

# STATE OF NEW YORK

3978

2017-2018 Regular Sessions

## IN SENATE

January 31, 2017

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed 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 § 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].  
21 § 3. Subdivision 4 of section 1399-bb of the public health law, as  
22 amended by chapter 508 of the laws of 2000, is amended to read as  
23 follows:

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

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

11 § 4. Subdivisions 2, 3 and 7 of section 1399-cc of the public health  
12 law, as amended by chapter 542 of the laws of 2014, are amended to read  
13 as follows:

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

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

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

54 § 5. Subdivision (d) of section 1399-dd of the public health law, as  
55 amended by chapter 448 of the laws of 2012, is amended to read as  
56 follows:

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

8 § 6. Subdivision 1 of section 1399-ff of the public health law, as  
9 amended by chapter 448 of the laws of 2012, is amended to read as  
10 follows:

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

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

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

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

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

49 1. No person shall knowingly sell or provide gutka to any other person  
50 under [~~eighteen~~] twenty-one years of age. No other provision of law  
51 authorizing the sale of tobacco products, other than subdivision two of  
52 this section, shall authorize the sale of gutka. Any person who  
53 violates the provisions of this subdivision shall be subject to a civil  
54 penalty of not more than five hundred dollars.

55 (b) Any person operating a tobacco business wherein gutka is sold or  
56 offered for sale is prohibited from selling such gutka to individuals

1 under [~~eighteen~~] twenty-one years of age, and shall post in a conspicu-  
2 ous place a sign upon which there shall be imprinted the following  
3 statement, "SALE OF GUTKA TO PERSONS UNDER [~~EIGHTEEN~~] TWENTY-ONE YEARS  
4 OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white  
5 card in red letters at least one-half inch in height.

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

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

17 3. He or she sells or causes to be sold tobacco in any form to a child  
18 less than [~~eighteen~~] twenty-one years old.

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

22 § 17-714 Sale of herbal cigarettes to minors prohibited. It shall be  
23 unlawful for any person to sell or offer for sale herbal cigarettes to  
24 an individual under [~~eighteen~~] twenty-one years of age.

25 § 11. This act shall take effect on the one hundred twentieth day  
26 after it shall have become a law.