

777--A

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I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PAULIN, MAYERSOHN, GALEF, DINOWITZ, COOK, WEISENBERG, ESPAILLAT, BENEDETTO, FIELDS, JAFFEE, TITUS, ALFANO, BALL, N. RIVERA -- Multi-Sponsored by -- M. of A. BARRA, CLARK, GABRYSZAK, GLICK, KOON, LATIMER, McDONOUGH, MCENENY, PEOPLES-STOKES, PHEFFER, SWEENEY -- read once and referred to the Committee on Health -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law, in relation to prohibiting the sale of flavored cigarettes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that there has been a proliferation of flavored cigarettes in
3 recent years. Many of these products have fruit, chocolate or other
4 flavors that are particularly attractive to children. According to
5 public health experts, children are more likely to choose flavored ciga-
6 rettes when they start smoking, and thus the existence of these products
7 increases the incidence of tobacco use among children. Moreover, the
8 earlier that an individual begins smoking, the more likely he or she
9 will become addicted to tobacco products and will continue to smoke
10 throughout his or her lifetime. As a result, flavored cigarettes result
11 in increased tobacco use, increased addiction, a greater incidence of
12 smoking-related illnesses, increased health care costs, and more smok-
13 ing-related deaths. The legislature therefore finds and declares that
14 flavored cigarettes present a significant threat to public health, and
15 that the sale of flavored cigarettes must be prohibited.

16 S 2. Article 13-F of the public health law is amended by adding a new
17 section 1399-aaa to read as follows:

18 S 1399-AAA. SALE OF FLAVORED CIGARETTES PROHIBITED. 1. NO PERSON SHALL
19 SELL OR OFFER FOR SALE IN THIS STATE ANY CIGARETTE OR ANY COMPONENT PART

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

1 THEREOF (INCLUDING BUT NOT LIMITED TO THE TOBACCO, PAPER, ROLL OR
2 FILTER), WHICH CONTAINS A NATURAL OR ARTIFICIAL CONSTITUENT OR ADDITIVE
3 THAT CAUSES SUCH CIGARETTE OR ITS SMOKE TO HAVE A CHARACTERIZING FLAVOR.
4 2. FOR THE PURPOSES OF THIS SECTION, THE PHRASE "CHARACTERIZING
5 FLAVOR" SHALL INCLUDE BUT NOT BE LIMITED TO ANY FRUIT, CHOCOLATE, VANIL-
6 LA, HONEY, CANDY, MINT, COCOA, DESSERT, ALCOHOLIC BEVERAGE, HERB OR
7 SPICE FLAVORING, BUT SHALL NOT INCLUDE TOBACCO, MENTHOL OR CLOVE.
8 IN NO EVENT SHALL A CIGARETTE OR ANY COMPONENT PART THEREOF (INCLUDING
9 BUT NOT LIMITED TO THE TOBACCO, PAPER, ROLL OR FILTER) BE CONSTRUED TO
10 HAVE A CHARACTERIZING FLAVOR BASED SOLELY ON THE USE OF ADDITIVES OR
11 FLAVORINGS, OR THE PROVISION OF AN INGREDIENT LIST MADE AVAILABLE BY ANY
12 MEANS.
13 3. ANY PERSON OTHER THAN A MANUFACTURER WHO VIOLATES THE PROVISIONS OF
14 THIS SECTION SHALL BE SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED
15 DOLLARS FOR EACH PACK OF SUCH CIGARETTES SOLD OR OFFERED FOR SALE. A
16 MANUFACTURER MAY BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIFTY THOU-
17 SAND DOLLARS FOR EACH BRAND OR STYLE OF THAT MANUFACTURER'S CIGARETTES
18 THAT IS FOUND TO HAVE BEEN SOLD OR OFFERED FOR SALE IN VIOLATION OF THIS
19 SECTION ON MORE THAN ONE OCCASION DURING ANY THIRTY DAY PERIOD.
20 VIOLATIONS OF THIS SECTION SHALL BE ENFORCED IN THE SAME MANNER PROVIDED
21 IN SECTION THIRTEEN HUNDRED NINETY-NINE-FF OF THIS ARTICLE, EXCEPT THAT
22 ANY PERSON MAY SUBMIT A COMPLAINT TO AN ENFORCEMENT OFFICER THAT A
23 VIOLATION OF THIS SECTION HAS OCCURRED.
24 S 3. This act shall take effect on the one hundred fiftieth day after
25 it shall have become a law.