

District of Columbia

Smoking Restrictions

Overall Summary of Smoking Restrictions

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. An economic hardship waiver is also available under certain conditions, and smoking can be restricted outside buildings. See the Other State Smoking Restrictions and Provisions section for more details.

D.C. CODE ANN. tit. 7 §§ 7-741 to 7-747 (2011).

Exceptions to the Law

Exceptions to the law 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; 6) theatrical productions; and 7) cigar smoking at special events at hotels once a year for one day if they follow certain requirements.

D.C. CODE ANN. tit. 7 §§ 7-741 & 7-743 (2011).

Stronger Local Laws on Smoking

Laws were approved by the District of Columbia city council/mayor, and there is no lawmaking body beneath the council/mayor.

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. tit. 7 §§ 7-741 to 7-747 (2011).

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. tit. 7 §§ 7-741 to 7-747 (2011).

Schools

Tobacco and tobacco products are prohibited in public school and public charter school buildings, grounds, parking lots, parking garages, playing fields, school buses and other vehicles, and at off-campus, school-sponsored events. For public charter school located in a mixed-use facility, the above shall apply only to the buildings, grounds, parking lots, garages, and fields under the control of the public charter school.

D.C. CODE ANN. § 38-826.05 (2011).

Smoking is prohibited in educational facilities.

D.C. CODE ANN. §§ 7-741 to 7-747 (2011).

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. tit. 7 §§ 7-741 to 7-747 (2011).

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. tit. 7 §§ 7-741 to 7-747 (2011).

Restaurants

Smoking is prohibited in restaurants.

D.C. CODE ANN. tit. 7 §§ 7-741 to 7-747 (2011).

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. tit. 7 §§ 7-741 to 7-747 (2011).

Other State Smoking Restrictions and Provisions

Economic Hardship Waiver from Smoking Restrictions for Public Places and Workplaces:

The Mayor may grant an economic hardship waiver from the requirements of the above law; provided, that prior to the granting of a waiver, the applicant establishes, to the satisfaction of the Mayor, that compliance with the requirements 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. § 7-745 (2006).

Smoking Restrictions Outside Buildings:

A property owner or ground-floor commercial tenant has the authority to post signs on their 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. Signs will not apply to sidewalk cafes unless the sign has been posted by, or with the consent of, the owner or operator of the sidewalk cafe. No specific penalties mentioned for violation.

D.C. CODE ANN. § 7-1701, sect. 4c (2010).

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 manner 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. tit. 7 §§ 7-741 to 7-747 (2011) & 7-1704 (1991).

Tobacco Taxes

Tax on Cigarettes

Tax rate per pack of 20: \$2.50

Date last changed: October 1, 2009 -- from \$2.00 to \$2.50

Year first enacted: 1949

D.C. CODE ANN. § 47-2402(a) (2015).

Use of Cigarette Tax Revenue - Summary

A small portion of cigarette tax revenue could be dedicated to a Smoking Cessation Fund for smoking cessation efforts under certain conditions, see below. The remainder of the revenue goes to the city general fund.

D.C. CODE ANN. § 47-2402(l)(1) (2013).

Use of Cigarette Tax Revenue - Detailed Information

There is established as a special fund the Smoking Cessation Fund, which shall be administered by the Department of Behavioral Health. From fiscal year 2014 through fiscal year 2017, the amount of revenue by which taxes imposed by section 47-2402 DC Code exceed the annual cigarette tax revenue estimate from February 22, 2013, quarterly revenue estimate provided by the Chief Financial Officer, the excess of cigarette tax revenue shall be deposited into the Fund for use in the following fiscal year; provided, that no more than 10 percent of the estimated revenue shall be deposited into the Fund. Beginning in fiscal year 2018, 10 percent of the cigarette tax revenue shall be deposited into the fund. Monies in the Fund shall be used for smoking cessation efforts.

D.C. CODE ANN. § 47-2402(l)(1) (2013).

Taxes on Other Tobacco Products

Little Cigars (weighing less than 4 lbs./thousand): 12.5 cents per little cigar;

Other Tobacco Products (excluding premium cigars and e-cigarettes as defined): 70% of the average wholesale price (changes annually).

D.C. CODE ANN. §§ 47-2401, 47-2402 & 47-2402.01 (2015).

The tax rate for other tobacco products shall be equal to the cigarette tax and surtax under section 47-2402(a)(1)(2) DC Code on a pack of 20 cigarettes, expressed as a percentage of the average wholesale price. Beginning as of March 31, 2015, and on March 31 of each year thereafter, the Mayor shall reevaluate the percentage calculation above and shall recompute the tax rate on other tobacco products to equal the cigarette tax and surtax. The Mayor shall provide notice of any change in the tax rate for other tobacco products on or before September 1 of that year, and the change shall be effective as of the following October 1.

D.C. CODE ANN. § 47-2402.01 (2015).

Use of Other Tobacco Products Tax Revenue - Summary

All revenue from the tax on little cigars is distributed in the same way as cigarette tax revenue. All revenue from the tax on other tobacco products goes to the city general fund.

D.C. CODE ANN. §§ 47-2402 & 47-2402.01 (2015).

