

This is an amendment to add a new section entitled "Licenses" to the Department of Revenue's Business Income and Receipts Tax Regulations to incorporate the provisions of §19-2602 of The Philadelphia Code entitled "Licenses". This amendment is also as a result of changes made due to the enactment of City Council Bill No. 140452 (enacted on June 19, 2014).

CITY OF PHILADELPHIA

BUSINESS INCOME AND RECEIPTS TAX REGULATIONS

ARTICLE I

SECTION 105. PERSONS ENGAGED IN HOBBIES AND OTHER NOT-FOR-PROFIT ACTIVITIES.

SECTION 106. LICENSES

(1) Every person desiring to engage in or to continue to engage in any business within the City of Philadelphia shall, whether or not such person maintains a place of business in the City, prior to engaging in such business, procure a commercial activity license from the Department of Licenses and Inspections. A person exclusively engaged in a hobby or other not-for-profit activity, excluded from the definition of business set forth in § 19-2601 of the Philadelphia Code and section 101D. 10. of these regulations, shall not be required to procure or maintain a commercial activity license.

(2) There shall be no fee for the issuance of the business privilege license required by this Section.

(3) The Department of Licenses and Inspections shall promulgate such regulations as it deems proper to regulate the form and manner of issuing and revoking such licenses and the imposition of sanctions set forth in this Section for operating without, or in violation of the conditions of, a valid license. Such regulations may provide for the imposition of sanctions on one or more of the premises operated under a particular license, depending on the breadth of occurrence of the violative behavior.

(4) Every person required to procure a license under this Section shall as a condition to the receipt or retention of the license:

(a) File all required returns and make payment of any monies due and owing as a result of all taxes imposed by City or School District of Philadelphia or, if delinquent in the payment of taxes, interest or penalties, enter into and be in compliance with a payment agreement with the Department of Revenue or the Law Department; and

(b) Refrain, under color of such license, from selling, transferring, delivering or manufacturing, drug paraphernalia, in violation of the provisions of the Act of December 4, 1980, P.L. 1093, No. 186, § 2, 35 P.S. § 780-113(a)(32) and (33) or, under color of such license, from leasing real estate to a person knowing, or having reason to know, that such person is using, or intends to use, such real estate or improvements thereon in the selling, transferring, delivering or

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manufacturing of drug paraphernalia in violation of the provisions of said Act.

(c) Refrain, under color of such license, from selling, transferring, delivering or manufacturing, illegal drugs to any person, or alcoholic beverages to a minor, or engaging in acts of prostitution or promoting prostitution as defined at 18 Pa. C.S. § 5902(a) and (b), or permitting a minor to remain upon the premises of said establishment in violation of Chapter 10-300 of The Philadelphia Code or, under color of such license, from leasing real estate to a person knowing, or having reason to know, that such person is using, or intends to use, such real estate or improvements thereon in the selling, transferring, delivering or manufacturing of illegal drugs, or in the sale of alcoholic beverages to a minor, or to engage in acts of prostitution or promoting prostitution as defined at 18 Pa. C.S. § 5902(a) and (b) or permitting a minor to remain upon the premises of said establishment in violation of Chapter 10-300 of The Philadelphia Code.

(d) Refrain from causing or permitting an owner or occupier to cause a public or private nuisance, including the Operation of a Nuisance Health Establishment as defined in § 6-1101(3) of The Philadelphia Code, either directly or indirectly, or by permitting third persons or conditions to do so when such nuisances may be minimized or prevented by reasonable measures.

(1) The Department of Licenses and Inspections shall refrain from issuing, or shall revoke, the commercial activity license of any person, who, under color of such license intends to operate, or is operating, in violation of the provisions of subsections of the Philadelphia Code 19-2602(4)(b), 4(c), 4(d), 4(e) or 4(f) and Section 106 (4)(b), 4(c), 4(d), 4(e) and 4(f) of these regulations, and shall take all steps necessary to terminate the business operations of any business establishment that has violated any of such subsections, including, but not limited to the following:

(a) The seizure of the illegal drugs and/or drug paraphernalia located at such establishment, and the delivery of the material taken to appropriate law enforcement personnel for forfeiture proceedings pursuant to the provisions of the Act of April 14, 1972, P.L. 233, No. 64, §§ 28 and 29, as amended, 35 P.L. 780-128, and 129; and

(b) Padlocking and physical closure of the business enterprise; and

(c) The initiation of proceedings to enjoin preliminarily and/or permanently the further operation of the business enterprise which has violated or intends to violate such subsections. ~~the~~ person, business or community-based organization shall also have standing to initiate such proceedings. No bond shall be required of such entity for seeking or obtaining preliminary injunctive relief. In addition, public officials currently empowered by law to file nuisance actions shall also have standing to file actions pursuant to this Section;

(d) The taking of an appeal from an order granting a preliminary or permanent injunction pursuant to this Section shall not automatically stay the order granting the injunction. The Court granting the injunction may, upon application, grant a stay. In making a determination of whether a stay application shall be granted, the Court shall consider whether the proposed stay, if granted, will adversely affect the community or the petitioner who obtained the injunction;

(e) A prevailing petitioner shall be entitled to reasonable attorneys fees and costs. Any filing with the Court is subject to the sanctions provided by 42 Pa. C.S. § 8355.

