



Ohio Administrative Code

Rule 3701-52-05 Exemption of retail tobacco stores.

Effective: February 1, 2024

(A) For the purpose of this rule, the exemption year is from April first of the year in which the affidavit is submitted, to March thirty-first of the following year.

(B) Retail tobacco stores as defined in section 3794.01 of the Revised Code may be granted an exemption from regulation under Chapter 3794. of the Revised Code and this chapter provided that each retail tobacco store requesting the exemption meets the following:

(1) The retail tobacco store is in a freestanding structure occupied solely by the retail tobacco store;

(2) Smoke from the retail tobacco store does not migrate into any enclosed area where smoking is prohibited under the provisions of chapter 3794. of the Revised Code;

(3) The retail tobacco store will annually file with the Ohio department of health an affidavit stating the percentage of its gross revenue during the prior calendar year that was derived from the sale of lighted or heated tobacco products and related smoking accessories;

(4) Upon request of the Ohio department of health, the retail tobacco store will provide additional information to assist the department in the determination of whether the exemption is properly applicable to a retail tobacco store. Additional information requested may include, but is not limited to, documentation of non-tobacco related product sales, change of ownership, or business incorporation records; and

(5) The affidavit for each exemption year, will be postmarked by January thirty-first of the year in which the affidavit is submitted and will be mailed to the following address:

"ATTN: Smoke-Free Workplace Program

Ohio Department of Health



246 North High Street

Columbus, OH 43215"

(C) Retail tobacco stores as defined in section 3794.01 of the Revised Code and in operation prior to December 7, 2006, may be grandfathered for the freestanding requirement of Revised Code 3794. To be eligible for exemption, the retail tobacco store is obligated to:

- (1) Provide acceptable evidence to Ohio Department of Health of grandfather eligibility; and
- (2) Comply with (B) (3) through (5) of this section.

(D) Retail tobacco stores that submit an affidavit for exemption that is not postmarked by January thirty-first of the year in which the affidavit is submitted, will submit a fine in the amount of one hundred fifty dollars in the form of a cashier's check, a postal money order, or an online payment payable to the "Treasurer, State of Ohio specified for Retail Tobacco Store exemption. If granted, exemption will only be for the remainder of the current exemption year.

(E) Retail tobacco stores that do not provide documentation annually that the business derives more than eighty per cent per cent of its gross revenue from the sale of lighted or heated tobacco products and related smoking accessories will not be granted an exemption.

(F) Previously exempted retail tobacco stores that fail to file for an exemption by January thirty-first annually, will be subject to all smoke free workplace regulations and penalties for violations until such time as the retail tobacco store comes into compliance with Chapter 3794. of the Revised Code and this chapter.

(G) Within sixty days after receiving an affidavit and any additional information requested, the Ohio department of health will provide each retail tobacco store that meets the requirements of this rule with documentation of the retail tobacco store, location, and time period that the retail tobacco store is exempt from regulation under Chapter 3794. of the Revised Code. The documentation of exemption will be posted in a conspicuous place within the retail tobacco store where it can be seen



AUTHENTICATED,
OHIO LEGISLATIVE SERVICE
COMMISSION
DOCUMENT #314711

by customers.