

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 142

Introduced by Council Members Lander, Johnson, Vacca, Richards, Gentile, Chin, Rosenthal, Cohen, Kallos, Barron and Maisel.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the sale of tobacco products in pharmacies

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council finds that tobacco use is a leading risk factor for preventable premature death in the United States and the City of New York, having killed an estimated 12,000 people in the city in 2014 and causing a significant burden in health care costs and lost productivity. Given the costs associated with tobacco use, the City has a compelling interest in continuing its efforts to reduce tobacco use among adults and to prevent youth from starting to use tobacco products.

Overall, the City has a high level of tobacco retail density with more than 8,200 licensed cigarette retailers within approximately 300 square miles. The Council further finds, based on a number of studies, that easy access to tobacco retailers makes it harder for smokers to quit, particularly in low-income areas. In addition, the odds of experimenting with smoking in the past 12 months was 40% higher among NYC youth who were exposed to tobacco retailers two or more times per week compared to those exposed less often. Therefore, reducing the number of tobacco retailers over time is likely to reduce tobacco use and, in turn, morbidity.

There are more than 2,700 pharmacies in New York City, and approximately 600 of them have a retail dealer license to sell cigarettes. Pharmacies provide a critical service of dispensing medications, and pharmacists are trusted professionals dedicated to optimizing medication therapy and improving health. Consistent with this role, the American Pharmacists Association “urges pharmacies and facilities that include pharmacies to discontinue the sale of tobacco products” and electronic cigarettes. The public also supports prohibiting the sale of tobacco products in pharmacies. In one recent national survey, 66.1 percent of all adults favored prohibiting tobacco product sales in pharmacy stores. The co-location of the sale of deadly and addictive products runs counter to the services provided by pharmacists to improve health. Studies show that when pharmacies have stopped selling tobacco products, tobacco sales in the affected area have declined significantly.

§ 2. Section 20-201 of the administrative code of the city of New York, as amended by a local law for the year 2017 amending the administrative code of the city of New York relating to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and repealing subdivision c of section 17-702, relating to the definition of cigarette license, as proposed in introduction number 1547 for the year 2017, is amended by adding new definitions of “pharmacy” and “retail store” in alphabetical order to read as follows:

Pharmacy. The term “pharmacy” means “pharmacy” as defined in subdivision 1 of section 6802 of the education law, and any retail store that contains a pharmacy.

Retail store. The term “retail store” means any place that, in the regular course of business, sells or rents goods directly to the public.

§ 3. Subdivision a of section 20-202 of the administrative code of the city of New York is amended by adding a new paragraph 3 to read as follows:

3. It shall be unlawful for a pharmacy to obtain a license to engage in business as a retail dealer.

§ 4. After the date of enactment of this local law, a pharmacy shall not be allowed to apply for a license to engage in business as a retail dealer, and a pharmacy that applies for a renewal of such a license may be issued such renewal, provided that such license shall be valid only until December 31, 2018. The fee described in paragraph 1 of subdivision c of section 20-202 of the administrative code of the city of New York shall be pro-rated for any such renewal as needed.

§ 5. This local law takes effect on the same day as a local law for the year 2017 amending the administrative code of the city of New York relating to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and repealing subdivision c of section 17-702, relating to the definition of cigarette license, as proposed in introduction number 1547 for the year 2017, takes effect; provided that, however, paragraph 3 of subdivision a of section 20-202 of the administrative code of the city of New York, as added by section three of this local law, takes effect on January 1, 2019.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on August 9, 2017 and approved by the Mayor on August 28, 2017.

ALISA FUENTES, Acting City Clerk, Acting Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 142 of 2017, Council Int. No. 1131-B of 2016) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.