

STATE OF NEW YORK

6842

2019-2020 Regular Sessions

IN ASSEMBLY

March 21, 2019

Introduced by M. of A. ENGLEBRIGHT, D'URSO, REYES, COOK, EPSTEIN, JAFFEE, PICHARDO, LIFTON, ARROYO, ABINANTI, STECK, SIMON, BLAKE -- Multi-Sponsored by -- M. of A. SAYEGH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibited locations for retail electronic cigarette stores

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1399-aa of the public health law is amended by adding a new subdivision 14 to read as follows:

14. "Retail electronic cigarette store" means a retail store devoted primarily to the sale of electronic cigarettes, and in which the sale of other products is incidental. The sale of such other products shall be considered incidental if such sales generate less than twenty-five percent of the total annual gross sales.

§ 2. The public health law is amended by adding a new section 1399-mm-1 to read as follows:

§ 1399-mm-1. Retail electronic cigarette stores; prohibited locations. 1. No retail electronic cigarette store shall be located:

(a) on the same street or avenue and within one thousand feet of a building occupied exclusively as a school, church, synagogue or other place of worship;

(b) in a city within one thousand feet of three or more existing retail electronic cigarette stores; or

(c) in a town or village within a two square mile area of three or more existing retail electronic cigarette stores.

2. The measurements in paragraphs (a), (b) and (c) of subdivision one of this section are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 worship or to the center of the nearest entrance of each retail elec-
2 tronic cigarette store.

3 3. Within the context of this section, the word "entrance" shall mean
4 a door of a school, of a house of worship, or of a retail electronic
5 cigarette store, regularly used to give ingress to students of the
6 school, to the general public attending the place of worship, and to
7 patrons or guests of a retail electronic cigarette store, except that
8 where a school or house of worship or retail electronic cigarette store
9 is set back from a public thoroughfare, the walkway or stairs leading to
10 any such door shall be deemed an entrance; and the measurement shall be
11 taken to the center of the walkway or stairs at the point where it meets
12 the building line or public thoroughfare. A door which has no exterior
13 hardware, or which is used solely as an emergency or fire exit, or for
14 maintenance purposes, or which leads directly to a part of a building
15 not regularly used by the general public or patrons, is not deemed an
16 "entrance".

17 4. Within the context of this section, a building occupied as a place
18 of worship does not cease to be "exclusively" occupied as a place of
19 worship by incidental uses that are not of a nature to detract from the
20 predominant character of the building as a place of worship, such uses
21 which include, but which are not limited to: the conduct of legally
22 authorized games of bingo or other games of chance held as a means of
23 raising funds for the not-for-profit religious organization which
24 conducts services at the place of worship or for other not-for-profit
25 organizations or groups; use of the building for fundraising perform-
26 ances by or benefitting the not-for-profit religious organization which
27 conducts services at the place of worship or other not-for-profit organ-
28 izations or groups; the use of the building by other religious organiza-
29 tions or groups for religious services or other purposes; the conduct of
30 social activities by or for the benefit of the congregants; the use of
31 the building for meetings held by organizations or groups providing
32 bereavement counseling to persons having suffered the loss of a loved
33 one, or providing advice or support for conditions or diseases includ-
34 ing, but not limited to, alcoholism, drug addiction, cancer, cerebral
35 palsy, Parkinson's disease, or Alzheimer's disease; the use of the
36 building for blood drives, health screenings, health information meet-
37 ings, yoga classes, exercise classes or other activities intended to
38 promote the health of the congregants or other persons; and use of the
39 building by non-congregant members of the community for private social
40 functions. The building occupied as a place of worship does not cease to
41 be "exclusively" occupied as a place of worship where the not-for-profit
42 religious organization occupying the place of worship accepts the
43 payment of funds to defray costs related to another party's use of the
44 building.

45 § 3. This act shall take effect immediately.