

ORDINANCE NO. _____

An ordinance amending Chapter 41, “Smoking,” of the Dallas City Code by amending Section 41-1, 41-11, and 41-12; raising the legal age for the distribution, possession, purchase, consumption, and receipt of cigarettes, and tobacco products from 18 to 21 in accordance with state law; providing a penalty not to exceed \$200; providing a savings clause; and providing an effective date.

WHEREAS, the 86th Texas Legislature met between January 8, 2019 and May 27, 2019; and

WHEREAS, S.B. 21 amends the Texas Health and Safety Code to raise the minimum age requirements to 21 years of age for buying, attempting to buy, possessing, consuming, or accepting cigarettes, e-cigarettes, or tobacco products in Texas;

WHEREAS, S.B. 21 provide an exception for a person 18 years of age with a valid U.S. military or state military identification at the time of purchase;

WHEREAS, S.B. 21 was approved by both chambers of the Texas Legislature; and

WHEREAS, S.B. 21 was signed by Governor Greg Abbott on June 7, 2019; and

WHEREAS, S.B. 21 became law on September 1, 2019; Now, Therefore,

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

SECTION 1. That Paragraph (11) of Section 41-1, “Definitions,” of Article I, “General Provisions,” of Chapter 41, “Smoking,” of the Dallas City Code is amended to read as follows:

“(11) MINOR means an ~~[any]~~ individual;

(A) under 21 ~~[18]~~ years of age; or

(B) at least 18 years of age and presenting a valid military identification card of the United States military forces or the state military forces.”

SECTION 2. That Subsection (b) of Section 41-11, “Tobacco-Product Vending Machines Prohibited; Defenses,” of Article V, “Tobacco-Product Vending Machines,” of Chapter 41, “Smoking,” is amended to read as follows:

“(b) It is a defense to prosecution under Subsection (a) that the tobacco-product vending machine was:

- (1) situated in a premises where entry by a minor is prohibited by law;
- (2) situated in a hotel, motel, bar, or restaurant bar,
- (3) located in a workplace with the permission of the employer; provided that:

(A) the employer usually has no person under 21 [~~18~~] years of age employed at the workplace; and

(B) the tobacco-product vending machine is situated at a location within the workplace to which no person other than an employee of the workplace is usually permitted to have access; or

(4) located in an eating establishment and equipped with a lock-out device that was installed, maintained, and operated in compliance with Section 41-12.”

SECTION 3. That Subsection (c) of Section 41-12, “Lock-Out Devices,” of Article V, “Tobacco-Product Vending Machines,” of Chapter 41, “Smoking,” of the Dallas City Code is amended to read as follows:

“(c) An owner, operator, employee, or other person in charge of an eating establishment who is at least 21 [~~18~~] years of age shall:

(1) install and continuously maintain a lock-out device on a tobacco-product vending machine in good working order;

(2) require identification from any potential customer of the tobacco-product vending machine who appears to be under 30 [~~18~~] years of age;

(3) physically observe all transactions in which the tobacco-product vending machine is used; and

(4) physically release the lock-out device before each sale from a tobacco-product vending machine.”

SECTION 4. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$200.

SECTION 5. That Chapter 41 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 7. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 8. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By _____
Assistant City Attorney

Passed _____