STATE OF NEW YORK

778--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to research and misrepresentations of electronic cigarettes; and to amend the public health law, in relation to restricting certain advertisement and promotion of electronic cigarettes

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

Section 1. The general business law is amended by adding a new article 24-D to read as follows:

ARTICLE 24-D
RESEARCH AND MISREPRESENTATION OF ELECTRONIC CIGARETTES

Section 375. Research and misrepresentations of electronic cigarettes.

§ 375. Research and misrepresentations of electronic cigarettes. 1. Any provision or restriction in a contract or other agreement relating to the development of electronic cigarettes and products relating to their use including, but not limited to, components of such devices, heretofore or hereafter made or entered into, which limits, restrains, prohibits or otherwise provides for the suppression of research into the health consequences of the use of electronic cigarettes, is hereby declared to be void as against public policy and wholly unenforceable.

2. No manufacturer, distributor, or retailer engaged in the business of manufacturing, selling, advertising, marketing or otherwise distributing electronic cigarettes shall misrepresent any facts regarding the health consequences of the use of electronic cigarettes.

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

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3. Any person, firm, corporation, partnership, association, limited liability company, or other entity that violates the provisions of this section shall be subject to a civil penalty of not more than five hundred dollars per violation, recoverable in an action by the attorney general or by any enforcement authority designated by any municipality or political subdivision.

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

§ 1399-bb-1. Promotions prohibited. 1. No manufacturer and no distributor of electronic cigarettes shall market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold any item (other than electronic cigarettes) or service, which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic cigarette.

2. No manufacturer, distributor, or retailer may offer or cause to be offered any gift or item to any person purchasing electronic cigarettes in consideration of the purchase thereof.

3. No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, in the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic cigarette. Nothing in this subdivision prevents a manufacturer, distributor, or retailer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or team or entry, in the name of the corporation which manufactures the electronic cigarettes, provided that both the corporate name and the corporation were registered and in use in the United States prior to January first, two thousand twenty-one, and that the corporate name does not include any brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic cigarettes.

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