STATE OF NEW YORK

7212

2019-2020 Regular Sessions

IN ASSEMBLY

April 12, 2019

Introduced by M. of A. GALEF -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the sale of tobacco products, herbal cigarettes, liquid nicotine, shisha, rolling papers, electronic cigarettes or smoking paraphernalia near schools; and to amend the tax law, in relation to the issuance of licenses to sell tobacco products

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

Section 1. The public health law is amended by adding a new article 13-I to read as follows:

ARTICLE 13-I

SALE OF TOBACCO PRODUCTS, HERBAL CIGARETTES, LIQUID NICOTINE, SHISHA, ROLLING PAPERS, ELECTRONIC CIGARETTES OR SMOKING PARAPHERNALIA PROHIBITED NEAR SCHOOLS

Section 1399-aaa. Definitions.
1399-bbb. Sale of tobacco products, herbal cigarettes, liquid nicotine, shisha, rolling papers, electronic cigarettes or smoking paraphernalia prohibited near schools.
1399-ccc. Hearings; penalties.

§ 1399-aaa. Definitions. As used in this article:

1. "Person" means a person, firm, company, corporation, partnership, sole proprietor, limited partnership, association, limited liability company or limited liability partnership.

2. "Tobacco products" means one or more cigarettes, cigars, bidis, chewing tobacco, powdered tobacco, nicotine water or any other tobacco products.

3. "Herbal cigarette" means any product made primarily of an herb or combination of herbs, and intended to be smoked in any of the methods

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

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that tobacco is smoked, including but not limited to, as a cigarette, cigar or pipe filter.

4. "School grounds" means (a) in, on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any area accessible to the public located within five hundred feet of the real property boundary line comprising any such school or any parked automobile or other parked vehicle located within five hundred feet of the real property boundary line comprising any such school. For the purposes of this section an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

5. "Smoking paraphernalia" means any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco or nicotine.

6. "Shisha" means any product made primarily of tobacco or other leaf, or any combination thereof, smoked or intended to be smoked in a hookah or water pipe.

7. "Electronic cigarette" or "e-cigarette" means an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device.

§ 1399-bbb. Sale of tobacco products, herbal cigarettes, liquid nicotine, shisha, rolling papers, electronic cigarettes or smoking paraphernalia prohibited near schools. No person engaged in the business of manufacturing, selling, advertising, marketing or otherwise distributing tobacco products, herbal cigarettes, liquid nicotine, shisha, rolling papers, electronic cigarettes or smoking paraphernalia or any agent or employee of such person, shall sell such products within one thousand feet of school grounds.

§ 1399-ccc. Hearings; penalties. 1. Hearings with respect to violations of this article shall be conducted in the same manner as hearings conducted under article thirteen-E of this chapter.

2. If the enforcement officer determines after a hearing that a violation of this article has occurred, he or she shall impose a civil penalty of a minimum of two hundred fifty dollars, but not to exceed one thousand dollars for a first violation, a minimum of five hundred dollars, but not to exceed two thousand dollars for a second violation, and a minimum of one thousand dollars for each subsequent violation.

§ 2. Subdivision 1 of section 480 of the tax law is amended by adding a new paragraph (m) to read as follows:

(m) On and after the effective date of this paragraph, no new license shall be issued or renewed to any person located within one thousand feet of school grounds.

§ 3. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.