

7841--A

I N S E N A T E

June 13, 2014

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to regulating the use of electronic cigarettes in certain public areas

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

1 Section 1. Subdivision 8 of section 1399-n of the public health law,
2 as amended by chapter 13 of the laws of 2003, is amended and a new
3 subdivision 9 is added to read as follows:

4 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
5 any other matter or substance which contains tobacco, INCLUDING USING
6 ELECTRONIC CIGARETTES, AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION
7 THIRTEEN HUNDRED NINETY-NINE-AA OF THIS CHAPTER.

8 9. "RETAIL ELECTRONIC CIGARETTE STORE" MEANS A RETAIL STORE DEVOTED
9 PRIMARILY TO THE SALE OF ELECTRONIC CIGARETTES, AND IN WHICH THE SALE OF
10 OTHER PRODUCTS IS MERELY INCIDENTAL. THE SALE OF SUCH OTHER PRODUCTS
11 SHALL BE CONSIDERED INCIDENTAL IF SUCH SALES GENERATE LESS THAN TWENTY-
12 FIVE PERCENT OF THE TOTAL ANNUAL GROSS SALES.

13 S 2. Subdivisions 6 and 7 of section 1399-q of the public health law,
14 as added by chapter 13 of the laws of 2003, are amended and a new subdivi-
15 sion 8 is added to read as follows:

16 6. Outdoor dining areas of food service establishments with no roof or
17 other ceiling enclosure; provided, however, that smoking may be permit-
18 ted in a contiguous area designated for smoking so long as such area:
19 (a) constitutes no more than twenty-five percent of the outdoor seating
20 capacity of such food service establishment, (b) is at least three feet
21 away from the outdoor area of such food service establishment not desig-
22 nated for smoking, and (c) is clearly designated with written signage as
23 a smoking area; [and]

24 7. Enclosed rooms in food service establishments, bars, catering
25 halls, convention halls, hotel and motel conference rooms, and other
26 such similar facilities during the time such enclosed areas or rooms are

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

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1 being used exclusively for functions where the public is invited for the
2 primary purpose of promoting and sampling tobacco products OR ELECTRONIC
3 CIGARETTES, and the service of food and drink is incidental to such
4 purpose, provided that the sponsor or organizer gives notice in any
5 promotional material or advertisements that smoking will not be
6 restricted, and prominently posts notice at the entrance of the facility
7 and has provided notice of such function to the appropriate enforcement
8 officer, as defined in subdivision one of section thirteen hundred nine-
9 ty-nine-t of this article, at least two weeks prior to such function.
10 The enforcement officer shall keep a record of all tobacco sampling
11 events, and such record shall be made available for public inspection.
12 No such facility shall permit smoking OR USING ELECTRONIC CIGARETTES
13 under this subdivision for more than two days in any calendar year[.];
14 AND

15 8. RETAIL ELECTRONIC CIGARETTE STORES; PROVIDED, HOWEVER, THAT SUCH
16 STORES MAY ONLY PERMIT THE USE OF ELECTRONIC CIGARETTES.

17 S 3. Subdivision 13 of section 1399-aa of the public health law, as
18 added by chapter 448 of the laws of 2012, is amended to read as follows:

19 13. "Electronic cigarette" or "e-cigarette" means [a battery-operated
20 device that contains cartridges filled with a combination of nicotine,
21 flavor and chemicals that are turned into vapor which is inhaled by the
22 user] AN ELECTRONIC DEVICE THAT DELIVERS VAPOR FOR INHALATION. ELECTRON-
23 IC CIGARETTE SHALL INCLUDE ANY REFILL, CARTRIDGE AND ANY OTHER COMPONENT
24 OF AN ELECTRONIC CIGARETTE. ELECTRONIC CIGARETTE SHALL NOT INCLUDE ANY
25 PRODUCT REGULATED AS A DRUG OR MEDICAL DEVICE BY THE U.S. FOOD AND DRUG
26 ADMINISTRATION (FDA).

27 S 4. This act shall take effect on the sixtieth day after it shall
28 have become a law.