(2) Any person who operates a business notwithstanding the denial or revocation of a license to operate such business under this subsection shall be subject to a fine of three hundred dollars (\$300) and up to ninety (90) days imprisonment for each day such business continues to operate

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without possessing a valid license.

(e) Refrain from violating any provision of Chapter 9-2300 of the Philadelphia Code entitled "Protection of Displaced Contract Workers". The Philadelphia Labor Standards Unit shall have the responsibility for the enforcement of the provisions of this subsection and in connection therewith shall:

(1) Cause a notice containing the provisions of Chapter 9-2300 of the Philadelphia Code to be sent to all persons currently engaged in performing food and beverage, hotel service, health care, janitorial or building maintenance services within the City of Philadelphia as indicated on the application for Philadelphia Business Tax Account Number filed with the Revenue Department and to all persons who shall in the figure indicate on their application for Philadelphia Business Tax Account Number filed with the Revenue Department that they intend to engage in such businesses.

(2) Maintain a current list of all commercial activity license holders for performing food and beverage, hotel service, health care, janitorial or building maintenance services within the City of Philadelphia.

(3) Investigate all complaints against any contractor or subcontractor or awarding authority and in connection therewith or with respect to any investigation shall have full power and authority to subpoena any witness, books, records, or other data of any person for the purposes of obtaining information pertinent to such investigation. The Director of the Philadelphia Labor Standards Unit shall make a finding in writing with respect to each complaint filed, and shall send a copy thereof to the complainant and the contractor and shall maintain it on file. Upon request, the unit shall provide any affected contractor or subcontractor with a hearing.

(4) Refer all complaints determined to have merit to the Department of Licenses and Inspections for revocation of the offending person's commercial activity license pursuant to subsection (d)(1).

(5) Monitor the operations of contractors, subcontractors and awarding authorities to ensure compliance with Chapter 9-2300 of the Philadelphia Code.

(f) Refrain from violating any provision of Chapter 9-2400 of the Philadelphia Code entitled "Prohibition Against Predatory Lending".

(g) Operate the business in compliance with Section 10-722, entitled "Use of Dumpsters" and Section 9-604, entitled "Refuse Collection".

(h) The Department of Licenses and Inspections is authorized to deny or revoke a commercial activity license for failure to comply with the requirements of this subsection. Any person who has been denied a license or whose license has been revoked shall have the right to appeal to the Board of License and Inspection Review within ten (10) days after receipt of the notice of denial or revocation.

(5) Any person who has been denied a license or whose license has been revoked, or who has been the subject of any other proceedings under subsections 19-2602(4) of the Philadelphia Code and Section 106 (4) of these regulations shall have the right to appeal to the Board of License and Inspection Review within ten (10) days after receipt of the notice of denial or revocation, or occurrence of such other proceeding. The filing of such appeal shall not act as a stay of the action or proceeding appealed from.

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(6) Cease Operations Orders.

(a) Whenever business is being conducted in or on any premises without a required commercial activity license, the Department of Licenses and Inspections ("Department") may issue a Cease Operations Order directing that business activity cease immediately until the required license is obtained.

(1) The Cease Operations Order shall describe the business that is being conducted without the required commercial activity license, and shall state that such business activity, and any other business activity required a commercial activity license, must cease until the required license is obtained.

(2) The Cease Operations Order shall be posted at every entrance to the premises in conspicuous places clearly visible to the public and shall remain posted until removed by the Department following compliance with its terms.

(3) The Department shall promptly notify the Police Department of the issuance of every Cease Operations Order. The Police Department, upon the request of the Department, shall render assistance in the enforcement of any Cease Operations Order and shall have the right to enter the premises for such purpose.

(b) Prohibited conduct. No person with knowledge of a Cease Operations Order shall:

(1) Continue to conduct any business for which a commercial activity license is required in or on any premises for which a Cease Operations Order has been issued.

(2) Remove, damage or deface any Cease Operations Order.

(3) Resist or interfere with any inspection or other official in the performance of their duties or the enforcement of any provision of this Section.

(c) Penalties.

(1) Any person violating this subsection 19-2602(6) of the Philadelphia Code and section 106 (6) of these sections shall be subject to a fine of three hundred (300) dollars.

(2) Each day of violation shall constitute a separate offense for which a fine may be imposed.

(7) In order to provide for the effective administration and enforcement of the provisions of the Section, the Department of Licenses and Inspection may (in consultation with the Department of Revenue) assign their duties and responsibilities under this Section to the Department of Revenue when it has been jointly determined by both departments to be in the best interest of the City.

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Explanation:

[] Brackets denotes matter deleted.

 Underline and Bold indicate matter added.

Frank Breslin Date 8-1-17

Frank Breslin CPA, Revenue Commissioner

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