STATE OF NEW YORK

6054

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the reporting of a person allowing, enabling or providing electronic cigarettes to a child

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

Section 1. Section 412 of the social services law is amended by adding two new subdivisions 10 and 11 to read as follows:

10. "Electronic cigarette" or "e-cigarette" shall have the same meaning as defined in subdivision thirteen of section thirteen hundred ninety-nine-aa of the public health law.

11. "Person" shall have the same meaning as defined in subdivision three of section thirteen hundred ninety-nine-aa of the public health law.

§ 2. Section 413 of the social services law is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any other provision of law to the contrary imposing a duty of confidentiality, any person subject to the reporting requirements of this title shall report or cause a report to be made in accordance with this title when, as a result of performing such duties, such person has reasonable cause to suspect that a person allows, enables or provides a child to use electronic cigarettes, including but not limited to: any store that distributes such products to minors; and any parent or legal guardian who helps a child purchase or provide such products in violation of section thirteen hundred ninety-nine-bb of the public health law.

§ 3. Section 414 of the social services law, as added by chapter 1039 of the laws of 1973, is amended to read as follows:

§ 414. Any person permitted to report. In addition to those persons and officials required to report suspected child abuse or maltreatment,

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

LBD11656-01-9

the use of electronic cigarettes by a child pursuant to section four hundred fifteen of this title, any person may make such a report if such person has reasonable cause to suspect that a child is an abused or maltreated child or if a person allows, enables or provides a child with electronic cigarettes in violation of section thirteen hundred ninety-nine-bb of the public health law.

§ 4. Section 415 of the social services law is amended by adding a new undesignated paragraph to read as follows:

Reports of suspected allowing, enabling or providing of electronic cigarettes to a child in violation of section thirteen hundred ninety-nine-bb of the public health law made pursuant to this title shall be made immediately by telephone or by telephone facsimile machine. Oral reports shall be followed by a report in writing within forty-eight hours after such oral report. Such oral and written reports shall be made to any police officer or agent authorized to lawfully investigate acts of suspected child abuse, maltreatment, or the provision of electronic cigarettes to a child. For purposes of this paragraph, written reports shall disclose only such limited confidential information as is necessary for such police officer to identify the child's location and status; the name and address of the person or persons alleged to be responsible for allowing, enabling or providing electronic cigarettes to a child in violation of section thirteen hundred ninety-nine-bb of the public health law; the source of the report; the name, address and telephone number of the person making the report; and any action taken by the reporting source with regard to such violation. Written reports from persons or officials required by this title to report may be submitted electronically and shall be admissible in any proceedings relating to child abuse or maltreatment.

§ 5. Section 419 of the social services law, as amended by chapter 12 of the laws of 1996, is amended to read as follows:

§ 419. Immunity from liability. Any person, official, or institution participating in good faith in the providing of a service pursuant to section four hundred twenty-four of this title, the making of a report, the taking of photographs, the removal or keeping of a child pursuant to this title, reporting the allowing, enabling or providing of electronic cigarettes to a child in violation of section thirteen hundred ninety-nine-bb of the public health law pursuant to this title, or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any such person, official, or institution required to report cases of child abuse or maltreatment or providing a service pursuant to section four hundred twenty-four or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall be presumed, provided such person, official or institution was acting in discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution.

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