

STATE OF NEW YORK

671

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

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

AN ACT to amend the public health law, in relation to requiring a
prescription from a licensed physician in order to obtain an electron-
ic cigarette; and to repeal certain provisions of such law relating
thereto

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

1 Section 1. The public health law is amended by adding a new section
2 1399-ddd to read as follows:

3 § 1399-ddd. Prescription required for electronic cigarette use. 1. For
4 purposes of this section, "electronic cigarette" shall have the same
5 meaning as in subdivision thirteen of section thirteen hundred ninety-
6 nine-aa of this article.

7 2. (a) Electronic cigarettes shall be made available only to individ-
8 uals over the age of eighteen who have been prescribed to use such elec-
9 tronic cigarettes by a licensed physician authorized to issue such
10 prescriptions. Purchasing, obtaining or using electronic cigarettes
11 without a valid prescription from a licensed physician shall be prohib-
12 ited and be deemed a violation of this section.

13 (b) Electronic cigarettes shall only be made available through any
14 individual, firm, corporation or association who is licensed and regis-
15 tered to operate as a pharmacy pursuant to article one hundred thirty-
16 seven of the education law.

17 3. The commissioner is authorized to promulgate rules and regulations
18 to implement the provisions of this section.

19 § 2. Subdivision 11 of section 1399-n of the public health law is
20 REPEALED.

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

LBD02052-01-5

§ 3. The section heading and opening paragraph of section 1399-dd of the public health law, as amended by chapter 448 of the laws of 2012, are amended to read as follows:

Sale of tobacco products~~[,]~~ ~~or~~ herbal cigarettes ~~[or electronic cigarettes]~~ in vending machines. No person, firm, partnership, company or corporation shall operate a vending machine which dispenses tobacco products~~[,]~~ ~~or~~ herbal cigarettes ~~[or electronic cigarettes]~~ unless such machine is located:

§ 4. Subdivisions 4 and 5 of section 1399-bb of the public health law, as amended by section 4 of part EE of chapter 56 of the laws of 2020, are amended to read as follows:

4. No retail dealer engaged in the business of selling or otherwise distributing ~~[electronic cigarettes or]~~ vapor products intended or reasonably expected to be used with or for the consumption of nicotine for commercial purposes~~[, or any agent or employee of such person, shall knowingly, in furtherance of such business, distribute without charge any electronic cigarettes to any individual under twenty-one years of age]~~.

5. The distribution of tobacco products~~[, electronic cigarettes,]~~ ~~or~~ vapor products intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarettes pursuant to subdivision two of this section or the distribution without charge of ~~[electronic cigarettes, or]~~ vapor products intended or reasonably expected to be used with or for the consumption of nicotine, shall be made only to an individual who demonstrates, through (a) a driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth, or possession, the District of Columbia, a state government within the United States, or a provincial government of the dominion of Canada, (b) a valid passport issued by the United States government or the government of any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product~~[, electronic cigarette,]~~ ~~or~~ vapor product intended or reasonably expected to be used with or for the consumption of nicotine, or herbal cigarette or the distribution without charge of ~~[electronic cigarettes, or]~~ vapor products intended or reasonably expected to be used with or for the consumption of nicotine to an individual.

§ 5. Subdivisions 2, 3 and 7 of section 1399-cc of the public health law, as amended by chapter 100 of the laws of 2019, are amended to read as follows:

2. Any person operating a place of business wherein tobacco products, herbal cigarettes~~[, liquid nicotine,]~~ ~~or~~ shisha ~~[or electronic cigarettes,]~~ are sold or offered for sale is prohibited from selling such products, herbal cigarettes, ~~[liquid nicotine,]~~ shisha~~[, electronic cigarettes]~~ or smoking paraphernalia to individuals under twenty-one years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ~~[LIQUID NICOTINE, ELECTRONIC CIGARETTES,]~~ ROLLING PAPERS OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height.

1 3. Sale of tobacco products, herbal cigarettes[, ~~liquid nicotine,~~ or
2 shisha [~~or electronic cigarettes~~] in such places, other than by a vend-
3 ing machine, shall be made only to an individual who demonstrates,
4 through (a) a valid driver's license or non-driver's identification card
5 issued by the commissioner of motor vehicles, the federal government,
6 any United States territory, commonwealth or possession, the District of
7 Columbia, a state government within the United States or a provincial
8 government of the dominion of Canada, or (b) a valid passport issued by
9 the United States government or any other country, or (c) an identifica-
10 tion card issued by the armed forces of the United States, indicating
11 that the individual is at least twenty-one years of age. Such identifi-
12 cation need not be required of any individual who reasonably appears to
13 be at least twenty-five years of age, provided, however, that such
14 appearance shall not constitute a defense in any proceeding alleging the
15 sale of a tobacco product, herbal cigarettes[, ~~liquid nicotine,~~ or
16 shisha [~~or electronic cigarettes~~] to an individual under twenty-one
17 years of age.

18 7. No person operating a place of business wherein tobacco products,
19 herbal cigarettes[, ~~liquid nicotine,~~ or shisha [~~or electronic ciga-~~
20 ~~rettes~~] are sold or offered for sale shall sell, permit to be sold,
21 offer for sale or display for sale any tobacco product, herbal ciga-
22 rettes[, ~~liquid nicotine,~~ or shisha [~~or electronic cigarettes~~] in any
23 manner, unless such products and cigarettes are stored for sale (a)
24 behind a counter in an area accessible only to the personnel of such
25 business, or (b) in a locked container; provided, however, such
26 restriction shall not apply to tobacco businesses, as defined in subdi-
27 vision eight of section thirteen hundred ninety-nine-aa of this article,
28 and to places to which admission is restricted to persons twenty-one
29 years of age or older.

30 § 6. This act shall take effect immediately.