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

7587

2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

Introduced by M. of A. LINARES -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the administrative code of the city of New York, in relation to authorizing the sale of cigarettes to individuals twenty-one years of age or older

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

Section 1. Subdivision 4 of section 1399-bb of the public health law, as amended by chapter 508 of the laws of 2000, is amended to read as follows:

4. The distribution of tobacco products or herbal cigarettes pursuant to subdivision two of this section shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution indicating that the individual is at least [eighteen] TWENTY-ONE 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 cigarette to an individual.

S 2. Subdivisions 2, 3 and 7 of section 1399-cc of the public health law, subdivisions 2 and 3 as amended by chapter 508 of the laws of 2000, subdivision 3 as separately amended by 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:

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] TWENTY-ONE 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,

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

LBD10877-01-1

POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ROLLING PAPERS OR PIPES, TO PERSONS UNDER [EIGHTEEN] TWENTY-ONE 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, indicating that the individual is at least [eighteen] TWENTY-ONE 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] TWENTY-ONE 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] TWENTY-ONE years of age or older.

S 3. Subdivision (d) of section 1399-dd of the public health law, as amended by chapter 13 of the laws of 2003, is amended to read as follows:

(d) in a place of employment which has an insignificant portion of its regular workforce comprised of people under the age of [eighteen] TWENTY-ONE years and only in such locations that are not accessible to the general public; provided, however, that in such locations the vending machine is located in plain view and under the direct supervision and control of the person in charge of the location or his or her designated agent or employee.

S 4. Section 17-706 of the administrative code of the city of New York, as amended by local law number 69 of the city of New York for the year 2009, is amended to read as follows:

S 17-706 Sale of tobacco products to minors prohibited. Any person operating a place of business wherein tobacco products are sold or offered for sale must be licensed as required by section 17-703 of this code and is prohibited from selling such products to individuals under [eighteen] TWENTY-ONE 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, ROLLING PAPER OR PIPES, TO PERSONS UNDER [EIGHTEEN] TWENTY-ONE 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. Sale of tobacco products in such places, other than by a vending machine, shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at

least [eighteen] TWENTY-ONE 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 to an individual under [eighteen] TWENTY-ONE years of age.

S 5. Section 17-714 of the administrative code of the city of New York, as amended by local law number 69 of the city of New York for the year 2009, is amended to read as follows:

S 17-714 Sale of herbal cigarettes to minors prohibited. It shall be unlawful for any person to sell or offer for sale herbal cigarettes to an individual under [eighteen] TWENTY-ONE years of age.

S 6. This act shall take effect on the ninetieth day after it shall have become a law.