

STATE OF NEW YORK

1278

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

Introduced by Sens. KRUEGER, KAMINSKY -- 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 enacting the
tobacco product waste reduction act

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

- 1 Section 1. This act shall be known and may be cited as the "tobacco
2 product waste reduction act".
3 § 2. Legislative findings. The legislature finds and declares the
4 following:
5 1. The use of tobacco products causes death and disease and continues
6 to be an urgent public health challenge. The United States Department of
7 Health and Human Services and the New York State Department of Health
8 have reported the following:
9 a. Tobacco-related illness is the leading cause of preventable death
10 in the United States, accounting for about 480,000 deaths each year,
11 including 28,200 New York adults.
12 b. Annually in New York State, 10,600 youth become new daily smokers
13 and an estimated 280,000 New York youth now alive will die early from
14 smoking.
15 c. Tobacco use can cause chronic lung disease, diabetes, eye disease,
16 rheumatoid arthritis, coronary heart disease, stroke, ectopic pregnancy,
17 and infertility, in addition to leukemia and cancer of the lungs,
18 larynx, colon, liver, esophagus, pancreas, kidney, cervix, bladder,
19 stomach, and mouth.
20 d. Tobacco-related health care annually costs New Yorkers \$10.4
21 billion, including \$3.3 billion in Medicaid expenses.
22 2. Cigarette filters, also known as butts, do not improve the safety
23 or healthfulness of cigarettes or other tobacco products, and research
24 indicates that they likely increase the negative public health effects
25 of tobacco products.

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

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1 a. According to a 2014 Surgeon General's report, "evidence suggests
2 that ventilated filters may have contributed to higher risks of lung
3 cancer by enabling smokers to inhale more vigorously, thereby drawing
4 carcinogens contained in cigarette smoke more deeply into lung tissue."

5 b. The perception that filtered cigarettes are safer encourages smok-
6 ing and leads to increased public harm. In 2010, the United States
7 joined Canada and the EU in prohibiting the use of tobacco packaging or
8 advertising using terms like "light," "mild," or "low," which convey the
9 false impression that filters reduce risk.

10 c. A 2017 study from the National Cancer Institute recommended that
11 "the FDA should consider regulating {filter use}, up to and including a
12 ban."

13 3. Electronic cigarettes and similar products pose health hazards and
14 may contribute to youth smoking and reduced smoking cessation, regard-
15 less of nicotine content.

16 a. These products contain or produce chemicals other than nicotine
17 known to be toxic, carcinogenic and causative of respiratory and heart
18 distress.

19 b. Emissions from these products may contain particulate matter, harm-
20 ful to those exposed, including bystanders involuntarily exposed. The
21 United States Food and Drug Administration (FDA) has presented evidence
22 of nicotine and other toxicants in exhaled electronic cigarette aerosol
23 and stated exposure should be limited.

24 c. Nicotine-containing electronic cigarettes are the most common nico-
25 tine products used by students, with three million middle and high
26 school students using them since 2015, according to a study published in
27 Morbidity and Mortality Weekly Report.

28 d. The FDA has expressed concern that use of these products, whether
29 or not they contain nicotine, will provide visual cues to youth and will
30 renormalize cigarette smoking and use of tobacco products, undermining
31 tobacco control effort and contributing to smoking initiation and
32 reduced cessation, particularly among youth.

33 4. Cigarette butts are a plastic product that significantly contrib-
34 utes to pollution in soil, waterways, and beaches, and impacts the
35 health of fish and other wildlife, as well as the safety of the food
36 supply for humans.

37 a. Cigarette butts are the most collected item internationally in
38 beach and waterway cleanup programs. It is estimated that 5.6 trillion
39 cigarette butts end up as litter annually worldwide, totaling 845,000
40 tons of waste. Plastic cigar tips, commonly sold and used with cigaril-
41 los and small cigars, are also among the world's most littered objects.

42 b. Cigarette butts have been described as "the last socially accepted
43 form of litter." A 2012 survey of cigarette smokers published in the
44 International Journal of Environmental Research and Public Health found
45 that 55.7 percent reported littering cigarette butts in the past month.

46 c. Nearly all cigarette filters are made of cellulose acetate, a king
47 of plastic. They are not biodegradable. Instead, they break down into
48 small particles that end up in waterways, in the bodies of fish and
49 other animals, and eventually in our food supply.

50 d. Even if filters could be made of biodegradable materials, they
51 would still be rendered hazardous due to toxins accumulated in the smok-
52 ing process, including arsenic, cadmium, toluene, nicotine, and ethyl-
53 phenol, as well as bio-accumulated toxins from the environment.

