

Ord. No. 737-15.

By Council Member Cimperman.

An emergency ordinance to amend Section 607.15 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 474-14, passed June 2, 2014, to raise the sales and distribution age from eighteen to twenty-one years for cigarettes, tobacco products and alternative nicotine products, including electronic cigarettes.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance, when amended, as follows:

1. In Section 1, at amended Section 607.15(a), strike division (a)(2) in its entirety and insert: **“Child” has the same meaning as in Revised Code Section 2151.011”**.
2. In Section 1, at amended Section 607.15(a)(4), line 3, after “other tobacco products,” insert **“alternative nicotine products,”**.
3. In Section 1, at amended Section 607.15(a)(5), strike division (a)(5)B. in its entirety and insert **“ “Electronic cigarette” does not include any item, product, or device described in division (a)(1)B. of this section.”**.
4. In Section 1, at amended Section 607.15(a), after division (7), insert the following: **“(8) “Young adult” means a person who is eighteen (18) years of age or older, but under twenty-one (21) years of age.”**.
5. In Section 1, strike Section 607.15(b) in its entirety and insert:
  - “(b) No manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:**
    - (1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any child;**
    - (2) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any individual who does not demonstrate, through a driver’s license or other photographic identification card issued by a government entity or educational institution that the individual is at least eighteen years of age, unless the individual reasonably appears to be at least thirty years of age, provided however, that such appearance shall not constitute a defense in any proceeding alleging the sale of cigarettes, tobacco products or electronic cigarettes to an individual under eighteen years of age;**

**(3) Sell cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any young adult;**

**(4) Sell cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any individual who does not demonstrate, through a driver's license or other photographic identification card issued by a government entity or educational institution that the individual is at least twenty-one years of age, unless the individual reasonably appears to be at least thirty years of age, provided however, that such appearance shall not constitute a defense in any proceeding alleging the sale of cigarettes, tobacco products or electronic cigarettes to an individual under twenty-one years of age;**

**(5) Give away, sell or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any business that does not have posted in a conspicuous place a sign, in accordance with rules of the Department of Public Health, stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes to a person under twenty-one (21) years of age is prohibited by law;**

**(6) Knowingly furnish any false information regarding the name, age, or other identification of any child or young adult with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child or young adult;**

**(7) Manufacture, sell, or distribute in this City any pack or other container of cigarettes or alternative nicotine products containing fewer than twenty (20) cigarettes or any package of roll-your-own tobacco containing less than six-tenths (0.6) of one (1) ounce of tobacco;**

**(8) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;**

**(9) Sell other tobacco products in a smaller quantity than was intended for retail when the product was packaged by the manufacturer."**

6. In Section 1, at amended Section 607.15, insert new division (c) to read as follows:

**"(c) No manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, shall give or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any young adult."**

7. In Section 1, at amended Section 607.15, reletter existing divisions (c), (d), (e), (f), and (g), to new divisions **"(d)", "(e)", "(f)", "(g)", and "(h)".**

8. In Section 1, at amended Section 607.15, at existing division (c)(2)A. line 7, after “considered” insert “**located**”.

9. In Section 1, at amended Section 607.15, at existing division (e), strike division (e)(1) in its entirety and insert: “**(1) The parent, guardian, or legal custodian of the child has consented in writing to the child participating in the research 16 The City Record December 9, 2015 1868 December 9, 2015 The City Record 17 1869 protocol, or the young adult has consented in writing, on his or her own behalf, to participate in the research protocol.**”.

10. In Section 1, at amended Section 607.15, at existing division (f)(1), line 1 and in line 5, strike “**division (b)(1), (2), (4), or (5) or division (c)**” and insert “**division (b)(1), (3), (5), (7), (8), or (9) or divisions (c) or (d)**” in both places.

11. In Section 1, at amended Section 607.15(f)(2), in line 1 and in line 5, strike “**division (b)(3)**” and insert “**division (b)(6)**” in both places.

12. In Section 1, at amended Section 607.15, at existing division (g), in line 2, strike “given, sold, or otherwise distributed” and insert “**given or sold**”; in line 3, after “this section” insert “, **or distributed to a child in violation of this section,**” and also in line 3, strike “or young adults”.

13. In Section 3, strike “sixty days” and insert “**one hundred and twenty (120) days**”.

Amendments agreed to.

The rules were suspended. Yeas 13. Nays 3. Read second time. Read third time in full. Passed. Yeas 13. Nays 3.

Those voting yea: Council Members Brancatelli, Cimperman, Cleveland, Conwell, Cummins, Dow, K. Johnson, Keane, Kelley, Mitchell, Pruitt, Reed, Zone.

Those voting nay: Council Members Brady, Kazy, Polensek.

In compliance with Section 33 of the Charter a copy of the legislation was furnished to each member of Council before final passage.