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**NEW YORK CITY ADMINISTRATIVE CODE**  
**TITLE 20: CONSUMER AFFAIRS**  
**CHAPTER 2: LICENSES**  
**SUBCHAPTER 1: RETAIL CIGARETTE DEALERS**

§ 20-201 Definitions. Whenever used in this subchapter:

a. "Agent" means any person authorized to purchase and affix adhesive or meter stamps under chapter thirteen of title eleven of this code who is designated as an agent by the commissioner of finance.

b. "Cigarette" shall mean (1) any roll for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (2) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph one of this subdivision. However, a roll will not be considered to be a cigarette for purposes of paragraph two of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.

c. "Commissioner of finance" means the commissioner of finance of the City of New York.

d. "Dealer" shall mean any wholesale dealer or retail dealer as hereinafter defined.

e. "Person" shall mean any individual, partnership, society, association, joint-stock company, corporation, limited liability company, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

f. "Retail dealer" shall mean any person other than a wholesale dealer engaged in selling cigarettes. For the purposes of this chapter, the possession or transportation at any one time of five thousand or more cigarettes by any person other than a manufacturer, an agent, a licensed wholesale dealer or a person delivering cigarettes in the regular course

of business for a manufacturer, an agent or a licensed wholesale or retail dealer, shall be presumptive evidence that such person is a retail dealer.

g. "Sale or purchase" shall mean any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever or any agreement therefor.

h. "Wholesale dealer" shall mean any person who sells cigarettes to retail dealers or other persons for purposes of resale only, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person.

§ 20-202 License. a. License required of retail dealers.

1. It shall be unlawful for any person to engage in business as a retail dealer without first having obtained a license as hereinafter prescribed for each place of business wherein such person sells cigarettes in the city.

2. It shall be unlawful for a person to permit any premises under such person's control to be used by any other person in violation of paragraph one of subdivision a of this section.

b. License application. In order to obtain a license to engage in business as a retail dealer, a person shall file an application with the commissioner for a license for each place of business that he or she desires to have for the retail sale of cigarettes in the city. The application for each license or renewal thereof shall be made upon such form as prescribed by the commissioner and shall contain such information as the commissioner shall require.

c. Fee and license term. 1. There shall be a biennial fee of one hundred ten dollars for a license to engage in the business of a retail dealer at each place of business where cigarettes are sold in the city.

2. All even-numbered licenses shall expire on December 31 of the even-numbered year, and all odd-numbered licenses shall expire on December 31 of the odd-numbered year, next succeeding the year in which the license is issued.

d. Issuance of license. 1. A license shall be issued to a person to conduct the business of a retail dealer for each place of business where such person engages in selling cigarettes in the city only where:

(A) an applicant for a license or renewal thereof meets all the requirements prescribed herein and any criteria in addition thereto established by the commissioner by rule as he or she deems necessary to effectuate the purposes of this subchapter;

(B) an applicant satisfies the commissioner that such person is fit and able to conduct the business of a retail dealer; and

(C) the commissioner has not received notification from the commissioner of finance or the commissioner of the department of health and mental hygiene that such applicant is not in full

compliance with any provisions of chapter thirteen of title eleven of this code, or chapter forty of title eleven of this code relating to the sale of cigarettes, or chapter seven of title seventeen of this code, or chapter eight of title seventeen of this code, or any rules promulgated by the commissioner of finance or the commissioner of the department of health and mental hygiene to effectuate the purposes of such chapters.

2. A retail dealer license shall not be assignable and shall be valid only for the persons in whose names it is issued and for the transaction of business in the place designated therein and shall at all times be conspicuously displayed at the place for which it is issued.

3. Where a license for any place of business licensed pursuant to this subchapter has been revoked, the commissioner in his or her discretion may refuse to issue a license required under this subchapter, for a period of two years after such revocation, for such place of business or for any part of the building that had contained such place of business and was connected therewith, unless the applicant for such license demonstrates with documentary proof, to the satisfaction of the commissioner, that the applicant acquired the premises or business through an arm's length transaction.

4. For purposes of revocation of retail dealer licenses pursuant to section 17-624 of the code, any violation of section 17-618, 17-619 or 17-620 by any license holder at a place of business shall be included in determining the number of violations by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises.

