

# STATE OF NEW YORK

3905--A

2019-2020 Regular Sessions

## IN SENATE

February 21, 2019

Introduced by Sens. RIVERA, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to including electronic cigarettes in the regulation of tobacco products

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

1 Section 1. Section 1399-aa of the public health law is amended by  
2 adding a new subdivision 14 to read as follows:

3 14. "Vapor products dealer" shall have the same meaning as in subdivi-  
4 sion (b) of section eleven hundred eighty of the tax law.

5 § 2. Section 1399-hh of the public health law, as added by chapter 433  
6 of the laws of 1997, is amended to read as follows:

7 § 1399-hh. Tobacco and electronic cigarette enforcement. The commis-  
8 sioner shall develop, plan and implement a comprehensive program to  
9 reduce the prevalence of tobacco and electronic cigarette use, partic-  
10 ularly among persons less than [~~eighteen~~] twenty-one years of age. This  
11 program shall include, but not be limited to, support for enforcement of  
12 this article [~~thirteen-F of this chapter~~].

13 1. An enforcement officer, as defined in section thirteen hundred  
14 ninety-nine-t of this chapter, may annually, on such dates as shall be  
15 fixed by the commissioner, submit an application for such monies as are  
16 made available for such purpose. Such application shall be in such form  
17 as prescribed by the commissioner and shall include, but not be limited  
18 to, plans regarding random spot checks, including the number and types  
19 of compliance checks that will be conducted, and other activities to  
20 determine compliance with this article. Each such plan shall include an  
21 agreement to report to the commissioner: the names and addresses of  
22 tobacco retailers and vendors and vapor products dealers determined to  
23 be unlicensed, if any; the number of complaints filed against licensed

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

LBD01661-06-9

1 tobacco retail outlets and vapor products dealers; and the names of  
2 tobacco retailers and vendors and vapor products dealers who have paid  
3 fines, or have been otherwise penalized, due to enforcement actions.

4 2. The commissioner shall distribute such monies as are made avail-  
5 able for such purpose to enforcement officers and, in so doing, consider  
6 the number of licensed vapor products dealers and retail locations  
7 registered to sell tobacco products within the jurisdiction of the  
8 enforcement officer and the level of proposed activities.

9 3. Monies made available to enforcement officers pursuant to this  
10 section shall only be used for local tobacco and electronic cigarette  
11 enforcement activities approved by the commissioner.

12 § 3. Section 1399-jj of the public health law, as amended by chapter 1  
13 of the laws of 1999, is amended to read as follows:

14 § 1399-jj. Evaluation requirements. 1. The commissioner shall evaluate  
15 the effectiveness of the efforts by state and local governments to  
16 reduce the use of tobacco products and electronic cigarettes among  
17 minors and adults. The principal measurements of effectiveness shall  
18 include negative attitudes toward tobacco and electronic cigarette use  
19 and reduction of tobacco and electronic cigarette use among the general  
20 population, and given target populations.

21 2. The commissioner shall ensure that, to the extent practicable, the  
22 most current research findings regarding mechanisms to reduce and change  
23 attitudes toward tobacco and electronic cigarette use are used in tobac-  
24 co and electronic cigarette education programs administered by the  
25 department.

26 3. To diminish tobacco and electronic cigarette use among minors and  
27 adults, the commissioner shall ensure that, to the extent practicable,  
28 the following is achieved:

29 The department shall conduct an independent evaluation of the state-  
30 wide tobacco use prevention and control program under section thirteen  
31 hundred ninety-nine-ii of this article. The purpose of this evaluation  
32 is to direct the most efficient allocation of state resources devoted to  
33 tobacco and electronic cigarette education and cessation to accomplish  
34 the maximum prevention and reduction of tobacco and electronic cigarette  
35 use among minors and adults. Such evaluation shall be provided to the  
36 governor, the majority leader of the senate and the speaker of the  
37 assembly on or before September first, two thousand one, and annually on  
38 or before such date thereafter. The comprehensive evaluation design  
39 shall be guided by the following:

40 (a) sound evaluation principles including, to the extent feasible,  
41 elements of controlled experimental methods;

42 (b) an evaluation of the comparative effectiveness of individual  
43 program designs which shall be used in funding decisions and program  
44 modifications; and

45 (c) an evaluation of other programs identified by state agencies,  
46 local lead agencies, and federal agencies.

