

STATE OF NEW YORK

536

2023-2024 Regular Sessions

IN SENATE

January 4, 2023

Introduced by Sens. THOMAS, GOUNARDES, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to research and misrepresentations of 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:

1 Section 1. The general business law is amended by adding a new article
2 24-D to read as follows:

ARTICLE 24-D

RESEARCH AND MISREPRESENTATION OF ELECTRONIC CIGARETTES

5 Section 375. Research and misrepresentations of electronic cigarettes.

6 § 375. Research and misrepresentations of electronic cigarettes. 1.
7 Any provision or restriction in a contract or other agreement relating
8 to the development of electronic cigarettes and products relating to
9 their use including, but not limited to, components of such devices,
10 heretofore or hereafter made or entered into, which limits, restrains,
11 prohibits or otherwise provides for the suppression of research into the
12 health consequences of the use of electronic cigarettes, is hereby
13 declared to be void as against public policy and wholly unenforceable.

14 2. No manufacturer, distributor, or retailer engaged in the business
15 of manufacturing, selling, advertising, marketing or otherwise distrib-
16 uting electronic cigarettes shall misrepresent any facts regarding the
17 health consequences of the use of electronic cigarettes.

18 3. Any person, firm, corporation, partnership, association, limited
19 liability company, or other entity that violates the provisions of this
20 section shall be subject to a civil penalty of not more than five

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

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1 hundred dollars per violation, recoverable in an action by the attorney
2 general or by any enforcement authority designated by any municipality
3 or political subdivision.

4 § 2. The public health law is amended by adding a new section
5 1399-bb-1 to read as follows:

6 § 1399-bb-1. Promotions prohibited. 1. No manufacturer and no
7 distributor of electronic cigarettes shall market, license, distribute,
8 sell, or cause to be marketed, licensed, distributed, or sold any item
9 (other than electronic cigarettes) or service, which bears the brand
10 name (alone or in conjunction with any other word), logo, symbol, motto,
11 selling message, recognizable color or pattern of colors, or any other
12 indicia of product identification identical or similar to, or identifi-
13 able with, those used for any brand of electronic cigarette.

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

17 3. No manufacturer, distributor, or retailer may sponsor or cause to
18 be sponsored any athletic, musical, artistic, or other social or
19 cultural event, or any entry or team in any event, in the brand name
20 (alone or in conjunction with any other word), logo, symbol, motto,
21 selling message, recognizable color or pattern of colors, or any other
22 indicia of product identification identical or similar to, or identifi-
23 able with, those used for any brand of electronic cigarette. Nothing in
24 this subdivision prevents a manufacturer, distributor, or retailer from
25 sponsoring or causing to be sponsored any athletic, musical, artistic,
26 or other social or cultural event, or team or entry, in the name of the
27 corporation which manufactures the electronic cigarettes, provided that
28 both the corporate name and the corporation were registered and in use
29 in the United States prior to January first, two thousand twenty-three,
30 and that the corporate name does not include any brand name (alone or in
31 conjunction with any other word), logo, symbol, motto, selling message,
32 recognizable color or pattern of colors, or any other indicia of product
33 identification identical or similar to, or identifiable with, those used
34 for any brand of electronic cigarettes.

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