STATE OF NEW YORK

8243

2023-2024 Regular Sessions

IN ASSEMBLY

November 6, 2023

Introduced by M. of A. ZACCARO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to inspection of retail premises authorized to sell tobacco and vapor products

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

Section 1. The opening paragraph of section 1399-hh of the public health law, as amended by section 8 of part EE of chapter 56 of the laws of 2020, is amended to read as follows:

The commissioner shall develop, plan and implement a comprehensive program to reduce the prevalence of tobacco use, and vapor product, intended or reasonably expected to be used with or for the consumption of nicotine, use particularly among persons less than twenty-one years of age. This program shall include, but not be limited to, support for enforcement of this article. **An enforcement officer, or the department where no enforcement officer has been designated, shall conduct random inspections on a quarterly basis of each retail dealer licensed to sell cigarettes, tobacco products, or vapor products at establishments located within the jurisdiction of such enforcement officer or office, to determine compliance with the provisions of this article and any other laws, rules or regulations relating to the sale of tobacco and vapor products.**

§ 2. Subdivisions 2 and 3 of section 1399-ee of the public health law, subdivision 3 as amended by chapter 162 of the laws of 2002, and subdivision 2 and paragraphs (e) and (f) of subdivision 3 as amended by section 6 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

2. If the enforcement officer determines after a hearing that a violation of this article has occurred, he or she shall impose a civil penalty of a minimum of [~~three~~] **six** hundred dollars, but not to exceed [~~one~~] **three** thousand [~~five hundred~~] dollars for a first violation, and a

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

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minimum of [~~one~~] **two** thousand dollars, but not to exceed [~~two~~] **five** thousand [~~five hundred~~] dollars for each subsequent violation, unless a different penalty is otherwise provided in this article. The enforcement officer shall advise the retail dealer that upon the accumulation of three or more points pursuant to this section the department of taxation and finance shall suspend the dealer's registration. If the enforcement officer determines after a hearing that a retail dealer was selling tobacco products while their registration was suspended or permanently revoked pursuant to subdivision three or four of this section, he or she shall impose a civil penalty of [~~twenty-five hundred~~] **ten thousand** dollars.

3. (a) Imposition of points. If the enforcement officer determines, after a hearing, that the retail dealer violated subdivision one of section thirteen hundred ninety-nine-cc of this article with respect to a prohibited sale to a minor, he or she shall, in addition to imposing any other penalty required or permitted pursuant to this section, assign two points to the retail dealer's record where the individual who committed the violation did not hold a certificate of completion from a state certified tobacco sales training program and one point where the retail dealer demonstrates that the person who committed the violation held a certificate of completion from a state certified tobacco sales training program.

(b) Revocation. If the enforcement officer determines, after a hearing, that a retail dealer has violated this article four times within a three year time frame he or she shall, in addition to imposing any other penalty required or permitted by this section, direct the commissioner of taxation and finance to revoke the dealer's registration for [~~one year~~] **three years**.

(c) Duration of points. Points assigned to a retail dealer's record shall be assessed for a period of thirty-six months beginning on the first day of the month following the assignment of points.

(d) Reinspection. Any retail dealer who is assigned points pursuant to paragraph (a) of this subdivision shall be reinspected at [~~least two times a~~] **random on a quarterly basis each** year by the enforcement officer until points assessed are removed from the retail dealer's record.

(e) Suspension. If the department determines that a retail dealer has accumulated three points or more, the department shall direct the commissioner of taxation and finance to suspend such dealer's registration for one year. The three points serving as the basis for a suspension shall be erased upon the completion of the one year penalty.

(f) Surcharge. A [~~two hundred fifty dollar~~] **five hundred dollars** surcharge to be assessed for every violation will be made available to enforcement officers and shall be used solely for compliance checks to be conducted to determine compliance with this section.

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