§ 1399-mm-2. Sale in pharmacies. 1. No tobacco product, herbal cigarette, or vapor product intended or reasonably expected to be used with or for the consumption of nicotine, shall be sold in a pharmacy or in a retail establishment that contains a pharmacy operated as a department as defined by paragraph f of subdivision two of section sixty-eight hundred eight of the education law. Provided, however, that such prohibition on the sale of tobacco products, herbal cigarettes, or vapor products intended or reasonably expected to be used with or for the consumption of nicotine, shall not apply to any other business that owns or leases premises within any building or other facility that also contains a pharmacy or a retail establishment that contains a pharmacy operated as a department as defined by paragraph f of subdivision two of section sixty-eight hundred eight of the education law.

2. The commissioner shall have sole jurisdiction to enforce the provisions of this section. The commissioner shall have the power to assess penalties in accordance with section twelve of this chapter and pursuant to a hearing conducted in accordance with section twelve-a of this chapter. Nothing in this section shall be construed to prohibit the commissioner from commencing a proceeding for injunctive relief to compel compliance with this section.