

STATE OF NEW YORK

4249

2019-2020 Regular Sessions

IN SENATE

March 5, 2019

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed 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:

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

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

8 § 2. The public health law is amended by adding a new section
9 1399-mm-1 to read as follows:

10 § 1399-mm-1. Retail electronic cigarette stores; prohibited locations.
11 1. No retail electronic cigarette store shall be located:

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

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

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

19 2. The measurements in paragraphs (a), (b) and (c) of subdivision one
20 of this section are to be taken in straight lines from the center of the
21 nearest entrance of the premises sought to be licensed to the center of
22 the nearest entrance of such school, church, synagogue or other place of
23 worship or to the center of the nearest entrance of each retail elec-
24 tronic cigarette store.

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

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

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

43 § 3. This act shall take effect immediately.