

2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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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:

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

14     S 2. The public health law is amended by adding a new section  
15 1399-mm-1 to read as follows:

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

22     (A) THE IDENTITY OF ANY ADDED CONSTITUENT OTHER THAN TOBACCO OR WATER  
23 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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1 LISTED IN DESCENDING ORDER ACCORDING TO WEIGHT, MEASURE, OR NUMERICAL  
2 COUNT;

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

5 (C) THE IDENTITY AND WEIGHT OF TOXIC CONSTITUENTS IN THE WHOLE TOBAC-  
6 CO, AND FOR CIGARETTES THE IDENTITY AND WEIGHT OF TOXIC CONSTITUENTS IN  
7 THE MAINSTREAM SMOKE AND SIDESTREAM SMOKE AND A TOXICITY YIELD RATING  
8 BASED ON STANDARDS TO BE ESTABLISHED BY THE DEPARTMENT;

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

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

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

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

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

44 S 3. This act shall take effect on the first of January next succeed-  
45 ing the date on which it shall have become a law.