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

7694

I N S E N A T E

May 3, 2010

Introduced by Sen. ESPADA -- 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 prohibiting the sale of tobacco products, herbal cigarettes, rolling papers or pipes to persons under nineteen years of age

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

Section 1. The section heading and subdivisions 2, 3 and 7 of section 1399-cc of the public health law, the section heading and subdivision 2 as amended by chapter 508 of the laws of 2000, subdivision 3 as separately amended by chapter 508 of the laws of 2000 and chapter 162 of the laws of 2002 and subdivision 7 as amended by chapter 13 of the laws of 2003, are amended to read as follows:

Sale of tobacco products, herbal cigarettes, rolling papers or pipes to [minors] PERSONS UNDER NINETEEN YEARS OF AGE prohibited.

2. Any person operating a place of business wherein tobacco products or herbal cigarettes are sold or offered for sale is prohibited from selling such products, herbal cigarettes, rolling papers or pipes to individuals under [eighteen] NINETEEN years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ROLLING PAPERS OR PIPES, TO PERSONS UNDER [EIGHTEEN] NINETEEN YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height.

3. Sale of tobacco products or herbal cigarettes in such places, other than by a vending machine, shall be made only to an individual who demonstrates, through (a) a valid driver's license or non-driver's identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States,

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

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indicating that the individual is at least [eighteen] NINETEEN years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product or herbal cigarettes to an individual under [eighteen] NINETEEN years of age.

7. No person operating a place of business wherein tobacco products or herbal cigarettes are sold or offered for sale shall sell, permit to be sold, offer for sale or display for sale any tobacco product or herbal cigarettes in any manner, unless such products and cigarettes are stored for sale (a) behind a counter in an area accessible only to the personnel of such business, or (b) in a locked container; provided, however, such restriction shall not apply to tobacco businesses, as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article, and to places to which admission is restricted to persons [eighteen] NINETEEN years of age or older.

S 2. Paragraph (a) of subdivision 3 of section 1399-ee of the public health law, as amended by chapter 162 of the laws of 2002, is amended to read as follows:

(a) Imposition of points. If the enforcement officer determines, after a hearing, that the retail dealer violated subdivision one of section thirteen hundred ninety-nine-cc of this article with respect to a prohibited sale to a [minor] PERSON UNDER NINETEEN YEARS OF AGE, he or she shall, in addition to imposing any other penalty required or permitted pursuant to this section, assign two points to the retail dealer's record where the individual who committed the violation did not hold a certificate of completion from a state certified tobacco sales training program and one point where the retail dealer demonstrates that the person who committed the violation held a certificate of completion from a state certified tobacco sales training program.

S 3. This act shall take effect immediately.