54 e. Single-use electronic cigarettes and cartridges contain components
55 such as lithium-ion batteries, as well as toxic chemicals and liquid
56 nicotine that together qualify them as electronic, toxic, and hazardous

1 waste. A single user could discard hundreds of single-use e-cigarettes
2 every year. Such waste is inappropriate for standard municipal
3 collection.

4 f. The cost to individual municipalities of cleaning up cigarette
5 butts and single-use electronic cigarettes can run into the tens of
6 millions of dollars.

7 5. Littered cigarette filters and liquid nicotine from single-use
8 electronic cigarettes and cartridges pose a health threat to young chil-
9 dren.

10 a. In 2013, the American Association of Poison Control Centers
11 reported receiving over 8,500 reports of children under age 13 poisoned
12 by cigarettes, cigarette butts, and other tobacco products.

13 b. Children poisoned by cigarette butts or liquid nicotine can experi-
14 ence vomiting, nausea, lethargy, eye irritation, and gagging.

15 c. Calls to American poison control centers concerning liquid nicotine
16 exposures increased from one in February 2010 to 2,015 in February 2014,
17 most of which involved children under the age of five, according to a
18 study published in Morbidity and Mortality Weekly Report.

19 6. Efforts to prevent litter of cigarette filters or single-use elec-
20 tronic cigarettes by educating consumers have failed.

21 7. By banning the sale of cigarettes with single-use filters, New York
22 State will mitigate a source of plastic pollution while having a posi-
23 tive impact on public health.

24 § 3. The public health law is amended by adding a new section
25 1399-mm-4 to read as follows:

26 § 1399-mm-4. Prohibition on cigarettes utilizing single-use filters
27 and single-use electronic cigarettes. 1. As used in this section:

28 (a) "cigarette" means a cigarette as defined in section four hundred
29 seventy of the tax law;

30 (b) "filter" means a porous article, mass, or device through which
31 tobacco smoke or other related tobacco by-products pass for the purpose
32 of removing or appearing to remove tar, nicotine, or other toxins;

33 (c) "single-use" means designed or generally recognized by the public
34 as being designed for one-time use;

35 (d) "person" includes an individual, copartnership, limited liability
36 company, society, association, corporation, joint stock company, and any
37 combination of individuals and also an executor, administrator, receiv-
38 er, trustee or other fiduciary; and

39 (e) "tobacco products dealer" means any person operating a place of
40 business wherein tobacco products, herbal cigarettes, or electronic
41 cigarettes are sold or offered for sale, including any wholesale dealer
42 or retailer dealer as defined in section four hundred seventy of the tax
43 law, and any vapor products dealer as defined in section eleven hundred
44 eighty of the tax law.

45 2. No tobacco products dealer shall sell, permit to be sold, offer for
46 sale or display to another person in this state, whether in person or by
47 means of any public or private method of shipment or delivery to an
48 address in this state, any of the following:

49 (a) a cigarette utilizing a single-use filter made of any material,
50 including cellulose acetate, any other fibrous plastic material, or any
51 organic or biodegradable material;

52 (b) an attachable and single-use device made of any material meant to
53 facilitate manual manipulation or filtration of a cigarette or tobacco
54 product; or

55 (c) a single-use electronic cigarette.

1 For the purposes of this section, electronic cigarette shall not
2 include any product approved by the United States food and drug adminis-
3 tration as a drug or medical device, or manufactured and dispensed
4 pursuant to title five-A of article thirty-three of this chapter.

5 3. Any person who violates any provision of this section shall be
6 liable for a civil penalty of five hundred dollars for the first
7 violation, one thousand dollars for the second violation, and one thou-
8 sand five hundred dollars for any subsequent violation in the same
9 calendar year. For purposes of this section, the sale of one to twenty
10 items specified in paragraph (a), (b) or (c) of subdivision two of this
11 section constitutes a single violation.

12 § 4. If any provision of this act, or any application of any provision
13 of this act, is held to be invalid, that shall not affect the validity
14 or effectiveness of any provision of this act, or of any other applica-
15 tion of any provision of this act, which can be given effect without
16 that provision or application; and to that end, the provisions and
17 applications of this act are severable.

18 § 5. This act shall take effect on the first of January, 2023. Effec-
19 tive immediately, the addition, amendment and/or repeal of any rule or
20 regulation necessary for the implementation of this act on its effective
21 date are authorized to be made and completed on or before such effective
22 date.