

STATE OF NEW YORK

713--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. PAULIN, L. ROSENTHAL, GOTTFRIED, DINOWITZ, GALEF, McDONOUGH, ARROYO, BUCHWALD, DICKENS, D'URSO, FERNANDEZ, TAYLOR, MONTESANO, EPSTEIN -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to including electronic cigarettes in the regulation of tobacco products

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

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

14. "Vapor products dealer" shall have the same meaning as in subdivision (b) of section eleven hundred eighty of the tax law.

§ 2. Section 1399-hh of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

§ 1399-hh. Tobacco and electronic cigarette enforcement. The commissioner shall develop, plan and implement a comprehensive program to reduce the prevalence of tobacco and electronic cigarette use, particularly among persons less than [~~eighteen~~] twenty-one years of age. This program shall include, but not be limited to, support for enforcement of this article [~~thirteen-F of this chapter~~].

1. An enforcement officer, as defined in section thirteen hundred ninety-nine-t of this chapter, may annually, on such dates as shall be fixed by the commissioner, submit an application for such monies as are made available for such purpose. Such application shall be in such form as prescribed by the commissioner and shall include, but not be limited to, plans regarding random spot checks, including the number and types of compliance checks that will be conducted, and other activities to

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

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1 determine compliance with this article. Each such plan shall include an
2 agreement to report to the commissioner: the names and addresses of
3 tobacco retailers and vendors and vapor products dealers determined to
4 be unlicensed, if any; the number of complaints filed against licensed
5 tobacco retail outlets and vapor products dealers; and the names of
6 tobacco retailers and vendors and vapor products dealers who have paid
7 fines, or have been otherwise penalized, due to enforcement actions.

8 2. The commissioner shall distribute such monies as are made avail-
9 able for such purpose to enforcement officers and, in so doing, consider
10 the number of licensed vapor products dealers and retail locations
11 registered to sell tobacco products within the jurisdiction of the
12 enforcement officer and the level of proposed activities.

13 3. Monies made available to enforcement officers pursuant to this
14 section shall only be used for local tobacco and electronic cigarette
15 enforcement activities approved by the commissioner.

16 § 3. Section 1399-jj of the public health law, as amended by chapter 1
17 of the laws of 1999, is amended to read as follows:

18 § 1399-jj. Evaluation requirements. 1. The commissioner shall evaluate
19 the effectiveness of the efforts by state and local governments to
20 reduce the use of tobacco products and electronic cigarettes among
21 minors and adults. The principal measurements of effectiveness shall
22 include negative attitudes toward tobacco and electronic cigarette use
23 and reduction of tobacco and electronic cigarette use among the general
24 population, and given target populations.

25 2. The commissioner shall ensure that, to the extent practicable, the
26 most current research findings regarding mechanisms to reduce and change
27 attitudes toward tobacco and electronic cigarette use are used in tobac-
28 co and electronic cigarette education programs administered by the
29 department.

30 3. To diminish tobacco and electronic cigarette use among minors and
31 adults, the commissioner shall ensure that, to the extent practicable,
32 the following is achieved:

33 The department shall conduct an independent evaluation of the state-
34 wide tobacco use prevention and control program under section thirteen
35 hundred ninety-nine-ii of this article. The purpose of this evaluation
36 is to direct the most efficient allocation of state resources devoted to
37 tobacco and electronic cigarette education and cessation to accomplish
38 the maximum prevention and reduction of tobacco and electronic cigarette
39 use among minors and adults. Such evaluation shall be provided to the
40 governor, the majority leader of the senate and the speaker of the
41 assembly on or before September first, two thousand one, and annually on
42 or before such date thereafter. The comprehensive evaluation design
43 shall be guided by the following:

44 (a) sound evaluation principles including, to the extent feasible,
45 elements of controlled experimental methods;

46 (b) an evaluation of the comparative effectiveness of individual
47 program designs which shall be used in funding decisions and program
48 modifications; and

49 (c) an evaluation of other programs identified by state agencies,
50 local lead agencies, and federal agencies.

