

Township of Hanover, NJ
Friday, April 13, 2018

Chapter 337. Electronic Smoking Devices

[HISTORY: Adopted by the Board of Health of the Township of Hanover 3-9-2016 by Ord. No. BH3-16. Amendments noted where applicable]

GENERAL REFERENCES

Sale of tobacco — See Ch. 336.

§ 337-1. Purpose.

The purpose of this chapter is to license establishments that sell electronic smoking devices. The funds collected by licensing of such establishments shall be used to fund the development and maintenance of a Tobacco Age of Sale Enforcement Program and other smoking cessations, prevention or control programs as may be established and/or administered by the Board.

§ 337-2. Definitions and terminology.

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning stated herein unless their use in the text of this section clearly demonstrates different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number shall include the singular number, and words used in the singular number include the plural number.

BOARD

The Township of Hanover Board of Health.

ELECTRONIC SMOKING DEVICE

An electronic or other powered device that can be used to deliver nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo, hookah, pipe or any cartridge or other component of the device or related product.

LICENSE YEAR

The time period covering January 1 through December 31 of the year for which a license is issued pursuant to this chapter.

RETAIL ELECTRONIC SMOKING DEVICE ESTABLISHMENT

Any establishment that sells or offers for sale electronic smoking device products designed for consumption through inhalation.

SALE

Every delivery of electronic smoking devices, whether the same is by direct sale or the solicitation or acceptance of an order, including the exchange, barter, traffic in, keeping and exposing for sale, displaying for sale, delivering for value, peddling and possession with intent to sell.

§ 337-3. Licensing fees.

- A. No person shall conduct, maintain or operate an establishment that sells electronic smoking devices without first obtaining from this Board a license to do so.

- B. Application for an electronic smoking or vapor device operation shall be submitted on forms to be furnished by the Health Officer. The application shall be accompanied by the applicable license fee of \$750.
- C. A renewal license may be applied for by a licensee for premises licensed during the previous license period.
- D. Each and every applicant for a license for an electronic smoking device sales operation shall set forth the following information in writing:
 - (1) The applicant's name, business name, business address, applicant's phone number and the business's phone number.
 - (2) The applicant's email address.
 - (3) If the applicant is an individual, the applicant's residence address.
 - (4) If the applicant is a partnership, corporation, limited-liability company, or any other type of business entity, the applicant shall set forth the full name and residence address of each partner, member or officer of the business entity.
 - (5) If the applicant is a partnership, corporation, or limited-liability company, the applicant must submit a certificate from the State of New Jersey that the business entity, regardless of form, is in good standing, according to the records of the State of New Jersey.
- E. Licenses issued under the provisions of this article, unless forfeited or revoked by this Board, shall expire annually on the 31st day of December of each year.
- F. No license is transferrable by sale or otherwise.
- G. Such license shall be posted in a conspicuous place in such establishment; or, if an itinerant establishment, shall be readily available for display.
- H. Electronic smoking device sales must be conducted inside a place of business located within a retail zone. A license will only authorize sales of related devices or products at the place of business identified on the application.
- I. It shall be unlawful for the electronic smoking device operation to allow the use or sampling of the devices or related products in the public right-of-way or in an egress where pedestrians or customers must pass that falls within the storefront occupied by the operation or that falls in front of businesses in the same building that directly neighbor the said operation.

§ 337-4. Right of entry.

It shall be lawful for any member of the Township Health Department, the Health Officer, Health Inspectors or any person acting under and by the authority of the Township Health Department to enter in and upon any premises within the Township in the exercise of the powers or in the fulfillment of its or their duties conferred or imposed by law or Township ordinance and the rules and regulations thereunder. Any person hindering, obstructing, delaying, resisting, preventing or interfering with such right of access shall be deemed to violate the provisions of this article.

§ 337-5. Enforcement; suspension or revocation of license.

- A. This section shall be enforced by the Board of Health and/or other designated municipal officials of the Township of Hanover. Any person found to be in violation of this section shall be ordered to cease the sale of electronic smoking devices immediately.
- B. In addition to any penalty prescribed, a license holder may have its license suspended or revoked by the Township Board of Health after a public hearing for one or more of the following reasons:
 - (1) Fraud, misrepresentation or false statement in the application for the establishment license.

- (2) Fraud, misrepresentation or false statement made while operating the licensed business in the Township.
 - (3) Conducting the licensed business within the Township in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
 - (4) The owner and/or operator or any employee refuses to permit any duly authorized Township Police Officer or health official to inspect the premises or the operations therein.
 - (5) Any violation of this chapter.
- C. If the Township seeks to suspend or revoke a license pursuant to this section, the Township Health Officer shall serve the license holder with a notice of charges specifying the charges against the license holder, the penalty sought, and containing the time and place that the license holder shall appear and be heard before the Board of Health. Service of the notice of charges shall be made by personal service or by certified and regular mail at least 10 days prior to the hearing date. The Board of Health may revoke or suspend the license after the hearing. If the license holder does not appear at the hearing, said nonappearance shall be considered acceptance of the charges and the license shall be suspended or revoked as detailed in the notice of charges.

§ 337-6. Violations and penalties.

- A. Any person(s) who is found to be in violation of the provisions of this section shall be subject to the following penalties. For any and every violation of any of the provisions of this chapter, the violator of said provision will be subject to a fine of not less than \$750 and not more than \$1,500.
- B. No fines shall be issued for 90 days after publication of this chapter.

§ 337-7. Severability.

Each section, subsection, sentence, clause and phrase of this chapter is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this chapter, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this chapter, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this chapter are severable.

§ 337-8. Repeal.

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency.

§ 337-9. When effective.

This chapter shall take effect after publication at the time and in the manner directed by law.