

# STATE OF NEW YORK

536--A

Cal. No. 149

2023-2024 Regular Sessions

## IN SENATE

January 4, 2023

Introduced by Sens. THOMAS, BROUK, CHU, GOUNARDES, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to research relating to 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 RELATING TO ELECTRONIC CIGARETTES

##### Section 375. Research relating to electronic cigarettes.

§ 375. Research relating to electronic cigarettes. 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. The public health law is amended by adding a new section 1399-bb-1 to read as follows:

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

LBD01874-04-3

1     § 1399-bb-1. Promotions prohibited. 1. No manufacturer and no  
2 distributor of electronic cigarettes shall market, license, distribute,  
3 sell, or cause to be marketed, licensed, distributed, or sold any item  
4 (other than electronic cigarettes, including parts, components or acces-  
5 sories of electronic cigarettes) or service, which bears the brand name  
6 (alone or in conjunction with any other word), logo, symbol, motto,  
7 selling message, recognizable color or pattern of colors, or any other  
8 indicia of product identification identical or similar to, or identifi-  
9 able with, those used for any brand of electronic cigarette. This subdivi-  
10 vision shall not apply to a retailer's point of sale promotional materi-  
11 als for electronic cigarettes.

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

15     3. No manufacturer, distributor, or retailer may sponsor or cause to  
16 be sponsored any athletic, musical, artistic, or other social or  
17 cultural event, or any entry or team in any event, in the brand name  
18 (alone or in conjunction with any other word), logo, symbol, motto,  
19 selling message, recognizable color or pattern of colors, or any other  
20 indicia of product identification identical or similar to, or identifi-  
21 able with, those used for any brand of electronic cigarette. Nothing in  
22 this subdivision prevents a manufacturer, distributor, or retailer from  
23 sponsoring or causing to be sponsored any athletic, musical, artistic,  
24 or other social or cultural event, or team or entry, in the name of the  
25 corporation which manufactures the electronic cigarettes, provided that  
26 the corporate name does not include any brand name (alone or in conjunc-  
27 tion with any other word), logo, symbol, motto, selling message, recog-  
28 nizable color or pattern of colors, or any other indicia of product  
29 identification identical or similar to, or identifiable with, those used  
30 for any brand of electronic cigarettes.

31     § 3. This act shall take effect on the first of January next succeed-  
32 ing the date on which it shall have become a law.