

STATE OF NEW YORK

9652

IN ASSEMBLY

January 31, 2020

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

AN ACT to amend the public health law, in relation to the shipment of vapor products

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

Section 1. Article 13-f of the public health law is amended by adding a new section 1399-aaa to read as follows:

§ 1399-aaa. Unlawful shipment or transport of vapor products. 1. For purposes of this section "vapor product" shall have the same meaning as defined in section eleven hundred eighty of the tax law.

2. It shall be unlawful for any person engaged in the business of selling vapor products to ship or cause to be shipped any vapor products to any person in this state who is not: (a) a person licensed as a vapor products dealer as set forth in article twenty-eight-C of the tax law; (b) a customs bonded warehouse pursuant section 1311 or 1555 of title 19 of the United States code; or (c) a person who is an officer, employee or agent of the state, the United States government, or a department, agency, instrumentality or political subdivision of the state or the United States and presents himself or herself as such when such person is acting in accordance with his or her official duties.

3. It shall be unlawful for any common or contract carrier to knowingly transport vapor products to any person in this state reasonably believed by such carrier to be other than a person described in paragraph (a), (b) or (c) of subdivision two of this section. For purposes of the preceding sentence, if vapor products are transported to a home or residence, it shall be presumed that the common or contract carrier knew that such person was not a person described in paragraph (a), (b) or (c) of subdivision two of this section. It shall be unlawful for any other person to knowingly transport vapor products to any person in this state, other than to a person described in paragraph (a), (b) or (c) of subdivision two of this section. Nothing in this subdivision shall be construed to prohibit a person other than a common or contract carrier

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

LBD14866-01-0

1 from transporting not more than twenty-four vapor products at any one
2 time to any person in this state.

3 4. When a person engaged in the business of selling vapor products
4 ships or causes to be shipped any vapor products to any person in this
5 state, other than in the vapor product manufacturer's original container
6 or wrapping, the container or wrapping must be plainly and visibly
7 marked with the words "vapor products".

8 5. Whenever a police officer designated in section 1.20 of the crimi-
9 nal procedure law or a peace officer designated in subdivision four of
10 section 2.10 of such law, acting pursuant to his or her special duties,
11 shall discover any vapor products which have been or which are being
12 shipped or transported in violation of this section, such person is
13 hereby empowered and authorized to seize and take possession of such
14 vapor products, and such vapor products shall be subject to a forfeiture
15 action pursuant to the procedures provided for in article thirteen-A of
16 the civil practice law and rules, as if such article specifically
17 provided for forfeiture of vapor products seized pursuant to this
18 section as a pre-conviction forfeiture crime.

19 6. Any person who violates the provisions of subdivision two or three
20 of this section shall be guilty of a class A misdemeanor and for a
21 second or subsequent violation shall be guilty of a class E felony. In
22 addition to the criminal penalty, any person who violates the provisions
23 of subdivision two, three or four of this section shall be subject to a
24 civil penalty not to exceed the greater of (a) five thousand dollars for
25 each such violation; or (b) one hundred dollars for each vapor product
26 shipped, caused to be shipped or transported in violation of such subdi-
27 visions.

28 7. The attorney general may bring an action to recover the civil
29 penalties provided by subdivision six of this section and for such other
30 relief as may be deemed necessary. In addition, the corporation counsel
31 of any political subdivision that imposes a tax on vapor products may
32 bring an action to recover the civil penalties provided by subdivision
33 six of this section and for such other relief as may be deemed necessary
34 with respect to any vapor products shipped, caused to be shipped or
35 transported in violation of this section to any person located within
36 such political subdivision. All civil penalties obtained in any such
37 action shall be retained by the state or political subdivision bringing
38 such action, provided that no person shall be required to pay civil
39 penalties to both the state and a political subdivision with respect to
40 the same violation of this section.

41 § 2. This act shall take effect immediately.