

# STATE OF NEW YORK

1652

2023-2024 Regular Sessions

## IN ASSEMBLY

January 17, 2023

Introduced by M. of A. L. ROSENTHAL, GUNTHER, SAYEGH, McDONOUGH,  
K. BROWN, DeSTEFANO -- read once and referred to the Committee on  
Health

AN ACT to amend the public health law, in relation to prohibiting the  
packaging, sale and distribution of confectionery and candy designed  
to resemble a tobacco product

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

Section 1. The public health law is amended by adding a new section  
1399-mm-4 to read as follows:

§ 1399-mm-4. Packaging, sale and distribution of confectionery or  
candy product designed to resemble a tobacco product prohibited. 1. For  
the purposes of this section, the following terms shall have the follow-  
ing meanings:

a. "Manufacture" shall mean the production, preparation, processing,  
packaging, repackaging, labeling or relabeling of a confectionery or  
candy product designed to resemble a tobacco product.

b. "Markings" shall mean a simulated trademark, trade name, imprinting  
or other mark, or likeness thereof, of the manufacturer, distributor or  
dispenser of tobacco products or a simulated symbol or likeness thereof  
identifying a tobacco product or combination of such products.

c. "Candy and confectionery" shall include preparations of sugar,  
honey, or other natural or artificial sweeteners in combination with  
chocolate, fruits, nuts or other ingredients or flavorings in the form  
of, but not limited to, bars, drops, or pieces. Examples of candy and  
confectionery include: candy bars; chocolates; fruit, nuts, and popcorn  
covered with caramel, chocolate, honey, sprinkles, or other similar  
coatings; honey-roasted nuts; chewing gum; fudge; maple sugar candy;  
candy or chocolate covered marshmallows in decorative shapes; mints;  
peanut brittle; cotton candy; licorice; dietetic candy; and candied  
apples.

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

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1 d. "Confectionery or candy product designed to resemble a tobacco  
2 product" shall mean any confectionery or candy product made as a facsim-  
3 ile of a cigarette, pipe or cigar and is clearly designed to simulate or  
4 mimic a tobacco product, which includes, but is not limited to, candy or  
5 chocolate cigarettes, and bubble gum cigars. Evidence of representa-  
6 tions that the confectionery or candy product is a tobacco product may  
7 include, but is not limited to, oral or written representations by the  
8 manufacturer or seller, as the case may be, about the confectionery or  
9 candy product with regard to: its packaging in a manner normally used  
10 for tobacco products, or markings on the confectionery or candy product.

11 2. No person, firm, or corporation shall manufacture, sell or hold for  
12 sale confectionery or candy products which are made as a facsimile of a  
13 cigarette, pipe or cigar and are clearly designed to simulate or mimic a  
14 tobacco product.

15 3. No person, firm, or corporation manufacturing or selling confec-  
16 tionery or candy products shall use, for advertising or packaging  
17 purposes, any name, symbol, device or other identifying mark which is  
18 similar to the name, symbol, device or mark used in advertising or sale  
19 of a tobacco product.

20 4. No other provision of law authorizing the sale of confectionery  
21 and/or candy products shall authorize the sale of confectionery and/or  
22 candy products designed to resemble a tobacco product.

23 5. This section shall apply to confectionery and candy of all types,  
24 and similar products that are regarded as candy or confectionery, based  
25 on their normal use or marketing.

26 6. Violation of the provisions of this section shall be an offense  
27 subject to a civil fine of not less than one hundred dollars and no more  
28 than five hundred dollars.

29 § 2. This act shall take effect on the first of January next succeed-  
30 ing the date on which it shall have become a law.