

STATE OF NEW YORK

2833

2019-2020 Regular Sessions

IN SENATE

January 29, 2019

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 and the penal law, 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. Subdivisions 4 and 5 of section 1399-bb of the public health law,
22 as amended by chapter 4 of the laws of 2018, are 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. No person engaged in the business of selling or otherwise distrib-
2 uting electronic cigarettes for commercial purposes, or any agent or
3 employee of such person, shall knowingly, in furtherance of such busi-
4 ness, distribute without charge any electronic cigarettes to any indi-
5 vidual under [~~eighteen~~] twenty-one years of age.

6 5. The distribution of tobacco products or herbal cigarettes pursuant
7 to subdivision two of this section or the distribution without charge of
8 electronic cigarettes shall be made only to an individual who demon-
9 strates, through a driver's license or other photographic identification
10 card issued by a government entity or educational institution indicating
11 that the individual is at least [~~eighteen~~] twenty-one years of age. Such
12 identification need not be required of any individual who reasonably
13 appears to be at least twenty-five years of age; provided, however, that
14 such appearance shall not constitute a defense in any proceeding alleg-
15 ing the sale of a tobacco product, electronic cigarette or herbal ciga-
16 rette or the distribution without charge of electronic cigarettes to an
17 individual.

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

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

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

50 7. No person operating a place of business wherein tobacco products,
51 herbal cigarettes, liquid nicotine, shisha or electronic cigarettes are
52 sold or offered for sale shall sell, permit to be sold, offer for sale
53 or display for sale any tobacco product, herbal cigarettes, liquid nico-
54 tine, shisha or electronic cigarettes in any manner, unless such
55 products and cigarettes are stored for sale (a) behind a counter in an
56 area accessible only to the personnel of such business, or (b) in a

1 locked container; provided, however, such restriction shall not apply to
2 tobacco businesses, as defined in subdivision eight of section thirteen
3 hundred ninety-nine-aa of this article, and to places to which admission
4 is restricted to persons [~~eighteen~~ twenty-one years of age or older.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 § 10. This act shall take effect on the one hundred twentieth day
28 after it shall have become a law.