

Search:

Choose search form

Links: Go to ...

[Document](#)
[Prev Chapter](#)
[Next Chapter](#)
[Contents](#)
[Sync TOC](#)
[Framed Version](#)

The Philadelphia Code
TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS
CHAPTER 9-1700. REQUIRED POLICY FOR EMPLOYERS WITHIN THE CITY OF PHILADELPHIA REGARDING ASPECTS OF TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS

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§ 9-1701. Legislative Findings.

(1) The spread among residents of the City, of Human Immunodeficiency Virus (HIV), which causes a spectrum of diseases up to and including Acquired Immunodeficiency Syndrome (AIDS) has reached the status of a serious epidemic within the City.

(2) The ways in which HIV is transmitted are generally well understood by scientists and medical professionals who have studied it, but are not well known by the general population of the City.

(3) HIV is transmittable only by direct contact of the broken skin mucous membranes, or blood of the uninfected person with the blood, semen, vaginal secretions or breast milk of the infected person, and it is not transmitted by being breathed on, or through insect vectors, such as mosquitos.

(4) HIV is transmitted from infected to uninfected persons only by direct blood-to-blood contact or through the type of contact involved in intimate sexual acts or the sharing of intravenous hypodermic needles, or by breast feeding, between infected and uninfected persons, and not through casual contact between infected and uninfected persons.

(5) No cases are known to medical science which involved transmission of HIV from infected to uninfected persons through the casual contact normally incident in the workplace.

(6) The only reported cases involving transmission of HIV to previously uninfected persons in the workplace have involved persons in medically-related fields who have accidentally become exposed to the blood of patients or blood samples in clinical or laboratory settings.

(7) Unlike the virus which causes the common cold, HIV is not a hardy virus, exposure to air in the atmosphere rapidly destroys it, and it cannot long remain viable outside the body of a biological host, other than in a stored quantity of blood.

(8) Unlike other more communicable diseases, HIV is very difficult to contract, and the circumstances of its being contracted usually involve affirmative and intentional and intimate contact between uninfected and infected persons, not the type of contact generally experienced in the workplace.

(9) Despite the medically proven facts, widespread ignorance exists to the general population about the way HIV is transmitted, and some are given to the

belief that it may be propagated by means of the sneezing or coughing of infected individuals, in the way the common cold is spread, while others believe that it may be contracted from the bite of a mosquito which has previously bitten an HIV infected person, all of which beliefs are erroneous.

(10) In light of the prevalent erroneous beliefs about the way HIV is spread, the potential exists for tremendous disruption, disharmony and discord in the workplace when persons harboring such erroneous beliefs become aware that a co-worker has been or may be infected with HIV, while no real and appreciable danger of transmission of the disease exists.

(11) Experience in other cities, particularly San Francisco and Los Angeles, California, has shown that once workers become educated about how HIV is spread, their irrational fears subside, and a spirit of tolerance and cooperation with affected co-workers ensues.

(12) The Council deems that it is imperative to minimize the potential of disruption in the workplace which would otherwise occur, given the projected exponential increase in the numbers of persons who will become infected with HIV through the means in which it has been transmitted in the past, by requiring that all persons in cooperative work situations be educated in the ways in which HIV can and cannot be transmitted.

§ 9-1702. Definitions.

(1) *AIDS*. Acquired Immunodeficiency Syndrome – the most serious stage of disease caused by human immunodeficiency virus infection.

(2) *HIV*. Human Immunodeficiency Virus (formerly called human T-cell lymphotropic virus type III – HTLV-III), the organism that causes AIDS.

(3) *Employer*. Any person who employs more than three (3) employees exclusive of his parents, spouse or children, including any governmental unit, agency or employee as to which the City has power to legislate, but excluding any fraternal, sectarian, charitable or religious organization.

(4) *HIV Antibody Test*. A blood test for the presence of antibody to HIV, which is considered as evidence of infection.

(5) *HIV Disease*. The spectrum of diseases caused by infection with HIV, including fully developed AIDS, and earlier stages.

(6) *Education*. An oral discourse, by a senior management official, regarding the ways HIV can and cannot be transmitted, and the rights of affected employees, accompanied by personal distribution to each employee of printed materials produced or authorized by the Philadelphia Health Department, regarding aspects of HIV in the workplace.

§ 9-1703. Requirements.

(1) Any person, corporation or employer which employs over three (3) employees within the City of Philadelphia is hereby required to provide to those employees education regarding the ways HIV is and is not transmitted, and regarding

the rights of employees who have been infected or who may be thought to have been infected with HIV.

(2) Such persons, corporations and employers shall afford their employees the following rights, and assure widespread knowledge of their existence through an education program designed to reach every employee:

(a) Employment policies shall be based on the scientific and epidemiological evidence that people with AIDS or HIV infection do not pose a risk of transmission of the virus to co-workers through ordinary workplace contact.

(b) Employment policies shall, at a minimum, comply with Federal, State and local laws and regulations regarding discrimination, and shall emphasize that discrimination against employees and co-workers infected with HIV is illegal.

(c) People with AIDS and HIV infection are entitled to the same rights and opportunities as people with other serious or life-threatening illnesses.

(d) Management and union policies shall be non-discriminatory with respect to the employment rights of persons infected with or thought to be infected with HIV.

(e) Confidentiality rights regarding the medical information of persons infected with HIV shall be respected and maintained in the same way as they are respected and maintained for those employees not infected with HIV.

(f) Management shall confirm the right of employees infected with HIV to continue working as long as those employees are able to perform their jobs satisfactorily and as long as those employees continued employment presents no health or safety threat to those employees or to others in the workplace.

(g) Management shall immediately address and resolve in accordance with the terms of this Chapter, incidents of disruption of the workplace and harassment or rejection by co-workers of employees infected or thought to be infected with HIV and shall monitor the workplace to see that any such incidents do not occur.

(h) Employers shall not require HIV antibody tests of job applicants or existing employees in any situation where the employer cannot show by a preponderance of evidence that such a test is not discriminatory and is connected with a legitimate employment-related purpose.

(i) In those special occupational settings where there may be a significant risk of exposure to HIV, for example, in health care, where workers may be exposed to blood or blood products, employers shall provide specific, ongoing education and training, as well as the necessary equipment and facilities to reinforce appropriate infection control procedures and ensure that they are implemented.

§ 9-1704. Dissemination of Printed Materials.

(1) The Revenue Department shall provide a notice stating or summarizing the contents of this Chapter in its yearly mailings of tax forms sent to those businesses licensed and registered to conduct business within the City of Philadelphia.

(2) The Health Department shall distribute to or make available to all

employers, upon request, written materials sufficient to fulfill the requirements of this Chapter.

§ 9-1705. Sanctions and Enforcement.

(1) Any person aggrieved by an employer's failure to comply with the requirements of this Chapter may file a grievance with the Health Department to that effect.

(2) The Health Department, upon the filing of such a grievance shall provide to the employer grieved against, written materials sufficient to fulfill the requirements of this Chapter, and shall offer to provide an oral discourse educating the employer and his/her employees on the requirements of this Chapter.

(3) Upon any subsequent violation of the terms of this Chapter, as determined by the Health Department, the penalty shall be a fine of no more than three hundred (\$300) dollars per employee of the total workforce of the affected employer, but no less than one hundred (\$100) dollars per employee of the total workforce of the affected employer.

Notes

775

Added, 1990 Ordinances, p. 806. Section 2 of the Ordinance provided that the Chapter shall be effective 60 days after final passage.