other than matches.”. 18

(c) D.C. Official Code § 47-2409 is amended by inserting the phrase “or other tobacco 19
product” after the word “cigarettes” wherever it appears. 20

(d) D.C. Official Code § 47-2422 is amended by inserting the phrase “or other tobacco product” after the word “cigarettes” wherever it appears.

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

“(b) Section 4(e) is amended as follows:

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

“(D) Cigar wrappers, including blunt wraps. For purposes of this paragraph, a “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:

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

“(2) Made of paper or any other material that does not contain tobacco, and is:

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

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

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

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

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Sec. 6. Fiscal impact statement. 1

The Council adopts the fiscal impact statement in the committee report as the fiscal 2
impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, 3
approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)). 4

Sec. 7. Effective date. 5

This act shall take effect following approval by the Mayor (or in the event of veto by the 6
Mayor, action by the Council to override the veto), a 60-day period of Congressional review as 7
provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 8
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of 9
Columbia Register. 10