47 § 4. Section 1399-kk of the public health law, as added by chapter 433  
48 of the laws of 1997, is amended to read as follows:

49 § 1399-kk. Annual tobacco and e-cigarette enforcement reporting. The  
50 commissioner shall submit to the governor and the legislature an interim  
51 tobacco control report and annual tobacco control reports which shall  
52 describe the extent of the use of tobacco products and e-cigarettes by  
53 ~~[minors]~~ those under the age of twenty-one in the state and document the  
54 progress state and local governments have made in reducing such use  
55 among ~~[minors]~~ those under the age of twenty-one.

1 1. The interim tobacco and e-cigarette control report. The commission-  
2 er shall submit to the governor and the legislature an interim tobacco  
3 and e-cigarette control report on or before September first, nineteen  
4 hundred ninety-eight. Such interim report shall, to the extent practica-  
5 ble, include the following information on a county by county basis:

6 (a) number of licensed and registered tobacco retailers and vendors  
7 and licensed vapor products dealers;

8 (b) the names and addresses of retailers and vendors who have paid  
9 fines, or have been otherwise penalized, due to enforcement actions;

10 (c) the number of complaints filed against licensed and registered  
11 tobacco retailers and licensed vapor products dealers;

12 (d) the number of fires caused or believed to be caused by tobacco  
13 products and e-cigarettes and deaths and injuries resulting therefrom;

14 (e) the number and type of compliance checks conducted; and

15 (f) such other information as the commissioner deems appropriate.

16 2. The commissioner shall submit to the governor and the legislature  
17 an annual tobacco and e-cigarette control report which shall describe  
18 the extent of the use of tobacco products and e-cigarettes by [~~minors~~]  
19 those under the age of twenty-one in the state and document the progress  
20 state and local governments have made in reducing such use among  
21 [~~minors~~] those under the age of twenty-one. The annual report shall be  
22 submitted to the governor and the legislature on or before March thir-  
23 ty-first of each year beginning on March thirty-first, nineteen hundred  
24 ninety-nine. The annual report shall, to the extent practicable,  
25 include the following information on a county by county basis:

26 (a) number of licensed and registered tobacco retailers and vendors  
27 and licensed vapor products dealers;

28 (b) the names and addresses of retailers and vendors who have paid  
29 fines, or have been otherwise penalized, due to enforcement actions;

30 (c) the number of complaints filed against licensed and registered  
31 tobacco retailers and licensed vapor products dealers;

32 (d) the number of fires caused or believed to be caused by tobacco  
33 products and e-cigarettes and deaths and injuries resulting therefrom;

34 (e) the number and type of compliance checks conducted;

35 (f) a survey of attitudes and behaviors regarding tobacco use among  
36 [~~minors~~] those under the age of twenty-one. The initial such survey  
37 shall be deemed to constitute the baseline survey;

38 (g) the number of tobacco and e-cigarette users and estimated trends  
39 in tobacco and e-cigarette use among [~~minors~~] those under the age of  
40 twenty-one;

41 (h) annual tobacco and e-cigarette sales;

42 (i) tax revenue collected from the sale of tobacco products and e-ci-  
43 garettes;

44 (j) the number of licensed tobacco retail outlets and licensed vapor  
45 products dealers;

46 (k) the number of cigarette vending machines;

47 (l) the number and type of compliance checks;

48 (m) the names of entities that have paid fines due to enforcement  
49 actions; and

50 (n) the number of complaints filed against licensed tobacco retail  
51 outlets and licensed vapor products dealers.

52 The annual tobacco and e-cigarette control report shall, to the extent  
53 practicable, include the following information: (a) tobacco and e-cigar-  
54 ette control efforts sponsored by state government agencies including  
55 money spent to educate [~~minors~~] those under the age of twenty-one on the  
56 hazards of tobacco and e-cigarette use;

1 (b) recommendations for improving tobacco and e-cigarette control  
2 efforts in the state; and  
3 (c) such other information as the commissioner deems appropriate.  
4 § 5. This act shall take effect on the ninetieth day after it shall  
5 have become a law.