

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. ROSENTHAL, TITONE, MOSLEY, JAFFEE, SEPULVEDA, ROBINSON, FINCH, DINOWITZ -- Multi-Sponsored by -- M. of A. ARROYO, RIVERA -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the penal law and the administrative code of the city of New York, in relation to increasing the purchasing age for tobacco products from eighteen to twenty-one

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

- 1 Section 1. Subdivision 4 of section 1399-aa of the public health law,
2 as added by chapter 799 of the laws of 1992, is amended to read as
3 follows:
4 4. "Private club" means an organization with no more than an insignif-
5 icant portion of its membership comprised of people under the age of
6 [eighteen] TWENTY-ONE years that regularly receives dues and/or payments
7 from its members for the use of space, facilities and services.
8 S 2. Paragraphs (b), (c) and (f) of subdivision 2 of section 1399-bb
9 of the public health law, as amended by chapter 13 of the laws of 2003,
10 are amended to read as follows:
11 (b) conventions and trade shows; provided that the distribution is
12 confined to designated areas generally accessible only to persons over
13 the age of [eighteen] TWENTY-ONE;
14 (c) events sponsored by tobacco or herbal cigarette manufacturers
15 provided that the distribution is confined to designated areas generally
16 accessible only to persons over the age of [eighteen] TWENTY-ONE;
17 (f) factories as defined in subdivision nine of section thirteen
18 hundred ninety-nine-aa of this article and construction sites; provided
19 that the distribution is confined to designated areas generally accessi-
20 ble only to persons over the age of [eighteen] TWENTY-ONE.

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

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1 S 3. Subdivision 4 of section 1399-bb of the public health law, as
2 amended by chapter 508 of the laws of 2000, is amended to read as
3 follows:

4 4. The distribution of tobacco products or herbal cigarettes pursuant
5 to subdivision two of this section shall be made only to an individual
6 who demonstrates, through a driver's license or other photographic iden-
7 tification card issued by a government entity or educational institution
8 indicating that the individual is at least [eighteen] TWENTY-ONE years
9 of age. Such identification need not be required of any individual who
10 reasonably appears to be at least twenty-five years of age; provided,
11 however, that such appearance shall not constitute a defense in any
12 proceeding alleging the sale of a tobacco product or herbal cigarette to
13 an individual.

14 S 4. Subdivisions 2, 3 and 7 of section 1399-cc of the public health
15 law, as amended by chapter 448 of the laws of 2012, are amended to read
16 as follows:

17 2. Any person operating a place of business wherein tobacco products,
18 herbal cigarettes, shisha or electronic cigarettes, are sold or offered
19 for sale is prohibited from selling such products, herbal cigarettes,
20 shisha, electronic cigarettes or smoking paraphernalia to individuals
21 under [eighteen] TWENTY-ONE years of age, and shall post in a conspicu-
22 ous place a sign upon which there shall be imprinted the following
23 statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBAC-
24 CO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ELECTRONIC
25 CIGARETTES, ROLLING PAPERS OR SMOKING PARAPHERNALIA, TO PERSONS UNDER
26 [EIGHTEEN] TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW." Such sign
27 shall be printed on a white card in red letters at least one-half inch
28 in height.

29 3. Sale of tobacco products, herbal cigarettes, shisha or electronic
30 cigarettes in such places, other than by a vending machine, shall be
31 made only to an individual who demonstrates, through (a) a valid driv-
32 er's license or non-driver's identification card issued by the commis-
33 sioner of motor vehicles, the federal government, any United States
34 territory, commonwealth or possession, the District of Columbia, a state
35 government within the United States or a provincial government of the
36 dominion of Canada, or (b) a valid passport issued by the United States
37 government or any other country, or (c) an identification card issued by
38 the armed forces of the United States, indicating that the individual is
39 at least [eighteen] TWENTY-ONE years of age. Such identification need
40 not be required of any individual who reasonably appears to be at least
41 twenty-five years of age, provided, however, that such appearance shall
42 not constitute a defense in any proceeding alleging the sale of a tobac-
43 co product, herbal cigarettes, shisha or electronic cigarettes to an
44 individual under eighteen years of age.

45 7. No person operating a place of business wherein tobacco products,
46 herbal cigarettes, shisha or electronic cigarettes are sold or offered
47 for sale shall sell, permit to be sold, offer for sale or display for
48 sale any tobacco product, herbal cigarettes, shisha or electronic ciga-
49 rettes in any manner, unless such products and cigarettes are stored for
50 sale (a) behind a counter in an area accessible only to the personnel of
51 such business, or (b) in a locked container; provided, however, such
52 restriction shall not apply to tobacco businesses, as defined in subdi-
53 vision eight of section thirteen hundred ninety-nine-aa of this article,
54 and to places to which admission is restricted to persons [eighteen]
55 TWENTY-ONE years of age or older.

