STATE OF NEW YORK

10713

IN ASSEMBLY

September 18, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the sale of entertainment vapor products

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-ll-1 to read as follows:

§ 1399-ll-1. Sale of entertainment vapor products prohibited. 1. For the purposes of this section, "entertainment vapor product" shall mean any vapor product that has bluetooth, wireless internet or other internet connectivity, or provides interactive features designed to enhance user experience, including but not limited to the ability for a user to play music, display photos or video, play virtual games or display other animations on the device.

2. No vapor products dealer, or any agent or employee of a vapor products dealer, shall sell or offer for sale at retail in the state any entertainment vapor product intended or reasonably expected to be used with or for the consumption of nicotine.

3. Any vapor products dealer, or any agent or employee of a vapor products dealer, who violates the provisions of this section shall be subject to a civil penalty of not more than one hundred dollars for each individual package of entertainment vapor product intended or reasonably expected to be used with or for the consumption of nicotine sold or offered for sale, provided, however, that with respect to a manufacturer, it shall be an affirmative defense to a finding of violation pursuant to this section that such sale or offer of sale, as applicable, occurred without the knowledge, consent, authorization, or involvement, direct or indirect, of such manufacturer. Violations of this section shall be enforced pursuant to section thirteen hundred ninety-nine-ff of this article, except that any person may submit a complaint to an enforcement officer that a violation of this section has occurred.

4. The provisions of this section shall not apply to any vapor products dealer, or any agent or employee of a vapor products dealer,

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

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who sells or offers for sale, or who possess with intent to sell or offer for sale, any entertainment vapor product intended or reasonably expected to be used with or for the consumption of nicotine that the U.S. food and drug administration has authorized to legally market as defined under 21 U.S.C. § 387j and that has received a premarket review approval order under 21 U.S.C. § 387j(c) et seq.

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