

ARTICLE 181
PROTECTION OF PUBLIC HEALTH GENERALLY

§181.01 Definitions.

In this article (a) public transportation facility is used as defined in §139.01,

(b) commercial premises is used as defined in §135.01,

(c) food establishment is used as defined in §81.03,

(d) day care service, school and children's institutions are used as defined in §45.01, and

(e) hotel, rooming house and lodging house are used as defined in Multiple Dwelling Law §4.

§181.03 Spitting prohibited.

(a) No person shall spit upon a sidewalk of a street or place, or on a floor, wall or stairway of any public or private building or premises used in common by the public, or in or on any public transportation facility.

(b) The owner or person in charge of a public transportation facility shall permanently and conspicuously post in each such place a sufficient number of notices prohibiting spitting.

§181.05 Common towel prohibited.

No person who owns or is in charge of commercial premises, an office or other business establishment, day care service, school, children's institution, hotel, rooming house, lodging house, public wash room, public lavatory, public transportation facility or any other public place or any place used in common by the public shall furnish or maintain or permit the furnishing or maintenance of a common towel for the use of more than one person.

§181.07 Common eating and drinking utensils prohibited.

The use or furnishing for use of common eating or drinking utensils is prohibited in commercial premises, a public transportation facility, food establishment, hotel, rooming house, lodging house, day care service, school, children's institution, park, street or any other public place or any place used in common by the public.

§181.09 Manufacture and handling of cigars, cigarettes and tobacco.

(a) No person engaged in the preparation, manufacture, sorting or handling of cigars, cigarettes or tobacco intended for sale shall at any time:

(1) Touch such cigar, cigarette or tobacco with his lips, teeth or tongue; or,

(2) Moisten such cigar, cigarette or tobacco with saliva, directly or indirectly, by spitting or by use of the fingers or utensils or accessories of any kind; or,

(3) Spray or moisten such cigar, cigarette or tobacco with water or any other liquid emitted from the mouth; or,

(4) Permit such cigar, cigarette or tobacco to touch or be introduced into the nose of any person.

(b) A person engaged in the preparation, manufacture, sorting or handling of cigars, cigarettes or tobacco intended for sale shall thoroughly wash his hands with soap and warm water before beginning work, immediately after each visit to the toilet, and at all other times when necessary during the course of the work.

(c) A copy of this section shall be posted conspicuously in every place where cigars, cigarettes or tobacco are prepared, manufactured, sorted or handled.

§181.11 Growing of poison ivy and ragweed prohibited.

No person who owns, occupies or is in charge of a lot or premises shall cause or allow poison ivy, ragweed, or other poisonous or allergenic weed to grow on such lot or premises

§181.15 Tattooing prohibited. [Repealed]

§181.17 Smoking prohibited in certain areas.

- (a) It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette or pipe in any elevator or in any retail food establishment commonly known as a supermarket.
- (b) It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette or pipe in any classroom or in any lecture hall, except that the owner or person in charge of such classroom or lecture hall may designate a special area or areas where smoking is permitted, unless otherwise prohibited by the Fire Department or by other law. The area or areas where smoking is permitted shall contain not more than 20% of the total seats of the classroom or lecture hall.
- (c) It shall be unlawful, except as provided in subsection (e), for any person to smoke or carry a lighted cigar, cigarette or pipe in any theatre, motion picture theatre, opera house, concert hall, hospital, sanatorium, nursing home, convalescent home, home for the aged or chronically ill patients, museum or library.
- (d) It shall be unlawful, except as provided in subsection (e), to smoke or carry a lighted cigar, cigarette or pipe in any enclosed public space in which 50 or more persons gather for religious, recreational, political or social purpose. This subsection shall not apply to:
 - (1) Any place in which social functions such as weddings, parties, testimonial dinners and similar functions are held and in which the seating arrangements are under the control of the sponsor of the function and not of the owner or person in charge of such place.
 - (2) Any establishment which sells admission tickets on a seasonal or other periodic basis.
- (e) The owner or person in charge of any building, structure or place specified in subsections (c) and (d) may designate special areas therein where smoking is permitted unless otherwise prohibited by the Fire Department or by other law.
- (f) Signs prohibiting or permitting smoking, as the case may be, shall be posted conspicuously by the owner or person in charge of each building, structure or place specified in subsections (a), (b), (c) and (d).

