# STATE OF NEW YORK

8663

2019-2020 Regular Sessions

# IN ASSEMBLY

October 23, 2019

Introduced by M. of A. WALLACE, JAFFEE, JACOBSON, ZEBROWSKI, GRIFFIN, SAYEGH, ABINANTI, SEAWRIGHT, MAGNARELLI, BURKE, GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the disclosure, testing and reporting of vapor products and to amend the public health law and the general business law, in relation to the labeling of electronic cigarette and vapor products packaging

**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 product" means any non-combustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vaping pen, hookah pen, or other similar device.**

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

**§ 1399-mm-1. Disclosure, testing and reporting; electronic cigarette and vapor product. 1. On and after the effective date of this section, each electronic cigarette or vapor product manufacturer or importer, or agents thereof, shall submit to the department the following information:**

**(a) a listing of all ingredients, including substances, compounds, and additives that are, as of such date, added by the manufacturer to a vapor product;**

**(b) a description of the content, delivery, and form of nicotine in each vapor product measured in milligrams of nicotine in accordance with regulations promulgated by the department; and**

**(c) a listing of all constituents, including smoke constituents as applicable, identified by the department as harmful or potentially harm-**

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

LBD13862-05-9

**ful to health in each vapor product by brand and by quantity in each brand and sub-brand. The manufacturer, importer, or agent shall comply with regulations promulgated under this section, where applicable.**

**2. The department shall have the authority to conduct or to require the testing, reporting, or disclosure of vapor product constituents, including smoke constituents.**

§ 3. Subdivision 7 of section 1399-cc of the public health law, as amended by chapter 100 of the laws of 2019, is amended to read as follows:

7. No person operating a place of business wherein tobacco products, herbal cigarettes, liquid nicotine, shisha or electronic cigarettes are sold or offered for sale shall sell, permit to be sold, offer for sale or display for sale any tobacco product, herbal cigarettes, liquid nicotine, shisha or electronic cigarettes in any manner, unless such products and cigarettes are stored for sale (a) behind a counter in an area accessible only to the personnel of such business, or (b) in a locked container; provided, however, such restriction shall not apply to tobacco businesses, as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article, and to places to which admission is restricted to persons twenty-one years of age or older. **Provided, further, that, in the case of electronic cigarettes and vapor products, the packages thereof shall comply with the provisions of section three hundred ninety-eight-g of the general business law.**

§ 4. The general business law is amended by adding a new section 398-g to read as follows:

**§ 398-g. Electronic cigarette and vapor product package labeling. 1. Every package containing an electronic cigarette, as defined in subdivision thirteen of section thirteen hundred ninety-nine-aa of the public health law, or a vapor product, as defined in subdivision fourteen of section thirteen hundred ninety-nine-aa of the public health law, sold, offered for sale or otherwise distributed without charge within this state, shall have printed thereon or attached thereto a list of ingredients, including but not limited to, the nicotine level by volume of product.**

**2. Any person, firm, corporation or association who violates the provisions of this section shall be subject to a civil penalty of not more than one thousand dollars for each such violation.**

§ 5. The department of health shall promulgate any necessary rules and regulations, including, but not limited to, requiring the testing and reporting of vapor product constituents, ingredients, and additives, including vapor constituents, by brand and sub-brand that the department determines should be tested to protect the public health.

§ 6. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided however, that the amendments to subdivision 7 of section 1399-cc of the public health law made by section three of this act shall take effect on the same date and in the same manner as chapter 100 of the laws of 2019, takes effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.