

STATE OF NEW YORK

4249--A

2019-2020 Regular Sessions

IN SENATE

March 5, 2019

Introduced by Sens. MARTINEZ, GOUNARDES, KRUEGER, PARKER, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to prohibited locations for retail electronic cigarette stores and tobacco businesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1399-aa of the public health law is amended by
2 adding a new subdivision 14 to read as follows:

3 14. "Retail electronic cigarette store" means a retail store devoted
4 primarily to the sale of electronic cigarettes, and in which the sale of
5 other products is incidental. The sale of such other products shall be
6 considered incidental if such sales generate less than twenty-five
7 percent of the total annual gross sales.

8 § 2. The public health law is amended by adding a new section
9 1399-mm-1 to read as follows:

10 § 1399-mm-1. Retail electronic cigarette stores and tobacco busi-
11 nesses; prohibited locations of new stores. 1. No new retail electronic
12 cigarette store and/or tobacco business shall be constructed or located:

13 (a) on the same street or avenue and within two hundred feet of a
14 building occupied exclusively as a school, church, synagogue or other
15 place of worship;

16 (b) in a city within five hundred feet of three or more existing
17 retail electronic cigarette stores and/or tobacco businesses; or

18 (c) in a town or village within a two square mile area of three or
19 more existing retail electronic cigarette stores and/or tobacco busi-
20 nesses.

21 2. The measurements in paragraphs (a), (b) and (c) of subdivision one
22 of this section are to be taken in straight lines from the center of the

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

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1 nearest entrance of the premises sought to be licensed to the center of
2 the nearest entrance of such school, church, synagogue or other place of
3 worship or to the center of the nearest entrance of each new retail
4 electronic cigarette store and/or tobacco business.

5 3. Within the context of this section, the word "entrance" shall mean
6 a door of a school, of a house of worship, or of a new retail electronic
7 cigarette store and/or tobacco business, regularly used to give ingress
8 to students of the school, to the general public attending the place of
9 worship, and to patrons or guests of a new retail electronic cigarette
10 store and/or tobacco business, except that where a school or house of
11 worship or new retail electronic cigarette store and/or tobacco business
12 is set back from a public thoroughfare, the walkway or stairs leading to
13 any such door shall be deemed an entrance; and the measurement shall be
14 taken to the center of the walkway or stairs at the point where it meets
15 the building line or public thoroughfare. A door which has no exterior
16 hardware, or which is used solely as an emergency or fire exit, or for
17 maintenance purposes, or which leads directly to a part of a building
18 not regularly used by the general public or patrons, is not deemed an
19 "entrance".

20 4. Within the context of this section, a building occupied as a place
21 of worship does not cease to be "exclusively" occupied as a place of
22 worship by incidental uses that are not of a nature to detract from the
23 predominant character of the building as a place of worship, such uses
24 which include, but which are not limited to: the conduct of legally
25 authorized games of bingo or other games of chance held as a means of
26 raising funds for the not-for-profit religious organization which
27 conducts services at the place of worship or for other not-for-profit
28 organizations or groups; use of the building for fundraising perform-
29 ances by or benefitting the not-for-profit religious organization which
30 conducts services at the place of worship or other not-for-profit organ-
31 izations or groups; the use of the building by other religious organiza-
32 tions or groups for religious services or other purposes; the conduct of
33 social activities by or for the benefit of the congregants; the use of
34 the building for meetings held by organizations or groups providing
35 bereavement counseling to persons having suffered the loss of a loved
36 one, or providing advice or support for conditions or diseases includ-
37 ing, but not limited to, alcoholism, drug addiction, cancer, cerebral
38 palsy, Parkinson's disease, or Alzheimer's disease; the use of the
39 building for blood drives, health screenings, health information meet-
40 ings, yoga classes, exercise classes or other activities intended to
41 promote the health of the congregants or other persons; and use of the
42 building by non-congregant members of the community for private social
43 functions. The building occupied as a place of worship does not cease to
44 be "exclusively" occupied as a place of worship where the not-for-profit
45 religious organization occupying the place of worship accepts the
46 payment of funds to defray costs related to another party's use of the
47 building.

48 5. The provisions of this section shall not apply to any currently
49 existing retail electronic cigarette stores and/or tobacco businesses.

50 § 3. This act shall take effect on the one hundred twentieth day after
51 it shall have become a law.