# STATE OF NEW YORK

4249--A

2019-2020 Regular Sessions

# IN SENATE

March 5, 2019

Introduced by Sens. MARTINEZ, GOUNARDES, KRUEGER, PARKER, THOMAS -- 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 prohibited locations for retail electronic cigarette stores and tobacco businesses

**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. "Retail electronic cigarette store" means a retail store devoted primarily to the sale of electronic cigarettes, and in which the sale of other products is incidental. The sale of such other products shall be considered incidental if such sales generate less than twenty-five percent of the total annual gross sales.**

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

**§ 1399-mm-1. Retail electronic cigarette stores and tobacco businesses; prohibited locations of new stores. 1. No new retail electronic cigarette store and/or tobacco business shall be constructed or located:**

**(a) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship;**

**(b) in a city within five hundred feet of three or more existing retail electronic cigarette stores and/or tobacco businesses; or**

**(c) in a town or village within a two square mile area of three or more existing retail electronic cigarette stores and/or tobacco businesses.**

**2. The measurements in paragraphs (a), (b) and (c) of subdivision one of this section are to be taken in straight lines from the center of the**

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

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nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each new retail electronic cigarette store and/or tobacco business.

3. Within the context of this section, the word "entrance" shall mean a door of a school, of a house of worship, or of a new retail electronic cigarette store and/or tobacco business, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of a new retail electronic cigarette store and/or tobacco business, except that where a school or house of worship or new retail electronic cigarette store and/or tobacco business is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".

4. Within the context of this section, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fundraising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.

5. The provisions of this section shall not apply to any currently existing retail electronic cigarette stores and/or tobacco businesses.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.