

ORDINANCE

By Johnson and Ellison

Amending Title 13, Chapter 281 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Tobacco Dealers.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 281.45 of the above-entitled ordinance be amended to read as follows:

281.45. Restrictions on sales of tobacco products. (a) No person shall sell cigarettes in any manner other than by the package or multiples thereof to which a stamp has been affixed in accordance with Minnesota Statutes Section 297F.08, subd. 1.

(b) Self-service methods of sales and self service methods of merchandising tobacco, tobacco products or tobacco related products as defined in section 281.15 of this Code, shall be prohibited.

(c) Every person applying for a license to sell tobacco products at retail shall certify on the annual license application that the person has implemented a training program for employees regarding laws related to the sale of tobacco products and has trained all employees to comply with state and federal laws and/or regulations regarding the sale of tobacco products.

(d) Self service restrictions shall not apply to tobacco products shops.

(e) No operator or employee of a tobacco products shop shall allow, permit or suffer any person younger than eighteen (18) years of age, and beginning August 1, 2018, twenty-one (21) years of age, to enter or be present upon the licensed premises. It shall be the duty of the operator and operator's employees to identify and ascertain the age of any such person and to refuse admittance to any person ~~younger than eighteen (18) years~~ not of age.

(f) No person shall sell, offer for sale, give away, barter, exchange, or otherwise deal in flavored tobacco products or samples of such products. This subsection does not apply to tobacco products shops or to a licensed tobacco dealer that otherwise meets the definition of and requirements applicable to a tobacco products shop except for the lack of an entrance door opening directly to the outside but which has an entrance door opening directly to the public area of a skyway, mall or other space that is not part of the premises of another business establishment. This subsection does not apply to licensed off sale liquor stores with regard to menthol, mint or wintergreen flavored tobacco products provided that such an establishment does not permit any persons under the age of twenty-one (21) to be present within the establishment unaccompanied by a parent or guardian. The city may maintain a list of flavored tobacco products and tobacco products determined to not constitute flavored tobacco products and may require a license holder to provide documentation or evidence establishing that a particular tobacco product offered for sale by that license holder is not a flavored tobacco product. Failure to provide sufficient information may be one (1) of the methods used to determine that the product is a flavored tobacco product and shall, to the extent permitted by law, create a rebuttable presumption that the product is a flavored tobacco product.

(g) No person shall sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one-get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person shall sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one-get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.

Section 2. That Section 281.50 of the above-entitled ordinance be amended to read as follows:

281.50. Sales to ~~minors~~ persons under the age of twenty-one. No person within the city shall sell, give to, or in any way furnish any ~~tobacco, tobacco products, or tobacco-related devices~~ to any person under eighteen (18) years of age, and beginning August 1, 2018, twenty-one (21) years of age.

Section 3. That Section 281.70 of the above-entitled ordinance be and hereby is repealed:

~~**281.70. Administrative penalty, individual.** An individual who sells tobacco products to a person under the age of eighteen (18) years must be charged an administrative penalty of fifty dollars (\$50.00). The licensee will be responsible for ensuring the employee pays the fine or takes necessary steps to appeal the penalty.~~

Section 4. That Section 281.75 of the above-entitled ordinance be amended to read as follows:

281.75. Tobacco vending machines restricted. (a) No tobacco vending machine may be located in facilities that can be entered at any time by persons under ~~eighteen (18) years of age~~ the minimum tobacco products purchase age as established by this chapter.

(b) Tobacco vending machine sales shall not be permitted incidental to an on-sale alcoholic beverage license or off-sale liquor license. The establishment shall obtain a separate tobacco dealer's license under this chapter.

Section 5. That Section 281.80 of the above-entitled ordinance be amended to read as follows:

281.80. Enforcement. Sections 281.30 through 281.65 shall be administered and enforced by and through the licensing official of the City of Minneapolis. All compliance operations to ensure adherence to sections 281.50, 281.60(b) and 281.60(c) shall be conducted by the licensing official or the Minneapolis Police Department.

The licensing official or the Minneapolis Police Department will conduct unannounced compliance checks at least once each calendar year at each location where tobacco products are sold to test compliance with Minnesota Statutes, Sections 609.685 and 609.6855 or section 281.50 of this chapter. In the event of a first violation, an unannounced compliance check shall be done within the following six (6) months and at least twice within the anniversary date of the first violation. In the event of a second violation, an unannounced compliance check shall be done within the following four (4) months and at least three (3) times within the anniversary date of the second violation. Compliance checks must involve ~~minors~~ persons over the age of fifteen (15), but younger than the ~~age eighteen (18)~~ minimum tobacco products purchase age as established by this chapter, who with the prior written consent of a

parent or guardian, if under the age of eighteen (18), attempt to purchase tobacco products under the direct supervision of a law enforcement officer or employee of the licensing authority.