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:

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

14. "Vapor products dealer" shall have the same meaning as in subdivision (b) of section eleven hundred eighty of the tax law.

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

§ 1399-hh. Tobacco **and electronic cigarette** enforcement. The commissioner shall develop, plan and implement a comprehensive program to reduce the prevalence of tobacco **and electronic cigarette** use, particularly among persons less than [~~eighteen~~] **twenty-one** years of age. This program shall include, but not be limited to, support for enforcement of **this** article [~~thirteen-F of this chapter~~].

1. An enforcement officer, as defined in section thirteen hundred ninety-nine-t of this chapter, may annually, on such dates as shall be fixed by the commissioner, submit an application for such monies as are made available for such purpose. Such application shall be in such form as prescribed by the commissioner and shall include, but not be limited to, plans regarding random spot checks, including the number and types of compliance checks that will be conducted, and other activities to determine compliance with this article. Each such plan shall include an agreement to report to the commissioner: the names and addresses of tobacco retailers and vendors **and vapor products dealers** determined to 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.

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

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

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

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

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

2. The commissioner shall ensure that, to the extent practicable, the most current research findings regarding mechanisms to reduce and change attitudes toward tobacco **and electronic cigarette** use are used in tobacco **and electronic cigarette** education programs administered by the department.

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

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

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

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

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

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

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

1. The interim tobacco and e-cigarette control report. The commissioner shall submit to the governor and the legislature an interim tobacco and e-cigarette control report on or before September first, nineteen hundred ninety-eight. Such interim report shall, to the extent practicable, include the following information on a county by county basis:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) annual tobacco and e-cigarette sales;

(i) tax revenue collected from the sale of tobacco products and e-cigarettes;

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

(k) the number of cigarette vending machines;

(l) the number and type of compliance checks;

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

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

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

(b) recommendations for improving tobacco **and e-cigarette** control efforts in the state; and

(c) such other information as the commissioner deems appropriate.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law.