

STATE OF NEW YORK

8808--A

2019-2020 Regular Sessions

IN ASSEMBLY

November 25, 2019

Introduced by M. of A. BICHOTTE, L. ROSENTHAL, MOSLEY, SIMOTAS, WRIGHT, GRIFFIN, JEAN-PIERRE, SEAWRIGHT, DICKENS, SIMON, JAFFEE, EPSTEIN, GALEF, DINOWITZ, ORTIZ, GLICK, GOTTFRIED, STECK, JACOBSON -- 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 prohibiting the sale and distribution of flavored tobacco products and accessories

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

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

3 § 1399-cc-1. Sale and distribution of flavored tobacco products and
4 accessories prohibited. 1. For the purposes of this section, the term
5 "characterizing flavor" shall mean a distinguishable taste or aroma,
6 other than the taste or aroma of tobacco, imparted either prior to or
7 during consumption of a tobacco product, including but not limited to,
8 tastes or aromas relating to any fruit, chocolate, vanilla, honey,
9 candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, herb,
10 spice, or menthol, or any concept flavor that imparts a taste or aroma
11 that is distinguishable from tobacco flavor but may not relate to any
12 particular known flavor.

13 2. No person, firm, partnership, association, limited liability compa-
14 ny, corporation, or other entity shall sell, offer for sale, or distrib-
15 ute tobacco products with a characterizing flavor or accessories that
16 impart a characterizing flavor to a tobacco product in this state.

17 3. Any person, firm, partnership, association, limited liability
18 company, corporation, or other entity other than a manufacturer that
19 violates the provisions of this section shall be subject to a fine of
20 not more than one hundred dollars for each individual tobacco product or

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

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1 accessory with a characterizing flavor that is found to have been sold,
2 offered for sale, or distributed in violation of this section. A
3 manufacturer shall be subject to a civil penalty not to exceed fifty
4 thousand dollars for each brand or style of such manufacturer's tobacco
5 products or accessories that is found to have been sold, offered for
6 sale, or distributed in violation of this section on more than one occa-
7 sion during any thirty day period, provided, however, that with respect
8 to a manufacturer, it shall be an affirmative defense to a finding of a
9 violation pursuant to this section that such sale, offer of sale, or
10 distribution, as applicable, occurred without the knowledge, consent,
11 authorization and involvement, direct or indirect, of such manufacturer.
12 Violations of this section shall be enforced pursuant to section thir-
13 teen hundred ninety-nine-ff of this article, except that any person may
14 submit a complaint to an enforcement officer that a violation of this
15 section has occurred.

16 4. Notwithstanding any law to the contrary, no enforcement agent,
17 police officer, peace officer or other law enforcement officer may stop,
18 question, search or arrest any person: (a) on grounds of or in relation
19 to possession, consumption or purchase of any product subject to this
20 section; or (b) for the purpose of inquiring or determining how or from
21 what person or entity the person obtained any product subject to this
22 section.

23 § 2. This act shall take effect on the ninetieth day after it shall
24 have become a law. Effective immediately, the addition, amendment
25 and/or repeal of any rule or regulation necessary for the implementation
26 of this act on its effective date are authorized to be made and
27 completed on or before such effective date.