STATE OF NEW YORK

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IN ASSEMBLY

March 28, 2022

Introduced by M. of A. BYRNE, ABINANTI, ASHBY, BYRNES, DURSO, GALEF, J. A. GIGLIO, GOODELL, McDONOUGH, B. MILLER, MORINELLO, SALKA, SAYEGH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the packaging, sale and distribution of confectionery and candy designed to resemble a tobacco product

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-4 to read as follows:

§ 1399-mm-4. Packaging, sale and distribution of confectionery or candy product designed to resemble a tobacco product prohibited. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Manufacture" shall mean the production, preparation, processing, packaging, repackaging, labeling or relabeling of a confectionery or candy product designed to resemble a tobacco product.

b. "Markings" shall mean a simulated trademark, trade name, imprinting or other mark, or likeness thereof, of the manufacturer, distributor or dispenser of tobacco products or a simulated symbol or likeness thereof identifying a tobacco product or combination of such products.

c. "Candy and confectionery" shall include preparations of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of, but not limited to, bars, drops, or pieces. Examples of candy and confectionery include: candy bars; chocolates; fruit, nuts, and popcorn covered with caramel, chocolate, honey, sprinkles, or other similar coatings; honey-roasted nuts; chewing gum; fudge; maple sugar candy; candy or chocolate covered marshmallows in decorative shapes; mints; peanut brittle; cotton candy; licorice; dietetic candy; and candied apples.

d. "Confectionery or candy product designed to resemble a tobacco product" shall mean any confectionery or candy product made as a facsimile of a cigarette, pipe or cigar and is clearly designed to simulate or

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

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mimic a tobacco product, which includes, but is not limited to, candy or chocolate cigarettes, and bubble gum cigars. Evidence of representations that the confectionery or candy product is a tobacco product may include, but is not limited to, oral or written representations by the manufacturer or seller, as the case may be, about the confectionery or candy product with regard to: its packaging in a manner normally used for tobacco products, or markings on the confectionery or candy product.

2. No person, firm or corporation shall manufacture, sell or hold for sale confectionery or candy products which are made as a facsimile of a cigarette, pipe or cigar and are clearly designed to simulate or mimic a tobacco product.

3. No person, firm or corporation manufacturing or selling confectionery or candy products shall use, for advertising or packaging purposes, any name, symbol, device or other identifying mark which is similar to the name, symbol, device or mark used in advertising or sale of a tobacco product.

4. No other provision of law authorizing the sale of confectionery and/or candy products shall authorize the sale of confectionery and/or candy products designed to resemble a tobacco product.

5. This section shall apply to confectionery and candy of all types, and similar products that are regarded as candy or confectionery, based on their normal use or marketing.

6. Violation of the provisions of this section shall be an offense subject to a civil fine of not less than one hundred dollars and no more than five hundred dollars.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.