STATE OF NEW YORK

8141

2019-2020 Regular Sessions

IN ASSEMBLY

June 4, 2019

Introduced by M. of A. RAYNOR -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to restricting advertisement and promotion of electronic cigarettes

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

Section 1. The general business law is amended by adding a new article 24-D to read as follows:

ARTICLE 24-D
ADVERTISEMENT AND PROMOTION OF ELECTRONIC CIGARETTES TO MINORS

Section 375. Definitions.
376. Advertising prohibitions.
377. Promotions prohibited.
378. Research; misrepresentations.
379. Penalties.

§ 375. Definitions. For purposes of this article:

1. "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.

2. "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

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

LBD11014-01-9

sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

§ 376. Advertising prohibitions. 1. No person engaged in the business of manufacturing, selling, advertising, marketing or otherwise distributing electronic cigarettes, or any agent or employee of such person, shall advertise, market or promote electronic cigarettes or the purchase or use thereof upon school grounds, billboards, public transit facilities, arenas, stadiums, shopping malls or video arcades.

2. No manufacturer and no distributor of electronic cigarettes shall advertise or otherwise promote electronic cigarettes in movies, television or theater productions; music performances or video distributed for public viewing.

§ 377. Promotions prohibited. 1. No manufacturer and no distributor of electronic cigarettes shall market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold any item (other than electronic cigarettes) or service, which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic cigarette.

2. No manufacturer, distributor, or retailer may offer or cause to be offered any gift or item to any person purchasing electronic cigarettes in consideration of the purchase thereof, or to any person or consideration of furnishing evidence, such as credits, proofs-of-purchase, or coupons, of such a purchase.

3. No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, in the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic. Nothing in this subdivision prevents a manufacturer, distributor, or retailer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or team or entry, in the name of the corporation which manufactures the electronic cigarettes, provided that both the corporate name and the corporation were registered and in use in the United States prior to January first, two thousand nineteen, and that the corporate name does not include any brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic cigarettes.

§ 378. Research; misrepresentations. 1. Any provision or restriction in a contract or other agreement relating to the development of electronic cigarettes and products relating to their use including, but not limited to components of such devices, heretofore or hereafter made or entered into, which limits, restrains, prohibits or otherwise provides for the suppression of research into the health consequences of the use of electronic cigarettes, is hereby declared to be void as against public policy and wholly unenforceable.

2. No manufacturer, distributor, or retailer engaged in the business of manufacturing, selling, advertising, marketing or otherwise distributing electronic cigarettes shall misrepresent any facts regarding the health consequences of the use of electronic cigarettes.

§ 379. Penalties. Any person, firm, corporation, partnership, association, limited liability company, or other entity that violates the provisions of this article shall be subject to a civil penalty of not more than five hundred dollars per violation, recoverable in an action by the attorney general or by any enforcement authority designated by any municipality or political subdivision.

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