STATE OF NEW YORK

428--A

Cal. No. 189

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sens. HOYLMAN, FUNKE, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to prohibiting the sale and distribution of flavored e-liquid for use in e-cigarettes

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

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

§ 1399-mm-1. Sale of flavored e-liquid prohibited. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "flavored e-liquid" shall mean a liquid composed of nicotine and/or chemicals, and which is sold as a product that may be used in an electronic cigarette which contains a natural or artificial constituent or additive that causes such e-liquid or its smoke to have a characterizing flavor.

(b) "characterizing flavor" shall mean a distinguishable taste or aroma, including but not limited to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, menthol, alcoholic beverage, herb or spice flavoring, but shall not include tobacco.

2. No person shall sell, offer for sale or distribute in this state any flavored e-liquid or e-cigarette containing flavored e-liquid. No other provision of law authorizing the sale of tobacco products shall authorize the sale of flavored e-liquid.

3. Any person other than a manufacturer who violates the provisions of this section shall be subject to a fine of not more than one hundred dollars for each individual package of flavored e-liquid product sold or offered for sale. A manufacturer may be subject to a civil penalty not

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

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to exceed fifty thousand dollars for each brand or style of such manufacturer's tobacco products that is found to have been sold or offered for sale in violation of this section on more than one occasion during any thirty day period, provided, however, that with respect to a manufacturer, it shall be an affirmative defense to a finding of violation pursuant to this section that such sale or offer of sale, as applicable, occurred without the knowledge, consent, authorization and involvement, direct or indirect, of such manufacturer. Violations of this section shall be enforced pursuant to section thirteen hundred ninety-nine-ff of this article, except that any person may submit a complaint to an enforcement officer that a violation of this section has occurred.

§ 2. This act shall take effect immediately.