

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:

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

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

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

22 2. If the enforcement officer determines after a hearing that a
23 violation of this article has occurred, he or she shall impose a civil
24 penalty of a minimum of [~~three~~] six hundred dollars, but not to exceed
25 [~~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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1 minimum of [~~one~~] two thousand dollars, but not to exceed [~~two~~] five
2 thousand [~~five hundred~~] dollars for each subsequent violation, unless a
3 different penalty is otherwise provided in this article. The enforcement
4 officer shall advise the retail dealer that upon the accumulation of
5 three or more points pursuant to this section the department of taxation
6 and finance shall suspend the dealer's registration. If the enforcement
7 officer determines after a hearing that a retail dealer was selling
8 tobacco products while their registration was suspended or permanently
9 revoked pursuant to subdivision three or four of this section, he or she
10 shall impose a civil penalty of [~~twenty-five hundred~~] ten thousand
11 dollars.

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

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

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

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

36 (e) Suspension. If the department determines that a retail dealer has
37 accumulated three points or more, the department shall direct the
38 commissioner of taxation and finance to suspend such dealer's registra-
39 tion for one year. The three points serving as the basis for a suspen-
40 sion shall be erased upon the completion of the one year penalty.

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

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