

STATE OF NEW YORK

6054

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the reporting of a person allowing, enabling or providing electronic cigarettes to a child

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

1 Section 1. Section 412 of the social services law is amended by adding
2 two new subdivisions 10 and 11 to read as follows:

3 10. "Electronic cigarette" or "e-cigarette" shall have the same mean-
4 ing as defined in subdivision thirteen of section thirteen hundred nine-
5 ty-nine-aa of the public health law.

6 11. "Person" shall have the same meaning as defined in subdivision
7 three of section thirteen hundred ninety-nine-aa of the public health
8 law.

9 § 2. Section 413 of the social services law is amended by adding a
10 new subdivision 1-a to read as follows:

11 1-a. Notwithstanding any other provision of law to the contrary
12 imposing a duty of confidentiality, any person subject to the reporting
13 requirements of this title shall report or cause a report to be made in
14 accordance with this title when, as a result of performing such duties,
15 such person has reasonable cause to suspect that a person allows,
16 enables or provides a child to use electronic cigarettes, including but
17 not limited to: any store that distributes such products to minors; and
18 any parent or legal guardian who helps a child purchase or provide such
19 products in violation of section thirteen hundred ninety-nine-bb of the
20 public health law.

21 § 3. Section 414 of the social services law, as added by chapter 1039
22 of the laws of 1973, is amended to read as follows:

23 § 414. Any person permitted to report. In addition to those persons
24 and officials required to report suspected child abuse or maltreatment,

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

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1 the use of electronic cigarettes by a child pursuant to section four
2 hundred fifteen of this title, any person may make such a report if such
3 person has reasonable cause to suspect that a child is an abused or
4 maltreated child or if a person allows, enables or provides a child with
5 electronic cigarettes in violation of section thirteen hundred ninety-
6 nine-bb of the public health law.

7 § 4. Section 415 of the social services law is amended by adding a new
8 undesignated paragraph to read as follows:

9 Reports of suspected allowing, enabling or providing of electronic
10 cigarettes to a child in violation of section thirteen hundred ninety-
11 nine-bb of the public health law made pursuant to this title shall be
12 made immediately by telephone or by telephone facsimile machine. Oral
13 reports shall be followed by a report in writing within forty-eight
14 hours after such oral report. Such oral and written reports shall be
15 made to any police officer or agent authorized to lawfully investigate
16 acts of suspected child abuse, maltreatment, or the provision of elec-
17 tronic cigarettes to a child. For purposes of this paragraph, written
18 reports shall disclose only such limited confidential information as is
19 necessary for such police officer to identify the child's location and
20 status; the name and address of the person or persons alleged to be
21 responsible for allowing, enabling or providing electronic cigarettes to
22 a child in violation of section thirteen hundred ninety-nine-bb of the
23 public health law; the source of the report; the name, address and tele-
24 phone number of the person making the report; and any action taken by
25 the reporting source with regard to such violation. Written reports from
26 persons or officials required by this title to report may be submitted
27 electronically and shall be admissible in any proceedings relating to
28 child abuse or maltreatment.

29 § 5. Section 419 of the social services law, as amended by chapter 12
30 of the laws of 1996, is amended to read as follows:

31 § 419. Immunity from liability. Any person, official, or institution
32 participating in good faith in the providing of a service pursuant to
33 section four hundred twenty-four of this title, the making of a report,
34 the taking of photographs, the removal or keeping of a child pursuant to
35 this title, reporting the allowing, enabling or providing of electronic
36 cigarettes to a child in violation of section thirteen hundred ninety-
37 nine-bb of the public health law pursuant to this title, or the disclo-
38 sure of child protective services information in compliance with
39 sections twenty, four hundred twenty-two and four hundred twenty-two-a
40 of this chapter shall have immunity from any liability, civil or crimi-
41 nal, that might otherwise result by reason of such actions. For the
42 purpose of any proceeding, civil or criminal, the good faith of any such
43 person, official, or institution required to report cases of child abuse
44 or maltreatment or providing a service pursuant to section four hundred
45 twenty-four or the disclosure of child protective services information
46 in compliance with sections twenty, four hundred twenty-two and four
47 hundred twenty-two-a of this chapter shall be presumed, provided such
48 person, official or institution was acting in discharge of their duties
49 and within the scope of their employment, and that such liability did
50 not result from the willful misconduct or gross negligence of such
51 person, official or institution.

52 § 6. This act shall take effect on the thirtieth day after it shall
53 have become a law.