51 § 4. Section 1399-kk of the public health law, as added by chapter 433
52 of the laws of 1997, is amended to read as follows:

53 § 1399-kk. Annual tobacco and e-cigarette enforcement reporting. The
54 commissioner shall submit to the governor and the legislature an interim
55 tobacco control report and annual tobacco control reports which shall
56 describe the extent of the use of tobacco products and e-cigarettes by

1 ~~[minors]~~ those under the age of twenty-one in the state and document the
2 progress state and local governments have made in reducing such use
3 among ~~[minors]~~ those under the age of twenty-one.

4 1. The interim tobacco and e-cigarette control report. The commission-
5 er shall submit to the governor and the legislature an interim tobacco
6 and e-cigarette control report on or before September first, nineteen
7 hundred ninety-eight. Such interim report shall, to the extent practica-
8 ble, include the following information on a county by county basis:

9 (a) number of licensed and registered tobacco retailers and vendors
10 and licensed vapor products dealers;

11 (b) the names and addresses of retailers and vendors who have paid
12 fines, or have been otherwise penalized, due to enforcement actions;

13 (c) the number of complaints filed against licensed and registered
14 tobacco retailers and licensed vapor products dealers;

15 (d) the number of fires caused or believed to be caused by tobacco
16 products and e-cigarettes and deaths and injuries resulting therefrom;

17 (e) the number and type of compliance checks conducted; and

18 (f) such other information as the commissioner deems appropriate.

19 2. The commissioner shall submit to the governor and the legislature
20 an annual tobacco and e-cigarette control report which shall describe
21 the extent of the use of tobacco products and e-cigarettes by ~~[minors]~~
22 those under the age of twenty-one in the state and document the progress
23 state and local governments have made in reducing such use among
24 ~~[minors]~~ those under the age of twenty-one. The annual report shall be
25 submitted to the governor and the legislature on or before March thir-
26 ty-first of each year beginning on March thirty-first, nineteen hundred
27 ninety-nine. The annual report shall, to the extent practicable,
28 include the following information on a county by county basis:

29 (a) number of licensed and registered tobacco retailers and vendors
30 and licensed vapor products dealers;

31 (b) the names and addresses of retailers and vendors who have paid
32 fines, or have been otherwise penalized, due to enforcement actions;

33 (c) the number of complaints filed against licensed and registered
34 tobacco retailers and licensed vapor products dealers;

35 (d) the number of fires caused or believed to be caused by tobacco
36 products and e-cigarettes and deaths and injuries resulting therefrom;

37 (e) the number and type of compliance checks conducted;

38 (f) a survey of attitudes and behaviors regarding tobacco use among
39 ~~[minors]~~ those under the age of twenty-one. The initial such survey
40 shall be deemed to constitute the baseline survey;

41 (g) the number of tobacco and e-cigarette users and estimated trends
42 in tobacco and e-cigarette use among ~~[minors]~~ those under the age of
43 twenty-one;

44 (h) annual tobacco and e-cigarette sales;

45 (i) tax revenue collected from the sale of tobacco products and e-ci-
46 garettes;

47 (j) the number of licensed tobacco retail outlets and licensed vapor
48 products dealers;

49 (k) the number of cigarette vending machines;

50 (l) the number and type of compliance checks;

51 (m) the names of entities that have paid fines due to enforcement
52 actions; and

53 (n) the number of complaints filed against licensed tobacco retail
54 outlets and licensed vapor products dealers.

55 The annual tobacco and e-cigarette control report shall, to the extent
56 practicable, include the following information: (a) tobacco and e-cigar-

1 ette control efforts sponsored by state government agencies including
2 money spent to educate [~~minors~~] those under the age of twenty-one on the
3 hazards of tobacco and e-cigarette use;

4 (b) recommendations for improving tobacco and e-cigarette control
5 efforts in the state; and

6 (c) such other information as the commissioner deems appropriate.

7 § 5. This act shall take effect on the ninetieth day after it shall
8 have become a law.