



Legislation Text

File #: 1053-2018, **Version:** 1

BACKGROUND

The purpose of this ordinance is to amend Sections 2329.13 and 2329.14, and enact new Section 2329.15 of the Columbus City Codes, which would establish regulations for hookah lounges and their operations in the City of Columbus.

This ordinance will further the City's efforts in ensuring responsible tobacco sales, and protecting the health, safety, and welfare of Columbus residents.

To amend Sections 2329.13 and 2329.14, and enact new Section 2329.15 of the Columbus City Code, establishing regulations for hookah lounges and their operations.

WHEREAS, Chapter 2329 of the Columbus City Codes concerns general offenses related to health, safety, and sanitation, including offenses related to tobacco sales; and

WHEREAS, this ordinance builds on the City's efforts in ensuring responsible tobacco sales, protecting the health, safety and welfare of Columbus residents; now therefore

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

SECTION 1. That Section 2329.13 of the Columbus City Code is hereby amended 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) No person shall operate a hookah lounge without a valid license issued by the Columbus Board of Health;

~~(B)~~ (C) 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)~~ (D) 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, hookah, and electronic smoking devices.

(E) As used in this section, "hookah" means a pipe used to pass charcoal heated air through a mixture of any organic or synthetic material, including but not limited to, plants, herbs, or tobacco, and ultimately through a water-filled chamber for the purpose of inhaling or exhaling such smoke or fumes created by this process.

(F) As used in this section, "hookah lounge" means a retail establishment that gives, sells, rents, or otherwise distributes hookahs and sells organic or synthetic mixtures that may or may not contain tobacco for the purpose of inhaling and exhaling the smoke or fumes created by the hookah. A hookah lounge must obtain an exemption from the Ohio Department of Health as prescribed in R.C. 3794, if applicable, to be in lawful operation.

~~(D)~~ (G) 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)~~ (H) Penalties

(1) Whoever violates division (A) of 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 ~~paraphenalia~~ paraphernalia for a period not to exceed 5 years.

(2) Whoever violates division (B) of this section is guilty of operating a hookah lounge 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 offender shall be denied a license for operating a hookah lounge for a period not to exceed 5 years.

~~(F)~~ (I) 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)~~ (J) 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)~~(K) 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.

SECTION 2. That Section 2329.14 of the Columbus City Code is hereby amended as follows:

2329.14 - Illegal Distribution of tobacco products and product paraphernalia.

(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 ~~paraphenalia~~ paraphernalia shall do any of the following:

(1) Give, sell, lease, rent, or otherwise distribute cigarettes, other tobacco products, or product paraphernalia to any person under Twenty-one (21) years of age;

(2) Give, sell, lease, rent, 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, leasing, renting, 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, lease, rent, 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, lease, rent, 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, 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. The new Section 2329.15 of the Columbus City Code is hereby enacted, reading as follows:

2329.15 -- Unlawful Operation of a Hookah Lounge

(A) No person operating a hookah lounge pursuant to a license issued by the Columbus Board of Health or any agent, employee, or representative of said licensee shall do any of the following:

(1) Operate a hookah lounge between the hours of 2:00am - 7:00am.

(2) Violate any of the provisions contained within Columbus City Code section 2329.14.

(B) As used in this section, “hookah lounge” has the same meaning as described in section 2329.13 of the Columbus City Code.

(C) The Department of Public Safety shall investigate all complaints related to violations of section 2329.15(A(1)).

(D) Whoever violates this section is guilty of unlawful operation of a hookah lounge, a misdemeanor of the second degree.

SECTION 4. That existing Sections 2329.13 and 2329.14 of the Columbus City Code are hereby repealed.

SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.