Revenue Collected from Cigarette Taxes

Revenue collected in Fiscal Year 2012 (July 1, 2011 to June 30, 2012): \$33,465,000

Tobacco Control Program Funding

Source of funding

City funding for the District of Columbia's tobacco control program comes from city general fund dollars.

State Funding Details

The District of Columbia allocated \$2,000,000 to tobacco prevention and cessation programs in FY2015 (October 1, 2014 to September 30, 2015). In FY2014, \$495,000 was allocated.

FY2015 Budget Request Act (B20-749) passed by the City Council 5/28/14 and enacted (mayor's line-item veto overridden by City Council) 7/11/14; HJR 124 (continuing appropriations at FY2014 levels) passed by U.S. Congress 9/18/14, signed by President 9/19/14 and effective 10/1/14 to 12/11/14; HJR 130 (continuing appropriations at FY2014 levels) passed by U.S. Congress 12/11/14, signed by President and effective 12/12/14 to 12/13/14; HJR 131 (continuing appropriations at FY2014 levels) passed by U.S. Congress 12/13/14, signed by President and effective 12/13/14 to 12/15/14; and HR 83 passed by U.S. Congress 12/13/14, signed by President and effective 12/16/14.

Tobacco Control Program Related Laws

Note: Responsibility for city tobacco control program was transferred from the Department of Behavioral Health to the Department of Health effective October 1, 2014.

B20-750, Subtitle D passed the city council 6/24/14, signed by mayor 9/23/14, passed U.S. Congressional Review period and effective 2/26/15.

Funding for Tobacco Control Programs

FY2015 State Funding for Tobacco Control Programs: \$2,000,000

FY2015 Federal Funding for State Tobacco Control Programs: \$581,752*

FY2015 Total Funding for State Tobacco Control Programs: \$2,581,752

Funding Level Recommended by CDC: \$10,700,000

Percentage of CDC-Recommended Level: 24.1%

*Includes regular and supplemental quitline funding from the Centers for Disease Control and Prevention and state youth access contract funding from the U.S. Food and Drug Administration.

Laws Restricting Youth Access to Tobacco Products

Compliance/Enforcement

No provisions in city law.

Penalties for Sales to Minors

No person shall sell, give or furnish any cigarette or other tobacco product to or purchase any cigarette any cigarette or other tobacco product of behalf of 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. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction as well. It shall be an affirmative defense to a violation 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.

D.C. CODE ANN. § 7-1721.02 (2012).

Sign Posting Requirements

The owner or person in charge of a place of business that sells tobacco products shall post a warning sign that states: '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.' 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. § 7-1721.02(e) (2012).

Purchase/Possession of Tobacco Products by Minors

No person under 18 years of age shall purchase, attempt to purchase, possess or attempt to possess any cigarette or other tobacco product. No person under 18 years of age shall falsely represent their 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 products. This does apply to persons under 18 handling or transporting cigarettes or other tobacco product under the terms of their employment. Persons under 18 that purchase or possess cigarettes or other tobacco products are subject to a civil penalty of \$50. Persons under 18 that falsely represent their age or use a false identification document are subject to a civil penalty of \$100 for a first offense, \$200 for a second offense; and \$300 for a third and subsequent offense. The mayor may issue rules increasing the amounts of these fines.

D.C. CODE ANN. § 7-1721.03 (2010).

Placement of Tobacco Products

No person shall sell or distribute cigarettes or other tobacco products, except cigars, through a self-service display as defined. This does not apply to vending machines that sell tobacco products as allowed under existing DC law and self-service displays in tobacco specialty stores that make 75 percent or more of their sales from tobacco products and accessories. 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 and/or imprisoned for not more than 90 days. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction.

D.C. CODE ANN. §§ 7-1721.04 & 7-1721.07 (2010).

Internet Sales of Tobacco Products

Other Youth Access Laws and Provisions

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, except cigarettes may be sold at hotdog stands and construction site food wagons by vendors who are licensed pursuant to D.C. Official Code section 47-2404. No single cigar containing reconstituted tobacco products shall be sold to individual customers at convenience stores and gas stations. 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 and/or imprisoned for not more than 90 days. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction.

D.C. CODE ANN. §§ 7-1721.06 & 7-1721.07 (2010).

State Preemption of Local Youth Access Laws

Laws were approved by the District of Columbia city council/mayor, and there is no lawmaking body beneath the council/mayor.

Photo Identification Requirements to Buy Tobacco Products

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 27 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 cigarettes or other tobacco products to persons under age 18.

D.C. CODE ANN. § 7-1721.02 (2012).

Minimum Sales Age for Tobacco Products

Tobacco Product Samples/Minimum Sales Amounts for Tobacco Products

Tobacco Product Samples

No person, agent, or employee of any person shall, in the course of doing business, distribute any free cigarettes or other tobacco products 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).

Minimum Tobacco Products Sales Amounts

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. This does not apply to tobacco specialty stores that make 75% or more of their sales from tobacco products and accessories. 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 and/or imprisoned for not more than 90 days. Any license to sell cigarettes may also be suspended for the first or second violation, and shall be revoked for a third violation. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction

DC CODE ANN. §§ 7-1721.05 & 7-1721.07 (2010).

