

5955--A

2015-2016 Regular Sessions

I N A S S E M B L Y

March 9, 2015

Introduced by M. of A. ROSENTHAL, DINOWITZ, JAFFEE, ARROYO, HOOPER, ENGLEBRIGHT, FAHY, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, CLARK, GLICK, PERRY, RIVERA -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to including electronic cigarettes within provisions regulating smoking in certain public areas and requiring vendors of electronic cigarettes to register

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 two new
3 subdivisions 9 and 10 are 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, AND THE USE OF AN
6 ELECTRONIC CIGARETTE.
7 9. "ELECTRONIC CIGARETTE" OR "E-CIGARETTE" SHALL HAVE THE SAME MEANING
8 AS IN SUBDIVISION THIRTEEN OF SECTION THIRTEEN HUNDRED NINETY-NINE-AA OF
9 THIS CHAPTER.
10 10. "RETAIL ELECTRONIC CIGARETTE STORE" MEANS A RETAIL STORE DEVOTED
11 PRIMARILY TO THE SALE OF ELECTRONIC CIGARETTES, AND IN WHICH THE SALE OF
12 OTHER PRODUCTS IS MERELY INCIDENTAL. THE SALE OF SUCH OTHER PRODUCTS
13 SHALL BE CONSIDERED INCIDENTAL IF SUCH SALES GENERATE LESS THAN TWENTY-
14 FIVE PERCENT OF THE TOTAL ANNUAL GROSS SALES.
15 S 2. Subdivisions 6 and 7 of section 1399-q of the public health law,
16 as added by chapter 13 of the laws of 2003, are amended and a new subdi-
17 vision 8 is added to read as follows:
18 6. Outdoor dining areas of food service establishments with no roof or
19 other ceiling enclosure; provided, however, that smoking may be permit-

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

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1 ted in a contiguous area designated for smoking so long as such area:
2 (a) constitutes no more than twenty-five percent of the outdoor seating
3 capacity of such food service establishment, (b) is at least three feet
4 away from the outdoor area of such food service establishment not desig-
5 nated for smoking, and (c) is clearly designated with written signage as
6 a smoking area; [and]

7 7. Enclosed rooms in food service establishments, bars, catering
8 halls, convention halls, hotel and motel conference rooms, and other
9 such similar facilities during the time such enclosed areas or rooms are
10 being used exclusively for functions where the public is invited for the
11 primary purpose of promoting and sampling tobacco products OR ELECTRONIC
12 CIGARETTES, and the service of food and drink is incidental to such
13 purpose, provided that the sponsor or organizer gives notice in any
14 promotional material or advertisements that smoking will not be
15 restricted, and prominently posts notice at the entrance of the facility
16 and has provided notice of such function to the appropriate enforcement
17 officer, as defined in subdivision one of section thirteen hundred nine-
18 ty-nine-t of this article, at least two weeks prior to such function.
19 The enforcement officer shall keep a record of all tobacco sampling
20 events, and such record shall be made available for public inspection.
21 No such facility shall permit smoking under this subdivision for more
22 than two days in any calendar year[.]; AND

23 8. RETAIL ELECTRONIC CIGARETTE STORES, PROVIDED HOWEVER, THAT SUCH
24 STORES MAY ONLY PERMIT THE USE OF ELECTRONIC CIGARETTES.

25 S 3. The public health law is amended by adding a new section
26 1399-dd-1 to read as follows:

27 S 1399-DD-1. REGISTRATION OF VENDORS OF ELECTRONIC CIGARETTES. ANY
28 PERSON SELLING OR OFFERING FOR SALE ELECTRONIC CIGARETTES THAT IS NOT
29 OTHERWISE REGISTERED WITH THE DEPARTMENT OF TAXATION AND FINANCE TO SELL
30 TOBACCO PRODUCTS AS REQUIRED BY ARTICLE TWENTY OF THE TAX LAW AND THE
31 REGULATIONS ADOPTED PURSUANT THERETO, SHALL REGISTER WITH THE DEPART-
32 MENT. THE COMMISSIONER SHALL ADOPT REGULATIONS FOR THE ESTABLISHMENT OF
33 A REGISTRY AND TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

34 S 4. This act shall take effect on the thirtieth day after it shall
35 have become a law; provided, however, that section three of this act
36 shall take effect the first day of the month commencing after the one
37 hundred eightieth day after this act shall have become a law; provided,
38 however, that effective immediately, the addition, amendment and/or
39 repeal of any rule or regulation necessary for the implementation of
40 section three of this act on its effective date is authorized and
41 directed to be made and completed on or before such effective date.