

STATE OF NEW YORK

428

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the sale and distribution of flavored e-liquid for use in e-cigarettes

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

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

3 § 1399-mm-1. Sale of flavored e-liquid prohibited. 1. For the purposes
4 of this section, the following terms shall have the following meanings:

5 (a) "flavored e-liquid" shall mean a liquid composed of nicotine and
6 other chemicals, and which is sold as a product that may be used in an
7 electronic cigarette which contains a natural or artificial constituent
8 or additive that causes such e-liquid or its smoke to have a character-
9 izing flavor.

10 (b) "characterizing flavor" shall mean a distinguishable taste or
11 aroma, including but not limited to any fruit, chocolate, vanilla,
12 honey, candy, cocoa, dessert, alcoholic beverage, herb or spice flavor-
13 ing, but shall not include tobacco or menthol.

14 2. No person shall sell, offer for sale or distribute in this state
15 any flavored e-liquid or e-cigarette containing flavored e-liquid. No
16 other provision of law authorizing the sale of tobacco products shall
17 authorize the sale of flavored e-liquid.

18 3. Any person other than a manufacturer who violates the provisions of
19 this section shall be subject to a fine of not more than one hundred
20 dollars for each individual package of flavored e-liquid product sold or
21 offered for sale. A manufacturer may be subject to a civil penalty not
22 to exceed fifty thousand dollars for each brand or style of such
23 manufacturer's tobacco products that is found to have been sold or
24 offered for sale in violation of this section on more than one occasion

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

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1 during any thirty day period, provided, however, that with respect to a
2 manufacturer, it shall be an affirmative defense to a finding of
3 violation pursuant to this section that such sale or offer of sale, as
4 applicable, occurred without the knowledge, consent, authorization and
5 involvement, direct or indirect, of such manufacturer. Violations of
6 this section shall be enforced pursuant to section thirteen hundred
7 ninety-nine-ff of this article, except that any person may submit a
8 complaint to an enforcement officer that a violation of this section has
9 occurred.

10 § 2. This act shall take effect immediately.