1 S 5. Subdivision (d) of section 1399-dd of the public health law, as
2 amended by chapter 448 of the laws of 2012, is amended to read as
3 follows:

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

11 S 6. Subdivision 1 of section 1399-ff of the public health law, as
12 amended by chapter 448 of the laws of 2012, is amended to read as
13 follows:

14 1. Where a civil penalty for a particular incident has not been
15 imposed or an enforcement action regarding an alleged violation for a
16 particular incident is not pending under section thirteen hundred nine-
17 ty-nine-ee of this article, a parent or guardian of a [minor] PERSON
18 UNDER TWENTY-ONE YEARS OF AGE to whom tobacco products, herbal ciga-
19 rettes or electronic cigarettes are sold or distributed in violation of
20 this article may submit a complaint to an enforcement officer setting
21 forth the name and address of the alleged violator, the date of the
22 alleged violation, the name and address of the complainant and the
23 [minor] PERSON UNDER TWENTY-ONE YEARS OF AGE, and a brief statement
24 describing the alleged violation. The enforcement officer shall notify
25 the alleged violator by certified or registered mail, return receipt
26 requested, that a complaint has been submitted, and shall set a date, at
27 least fifteen days after the mailing of such notice, for a hearing on
28 the complaint. Such notice shall contain the information submitted by
29 the complainant.

30 S 7. Paragraphs (b) and (c) of subdivision 2 of section 1399-ll of the
31 public health law, as added by chapter 518 of the laws of 2000, are
32 amended to read as follows:

33 (b) Any person operating a tobacco business wherein bidis is sold or
34 offered for sale is prohibited from selling such bidis to individuals
35 under [eighteen] TWENTY-ONE years of age, and shall post in a conspicu-
36 ous place a sign upon which there shall be imprinted the following
37 statement, "SALE OF BIDIS TO PERSONS UNDER [EIGHTEEN] TWENTY-ONE YEARS
38 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white
39 card in red letters at least one-half inch in height.

40 (c) Sales of bidis by a tobacco business shall be made only to an
41 individual who demonstrates, through a driver's license or other photo-
42 graphic identification card issued by a government entity or educational
43 institution indicating that the individual is at least [eighteen] TWEN-
44 TY-ONE years of age. Such identification need not be required of any
45 individual who reasonably appears to be at least twenty-five years of
46 age, provided, however, that such appearance shall not constitute a
47 defense in any proceeding alleging the sale of a tobacco product to an
48 individual under [eighteen] TWENTY-ONE years of age.

49 S 8. Subdivision 1 and paragraphs (b) and (c) of subdivision 2 of
50 section 1399-mm of the public health law, as added by chapter 549 of the
51 laws of 2003, are amended to read as follows:

52 1. No person shall knowingly sell or provide gutka to any other person
53 under [eighteen] TWENTY-ONE years of age. No other provision of law
54 authorizing the sale of tobacco products, other than subdivision two of
55 this section, shall authorize the sale of gutka. Any person who

1 violates the provisions of this subdivision shall be subject to a civil
2 penalty of not more than five hundred dollars.

3 (b) Any person operating a tobacco business wherein gutka is sold or
4 offered for sale is prohibited from selling such gutka to individuals
5 under [eighteen] TWENTY-ONE years of age, and shall post in a conspicu-
6 ous place a sign upon which there shall be imprinted the following
7 statement, "SALE OF GUTKA TO PERSONS UNDER [EIGHTEEN] TWENTY-ONE YEARS
8 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white
9 card in red letters at least one-half inch in height.

10 (c) Sales of gutka by a tobacco business shall be made only to an
11 individual who demonstrates, through a driver's license or other photo-
12 graphic identification card issued by a government entity or educational
13 institution indicating that the individual is at least [eighteen] TWEN-
14 TY-ONE years of age. Such identification need not be required of any
15 individual who reasonably appears to be at least twenty-five years of
16 age, provided, however, that such appearance shall not constitute a
17 defense in any proceeding alleging the sale of a tobacco product to an
18 individual under [eighteen] TWENTY-ONE years of age.

19 S 9. Subdivision 3 of section 260.21 of the penal law, as added by
20 chapter 362 of the laws of 1992, is amended to read as follows:

21 3. He OR SHE sells or causes to be sold tobacco in any form to a child
22 less than [eighteen] TWENTY-ONE years old.

23 S 10. Section 17-714 of the administrative code of the city of New
24 York, as amended by local law number 69 of the city of New York for the
25 year 2009, is amended to read as follows:

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

29 S 11. This act shall take effect on the one hundred twentieth day
30 after it shall have become a law.