5. For purposes of paragraphs 3 and 4 of section 20-202, "arm's length transaction" means a sale of a fee or all undivided interests in real property, or lease of any part thereof, or a sale of a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original licensee to avoid the effect of violations on the premises. The following sales or leases shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises:

- (1) a sale between relatives; or
- (2) a sale between related companies or partners in a business; or

(3) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original licensee to avoid the effect of violations on the premises, or revocation of a license.

§ 20-203 Recordkeeping and examination. a. A retail dealer shall make and maintain such records of cigarette sales and purchases as are prescribed by the commissioner of finance pursuant to chapter thirteen of title eleven of this code.

b. Such records as are required to be kept shall be available for inspection at the place of business for which a retail dealer license is issued and such records shall be available for inspection by the commissioner of finance or such commissioner's duly authorized representatives as to the extent necessary to ascertain whether such retail dealer is in compliance with the purposes and requirements of chapter thirteen of title eleven of this code.

§ 20-204 Duplicate licenses. Whenever any license issued under the provisions of this subchapter is defaced, destroyed or lost, the commissioner shall issue a duplicate license to the holder of the defaced, destroyed or lost license upon the payment of a fee of fifteen dollars.

§ 20-205 Prohibited sales and purchases. No agent or dealer shall sell cigarettes to an unlicensed dealer, or to a dealer whose license has been suspended or revoked. No dealer shall purchase cigarettes from any person other than a manufacturer or a licensed wholesale dealer.

§ 20-206 Renewal, suspension and revocation of licenses. a. In addition to any other powers of the commissioner, and not in limitation thereof, the commissioner may, after due notice and opportunity to be heard, refuse to renew any license required under this subchapter and may suspend or revoke such license if the person holding such license, or, where applicable, any of its officers, principals, directors, members, managers, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation, has been found to have:

1. made a material false statement or concealed a material fact in connection with the filing of any application pursuant to this subchapter; or

2. not paid, within the time permitted by law, any civil penalty or judgment duly imposed pursuant to the provisions of this subchapter or

any rules promulgated thereunder or pursuant to chapter thirteen of title eleven of this code, or chapter forty of title eleven of this code relating to cigarette sales.

3. violated the provisions of section 17-702 of this code or any rules promulgated thereunder.

b. In addition to the commissioner's power to refuse to renew, suspend or revoke a license as provided in subdivision a of this section, the commissioner shall be authorized to refuse to renew any license required under this subchapter and may suspend or revoke such license upon the notification by the commissioner of finance that the person holding such license, or, where applicable, any of its officers, principals, directors, employees, members, managers, or stockholders owning more than ten percent of the outstanding stock of the corporation, has been found to have violated any provision of chapter thirteen of title eleven of this code, or of chapter forty of title eleven of this code relating to cigarette sales.

c. Upon suspending or revoking any retail cigarette license, the commissioner shall direct the holder thereof to surrender to the commissioner immediately any cigarette retail license or duplicates thereof issued to such holder for such place of business and the holder shall surrender promptly all such licenses to the commissioner as directed.

§ 20-207 Violations. a. The civil penalties imposed pursuant to this section shall be in addition to any other sanctions and orders which may be imposed by the commissioner pursuant to this title including, but not limited to, such sanctions and orders which may be imposed pursuant to section 20-105 or to title 11 or title 17 of this code or pursuant to such other law the commissioner is authorized to enforce under this code.

b. Notwithstanding the provisions of subdivision a and b of section 20-106 of this code, any person who violates any provision of this subchapter or any rules promulgated thereunder shall be subject to a civil penalty of not less than two hundred and fifty dollars but not more than two thousand dollars for each violation, to be recovered in a civil action or in an administrative tribunal with jurisdiction.

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**RULES OF THE CITY OF NEW YORK**  
**TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS**  
**CHAPTER 2: LICENSES**  
**SUBCHAPTER B: RETAIL CIGARETTE DEALERS**

**§2-11 Required Periodic Retraining Programs and Proof of Satisfactory Completion of Such Program.**

A periodic retraining program qualifies as an alternative for the monitoring of the performance of persons working in a retail cigarette dealer licensee's place of business as provided in section 17-624(f)(3) of the Administrative Code of the City of New York only if it is conducted by a tobacco sales training program certified by the New York State Department of Health in accordance with subsection 6 of section 1399-ee of the Public Health Law. Such a training program must issue a certificate of completion to each person who successfully completed training. The retail dealer also must demonstrate that the person who committed the violation held a valid certificate of completion from the state certified sales training program at the time of the violation.