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

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I N A S S E M B L Y

January 28, 2016

Introduced by M. of A. MILLER -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, in relation to restricting access to certain permanent marking pens

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

Section 1. The general business law is amended by adding a new section 391-u to read as follows:

S 391-U. RESTRICTED ACCESS TO RETAIL SALE OF CERTAIN PERMANENT MARKING PENS. 1. NO RETAIL ESTABLISHMENT OFFERING FOR SALE PERMANENT LARGE OR BROAD TIP MARKING PENS, SHALL PERMIT THE SALE OF SUCH PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN. RETAIL ESTABLISHMENTS SHALL REQUIRE PROOF OF LEGAL AGE FOR PURCHASE OF SUCH PRODUCTS. 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 LARGE OR BROAD TIP PERMANENT MARKING PENS TO AN INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE. ANY RETAIL ESTABLISHMENT WHICH VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A FINE OF TWO HUNDRED FIFTY DOLLARS FOR EACH SUCH VIOLATION.

2. AS USED IN THIS SECTION "RETAIL ESTABLISHMENT" MEANS EVERY VENDOR THAT IN THE REGULAR COURSE OF BUSINESS SELLS LARGE OR BROAD TIP PERMANENT MARKING PENS AT RETAIL DIRECTLY TO THE PUBLIC INCLUDING, BUT NOT LIMITED TO, PHARMACIES, GROCERY STORES, AND OTHER RETAIL STORES.

S 2. This act shall take effect immediately; provided, however, that the rules and regulations necessary to implement section one of this act shall be promulgated and take effect on or before the one hundred eightieth day after this act shall have become a law.

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

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