S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. FUSCHILLO -- 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 requiring cigarette manufacturers to disclose the chemical substances and product design characteristics used in the manufacture of cigarettes

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

Section 1. Legislative findings. It has been the policy of the state to guarantee and facilitate the public right to know concerning health risks that may be encountered from manufactured products and at the workplace. The legislature finds that literally thousands of chemical substances are routinely utilized in the manufacture of cigarettes as burn retardants, preservatives, flavor enhancers and for other aesthetic purposes and that such chemicals, as well as product design characteristics, may have toxic effects for both smokers and nonsmokers. Therefore, the legislature further finds that the public has a right to know what chemical substances and product design characteristics are used in the manufacture of cigarettes and what toxic effects, if any, these additives and characteristics have been found to have or are suspected of having.

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

S 1399-MM-1. DISCLOSURE BY MANUFACTURERS OF TOBACCO PRODUCTS. 1. FOR THE PURPOSE OF PROTECTING THE PUBLIC HEALTH, ANY MANUFACTURER OF CIGARETTES, SNUFF OR CHEWING TOBACCO SOLD IN THIS STATE SHALL PROVIDE THE DEPARTMENT WITH AN ANNUAL REPORT, IN A FORM AND AT A TIME SPECIFIED BY THE DEPARTMENT, WHICH LISTS FOR EACH BRAND OF SUCH PRODUCT SOLD THE FOLLOWING INFORMATION:

(A) THE IDENTITY OF ANY ADDED CONSTITUENT OTHER THAN TOBACCO OR WATER INCLUDING RECONSTITUTED TOBACCO SHEET MADE WHOLLY FROM TOBACCO, TO BE

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

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LISTED IN DESCENDING ORDER ACCORDING TO WEIGHT, MEASURE, OR NUMERICAL COUNT;

(B) THE NICOTINE YIELD RATINGS BASED ON STANDARDS TO BE ESTABLISHED BY THE DEPARTMENT;

(C) THE IDENTITY AND WEIGHT OF TOXIC CONSTITUENTS IN THE WHOLE TOBACCO, AND FOR CIGARETTES THE IDENTITY AND WEIGHT OF TOXIC CONSTITUENTS IN THE MAINSTREAM SMOKE AND SIDESTREAM SMOKE AND A TOXICITY YIELD RATING BASED ON STANDARDS TO BE ESTABLISHED BY THE DEPARTMENT;

(D) FOR CIGARETTES, A DESCRIPTION AND PURPOSE OF EACH PRODUCT DESIGN FEATURE THAT THE DEPARTMENT DETERMINES MAY INFLUENCE CONSUMER EXPOSURE TO TOXIC CONSTITUENTS INCLUDING, BUT NOT LIMITED TO, BLEND OF TOBACCOS USED, INCLUDING PERCENTAGES OF RECONSTITUTED AND EXPANDED TOBACCOS, TYPE AND POROSITY OF PAPER USED, DIMENSION OF THE CIGARETTE AND TOBACCO ROD, CHARACTERISTICS OF ANY FILTER INCLUDING TYPE, DIMENSIONS, FILTER DENIER AND PERCENTAGE OF VENTILATION, PH OF THE SMOKE, AND UNBURNED NICOTINE CONTENT; AND

(E) FOR SNUFF OR CHEWING TOBACCO, A DESCRIPTION AND PURPOSE OF EACH PRODUCT DESIGN FEATURE THAT THE DEPARTMENT DETERMINES MAY INFLUENCE CONSUMER EXPOSURE INCLUDING, BUT NOT LIMITED TO, THE BLEND OF TOBACCOS USED AND THE PH OF THE PRODUCT AT THE TIME OF MANUFACTURE.

2. THE COMMISSIONER SHALL ANNUALLY PREPARE AND PUBLISH A REPORT BASED UPON THE INFORMATION RECEIVED BY THE DEPARTMENT PURSUANT TO THIS SECTION, INDICATING FOR EACH BRAND THE NICOTINE YIELD RATINGS AND ANY OTHER SUCH CONSTITUENTS AND PRODUCT DESIGN FEATURES WHICH THE DEPARTMENT DETERMINES THERE IS REASONABLE SCIENTIFIC BASIS FOR CONCLUDING THAT SUCH CONSTITUENTS AND DESIGN FEATURES POSE SIGNIFICANT RISKS TO PUBLIC HEALTH, PROVIDED HOWEVER THAT THE QUANTITIES OF SUCH CONSTITUENTS SHALL NOT BE INCLUDED IN THE REPORT. THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AND SHALL BE AVAILABLE BY ELECTRONIC MEANS OVER THE INTERNET. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO REQUIRE CONSTITUENTS THAT ARE DETERMINED BY THE DEPARTMENT NOT TO POSE SIGNIFICANT RISKS TO PUBLIC HEALTH TO BE RELEASED IN THE REPORT OR FOR PUBLIC RECORD.

3. ON AND AFTER JANUARY FIRST, TWO THOUSAND TWELVE, NO PERSON, FIRM, OR CORPORATION ENGAGED IN THE MANUFACTURE OF CIGARETTES SHALL SELL OR OFFER FOR SALE IN THIS STATE ANY CIGARETTES, SNUFF OR CHEWING TOBACCO FOR WHICH THE INFORMATION REQUIRED BY SUBDIVISION ONE OF THIS SECTION HAS NOT BEEN PROVIDED PURSUANT THERETO.

4. WHERE A VIOLATION OF THIS ARTICLE IS ALLEGED TO HAVE OCCURRED, THE ATTORNEY GENERAL MAY APPLY IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO THE SUPREME COURT OF NEW YORK ON NOTICE OF FIVE DAYS, FOR AN ORDER COMPELLING COMPLIANCE WITH THIS ARTICLE. IN ANY SUCH PROCEEDING THE COURT MAY IMPOSE A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH VIOLATION.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.