§181.19 Required Point-of-Sale Tobacco Health Warnings and Smoking Cessation Information.

- (a) Any person in the business of selling tobacco products face-to-face to consumers in New York City shall prominently display tobacco health warning and smoking cessation signage produced by the Department.
- (b) The signage required by subdivision (a) of this section shall be:
 - 1. designed by the Department and may include:
 - a. information about tobacco products and the adverse health effects of tobacco use;
 - b. a pictorial image illustrating the effects of tobacco use; and
 - c. information about how to get help to quit using tobacco;
 - 2. produced in two sizes:
 - a. one "small sign," not to exceed 144 square inches; and
 - b. one "large sign," not to exceed 576 square inches;

3. distributed by the Department or by the Department of Consumer Affairs, although additional signage may be ordered by calling 311.
- (c) Persons who engage in face-to-face sales of tobacco products to consumers in New York City shall prominently display the signs required by subdivision (a) of this section by posting:
1. one "small sign" on or within 3 inches of each cash register or each place where payment may be made so that the sign(s) are unobstructed in their entirety and can be read easily by each consumer making a purchase; or
 2. one "large sign" at each location where tobacco products are displayed so that:
 - a. the sign(s) are unobstructed in their entirety and can be read easily by each person considering a tobacco product purchase; and
 - b. in such a way that the distance between the bottom of the sign(s) and the floor shall be no less than four feet, and the distance between the top of such sign(s) and the floor shall be no more than seven feet.
- (d) The Commissioner shall have the authority to modify periodically the text, images and content of signage produced by the Department pursuant to subdivision (a) of this section based on the Commissioner's determination that such modifications may contribute to the prevention or reduction of tobacco use and its harms, the prevention of tobacco sales to minors, or the correction of misinformation among consumers about the health effects of tobacco use. Persons required to post health warning and smoking cessation signage pursuant to subdivision (a) of this section shall display any modified signage upon receipt, as set forth in subdivision (c) of this section.
- (e) The provisions of this section may be enforced by any authorized agent or employee of either the Department or the Department of Consumer Affairs, or successor agency. Any violation of this section issued by the Department of Consumer Affairs may be adjudicated at any tribunal authorized to hear such agency's violations.
- (f) If any provision of this section, or its application to any person or circumstance, is held invalid by any court of competent jurisdiction, the remaining provisions or the application of the section to other persons or circumstances shall not be affected.

§ 181.21 Consent for direct oral suction as part of a circumcision.

(a) *Direct oral suction* means contact between the mouth of a person performing or assisting in the performance of a circumcision and an infant's circumcised penis.

(b) *Written consent required.* A person may not perform a circumcision that involves direct oral suction on an infant under one year of age, without obtaining, prior to the circumcision, the written signed and dated consent of a parent or legal guardian of the infant being circumcised using a form provided by the Department or a form which shall be labeled "Consent to perform oral suction during circumcision," and which at a minimum shall include the infant's date of birth, the full printed name of the infant's parent(s), the name of the individual performing the circumcision and the following statement: "I understand that direct oral suction will be performed on my child and that the New York City Department of Health and Mental Hygiene advises parents that direct oral suction should not be performed because it exposes an infant to the risk of transmission of herpes simplex virus infection, which may result in brain damage or death."

(c) *Retention of consent forms.* The person performing the circumcision must give the parent or legal guardian a copy of the signed consent form and retain the original for one year from the date of the circumcision, making it available for inspection if requested by the Department.