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).

State Preemption of Local Samples Laws

Laws were approved by the District of Columbia city council/mayor, and there is no lawmaking body beneath the council/mayor.

Sales of Tobacco Products from Vending Machines

Vending Machine Placement

Cigarette or other tobacco product vending machines are restricted to licensed taverns or nightclubs, establishments that restrict admittance to persons less than 18 years of age or a licensed restaurant. These vending machines shall be located in an area that is in the immediate vicinity, plain view and control of a responsible employee, so that any tobacco purchase is readily observable by an employee. These vending machines can also not contain any non-tobacco product other than matches.

D.C. CODE ANN. § 47-2404(b)(3) (2010).

Penalties for Vending Machine Violations

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

D.C. CODE ANN. § 47-2404(f) (2003).

Sign Posting Requirements for Vending Machines

All cigarette and other tobacco products vending machines shall display the warning sign required in retail establishments, see Sign Posting section.

D.C. CODE ANN. § 47-2404(b)(3)(D) (2010).

State Preemption of Local Vending Machine Laws

Laws were approved by the District of Columbia city council/mayor, and there is no lawmaking body beneath the council/mayor.

Licensing Requirements for Tobacco Products

Overall Summary of Licensing Requirements

Cigarette and other tobacco product (excludes premium cigar and e-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. §§ 47-2401 & 47-2404 (2015).

License Fees

Wholesaler's license: \$50 annually;

Retailer's license: \$15 annually;

Vending machine operators' license: \$15 for each machine.

The mayor may adjust license fees by regulation.

D.C. CODE ANN. § 47-2404 (2010).

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 (2010) & 22-1320 (1991).

License Required for Retailers of Cigarettes

Yes

License Required for Retailers of Other Tobacco Products

Yes - except for premium cigars and e-cigarettes as defined

License Required for Wholesalers/Distributors of Cigarettes

Yes

License Required for Wholesalers/Distributors of Other Tobacco Products

Yes - except for premium cigars and e-cigarettes as defined

Smoking Protection Laws

Smoking Protection Law

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).

Advertising & Promotion

Advertising & Promotion

The Washington Metropolitan Area Transit Authority, which runs the District of Columbia's subway and bus system, has prohibited tobacco and alcohol advertising on all system rail cars and buses.

Product Disclosure

Product Disclosure

No city law/regulation.

Divestment

Divestment

No city law/regulation.

Liability

Tobacco Industry Liability

No city law/regulation.

Use of Tobacco Settlement Dollars

Use of Tobacco Settlement Dollars - Summary

The District of Columbia has sold the rights to almost all of the annual payments it was supposed to receive from the Master Settlement Agreement (MSA) to a Tobacco Settlement Financing Corporation for lump sum payments up front, see Securitization section below for more details. A portion of the money from one of the lump sum payments was put into a Community Health Care Financing Fund, and some money has been allocated from that fund for city tobacco prevention programs in previous years.

Use of Tobacco Settlement Dollars - Detailed Information

A Community Health Care Financing Fund was established within the city general fund where proceeds from the 2006 sale of future MSA payments and other revenue as specified was deposited. Money in the fund shall be used 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 were then allocated for a number of specific purposes, including a three-year tobacco prevention and cessation program called the DC Tobacco-Free Families Campaign. That program is no longer operating due to loss of funding, but additional money has been allocated from the fund for tobacco control programs/initiatives. See law cited below for more details.

D.C. CODE ANN. §§ 7-1931 & 1932 (2007).

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).

Fire Safety Standards for Cigarettes

Law Setting Fire Safety Standard for Cigarettes

To help prevent cigarette-caused fires, no cigarette may be sold or offered for sale in the District of Columbia unless: 1) It has been tested in accordance with the test method and meets the performance standard specified in section 7-1753 District of Columbia Code; 2) the manufacturer has filed a written certification with the Mayor, or the Mayor's delegate, in accordance with section 7-1754 District of Columbia Code; and 3) it has been marked in accordance with subsection (b) of section 7-1754 District of Columbia Code.

D.C. CODE ANN. §§ 7-1751 to 7-1757 (2009).

Penalties for Fire Safety Violations

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.

D.C. CODE ANN. §§ 7-1751 to 7-1757 (2009).

Activity

Recent Legislative Activity

Tobacco Control Program Funding: Allocated no city dollars for tobacco prevention and cessation programs in FY2012. B19-202 passed by the City Council 5/25/11 and signed by mayor 6/29/11.

Smokefree Air: Prohibits the use of tobacco products in and on city public school property and at off-campus school sponsored events.

B19-144 passed by city council 7/12/11, signed by mayor 8/9/11, passed U.S. Congressional Review period 10/20/11 and effective retroactive to 8/15/11.

Smokefree Air: Adds an exemption to the District's smokefree workplace law for once a year special events at hotels that allow cigar smoking.

B19-203 title 5, subtitle K passed city council 6/14/11, signed by mayor 7/22/11, passed U.S. Congressional Review period and effective 9/14/11.