# STATE OF NEW YORK

1874

2021-2022 Regular Sessions

# IN SENATE

January 16, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to making it unlawful for a person under the age of twenty-one to possess tobacco and vaping products

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

Section 1. Article 13-F of the public health law is amended by adding a new section 1399-mm-4 to read as follows:

**§ 1399-mm-4. Unlawful possession of tobacco or vaping products by persons under the age of twenty-one years. 1. Except as otherwise provided in this section, no person under the age of twenty-one years shall possess any tobacco or vaping product.**

**2. Any person who unlawfully possesses a tobacco or vaping product may be summoned before and examined by a court having jurisdiction of that charge; provided, however, that nothing in this section shall authorize or be construed to authorize a peace officer, a police officer or an enforcement officer to arrest a person who unlawfully possesses a tobacco or vaping product. If a determination is made sustaining such charge the court may impose a civil fine not exceeding fifty dollars and/or completion of a tobacco awareness program if such program is being offered and/or an appropriate amount of community service not to exceed thirty hours.**

**3. No such determination shall operate as a disqualification of any such person subsequently to hold public office, public employment or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no such person shall be denominated a criminal by reason of such determination, nor shall such determination be deemed a conviction.**

**4. Whenever a peace officer, police officer or an enforcement officer shall observe a person under twenty-one years of age openly in**

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

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possession of a tobacco or vaping product, such officer may seize the tobacco or vaping product and shall deliver it to the custody of his or her department.

5. Any tobacco or vaping product seized in violation of this section is hereby declared a nuisance. The official to whom the tobacco or vaping product has been delivered shall, no earlier than three days following the return date for initial appearance on the summons, dispose of or destroy the tobacco or vaping product seized or cause it to be disposed of or destroyed. Any person claiming ownership of a tobacco or vaping product seized under this section may, on the initial return date of the summons or earlier on five days notice to the official or department in possession of the tobacco or vaping product, apply to the court for an order preventing the destruction or disposal of the tobacco or vaping product seized and ordering the return of that tobacco or vaping product. The court may order the tobacco or vaping product returned if it is determined that return of the tobacco or vaping product would be in the interest of justice or that the tobacco or vaping product was improperly seized.

6. For purposes of this section, "vaping products" shall mean the use of an electronic cigarette or any products associated with the use of such.

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