



## Legislation Details (With Text)

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**File created:** 11/28/2016      **In control:** Rules & Reference Committee

**On agenda:** 12/12/2016      **Final action:** 12/15/2016

**Title:** To repeal Section 2329.02 of the Columbus City Code; and to enact new Sections 2329.13 and 2329.14 of the Columbus City Code by adding provisions requiring retailers to obtain a license for selling tobacco products and product paraphernalia and prohibiting the sale of tobacco products and product paraphernalia to individuals under the age of 21.

**Sponsors:** Priscilla Tyson

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/15/2016	1	CITY CLERK	Attest	
12/14/2016	1	MAYOR	Signed	
12/12/2016	1	COUNCIL PRESIDENT	Signed	
12/12/2016	1	Columbus City Council	Approved	Pass
12/5/2016	1	Columbus City Council	Read for the First Time	

The devastating health & economic consequences of nicotine and tobacco product use has been well known and documented over the past several decades. Tobacco use is the foremost preventable cause of premature death in America and causes half a million deaths annually. It has been responsible for 20.8 million premature deaths in the U.S. over the past 50 years since the first Surgeon General’s Report on smoking in 1964. Smoking and tobacco use leads to roughly \$300 billion in health care and lost worker productivity costs each year. In 2015 the Institute of Medicine concluded that raising the minimum legal sales age for tobacco products nationwide will reduce tobacco initiation, particularly among adolescents aged 15-17, improve health across the lifespan, and save lives; and that raising the minimum legal sales age for tobacco products nationwide to 21 would, over time, lead to a 12% decrease in smoking prevalence. The Institute of Medicine also predicts that Tobacco 21 laws will reduce adverse maternal, fetal and infant outcomes - including preterm births, low birth weight, and sudden infant death - due to reduced tobacco exposure in mothers and infants.

To repeal Section 2329.02 of the Columbus City Code; and to enact new Sections 2329.13 and 2329.14 of the Columbus City Code by adding provisions requiring retailers to obtain a license for selling tobacco products and product paraphernalia and prohibiting the sale of tobacco products and product paraphernalia to individuals under the age of 21.

**WHEREAS**, the City of Columbus has the responsibility to educate individuals under the age of twenty-one on the effects of smoking, and require tobacco retailers to obtain a tobacco license in order to sell to individuals over the age of twenty-one; and

**WHEREAS**, current City ordinances permit the sale of tobacco products to individuals aged eighteen to twenty-one, leading to a higher probability of an individual becoming a lifetime smoker; and

WHEREAS, prohibiting the sale of tobacco to individuals under the age of twenty-one will benefit the public health, safety and welfare of the citizens of the City of Columbus; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That Section 2329.02 of the Columbus City Code is hereby repealed.

**SECTION 2.** That Section 2329.13 and Section 2329.14 of the Columbus City Code are hereby enacted to read as follows::

**2329.13 - Distribution of tobacco products without a license.**

- (A) No retailer of tobacco products, or product paraphernalia shall give, sell, or otherwise distribute cigarettes, other tobacco products, papers used to roll cigarettes, or other product paraphernalia without a valid license issued by the Columbus Board of Health;
- (B) As used in this section, “tobacco product” means any product that is made from or derived from tobacco, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The term also includes an electronic smoking device and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- (C) As used in this section “product paraphernalia” means any product that is used to assist in chewing, smoking, absorbing, dissolving, inhaling, or any other consumption of tobacco product to include, but not limited to pipes, rolling papers, and electronic smoking devices.
- (D) As used in this section “Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- (E) Whoever violates this section is guilty of distribution of cigarettes, or other tobacco products, or product paraphernalia without a license, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, section 2329.14 of the Columbus City Code, or Section 2927.02 of the Ohio Revised Code, then the retailer shall be denied a license for distribution of cigarettes or other tobacco products or product paraphernalia for a period not to exceed 5 years.
- (F) Fines are to be deposited into a “Tobacco Enforcement and Education Fund” to be administered by the Columbus Health Department, reinvested for enforcement, community education, and compliance efforts towards state and local tobacco product sales and use laws.
- (G) The provisions of Section 2329.13 are hereby declared to be severable, and if any part of this section is held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such a ruling shall not affect the other parts of this section that can be given effect.
- (H) The Columbus Board of Health is hereby authorized to promulgate rules and regulations to carry out the purpose and intent of this section in order to protect the public health, safety and welfare.

**2329.14 Illegal Distribution of Tobacco Products**

- (A) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes or other tobacco products or product paraphernalia, or any agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes or other tobacco products or product paraphernalia shall do any of the following:
- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or product paraphernalia to any person under Twenty-one (21) years of age;
  - (2) Give, sell, or otherwise distribute cigarettes, other tobacco products, or product paraphernalia in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, or other tobacco products, or product paraphernalia to a person under Twenty-one (21) years of age is prohibited by law.
  - (3) Give, sell, or otherwise distribute cigarettes, other tobacco products, or product paraphernalia without viewing proof of age demonstrating the recipient is at least Twenty-one (21) years of age, except that no such verification is required for a recipient over the age of Thirty (30). That a person appeared to be over the age of Thirty (30) shall not constitute a defense to a violation of this section.
- (B) No person shall give, sell or offer to sell cigarettes, other tobacco products, or product paraphernalia by or from a vending machine.
- (C) As used in this section, "vending machine" means any mechanical or electronic device designed to do both of the following:
- (1) Receive a coin, bill, token, or credit card, including, but not limited to, a card, code, device, or other means of access to a customer's account, made for that purpose;
  - (2) In return for the insertion or deposit of a coin, bill, token, or credit card, automatically dispense property, provide a service, or grant a license.
- (D) As used in this section, "tobacco product" and "product paraphernalia" has the same meaning as defined in Section 2329.13 of the Columbus City Code.
- (E) As used in this section "proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Sections 4507.50 to 4507.52 of the Ohio Revised Code demonstrating that the recipient or purchaser is at least 21 years of age.
- (F) Whoever violates this section is guilty of illegal distribution of cigarettes, ~~or~~ other tobacco products, or product paraphernalia a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of this section, Section 2329.13 of the Columbus City Code, or Section 2927.02 of the Ohio Revised Code, then illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.
- (G) Fines are to be deposited into a "Tobacco Enforcement and Education Fund" administered by the Columbus Health Department, to be reinvested for enforcement, community education, and compliance efforts towards state and local tobacco product sales and use laws.
- (H) The provisions of Section 2329.14 are hereby declared to be severable, and if any part of this section is held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such a ruling shall not affect the other parts of this section that can be given effect.

**SECTION 3.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.