



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION  
PRESTON NIBLACK, DIRECTOR  
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 433-A**

**COMMITTEE: Health**

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**TITLE:** A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the regulation of tobacco products.

**SPONSOR:** Council Members Rivera, Arroyo, Avella, Brewer, Dickens, Felder, James, Liu, Mealy, Mendez, Palma, Recchia, Jr., Sanders, Jr., Seabrook, Sears, Weprin, Mark-Viverito, Gentile, Foster, Gennaro, Vacca, Gioia, Lappin, Gerson, Nelson, Koppell, Jackson, Yassky, White, Jr., Mitchell, Vallone, Jr., Eugene, Ulrich.

**SUMMARY OF LEGISLATION:** This legislation amends the New York City Charter and the Administrative Code of the City of New York, in relation to the regulation of tobacco products by prohibiting the sale of flavored tobacco products except in a tobacco bar and making technical amendments to the Administrative Code.

Proposed Int. 433-A would state that any person who violates the prohibition on the sale of flavored tobacco products shall be liable for a civil penalty of not more than five hundred dollars for the first violation; and not more than one thousand dollars for the second violation at the same place of business within a two-year period, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the third and all subsequent violations at the same place of business within a two-year period. In addition, for a third violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a two-year period, any person who engages in business as a retail dealer, is subject to the mandatory suspension of his or her cigarette license, issued pursuant to 20-202 of the code, for such place of business, for a period not to exceed one year. A cigarette license shall be suspended at the same hearing at which a retail dealer is found liable for a third violation or subsequent violations at the same place of business within a two-year period.

Both the Department of Health and Mental Hygiene and the Department of Consumers Affairs would have the authority to enforce this legislation. Either agency would be able, upon due notice and hearing, to impose civil penalties for the violation of the prohibition on the sale of flavored tobacco products.

**EFFECTIVE DATE:** This local law shall take effect one hundred twenty days after its enactment; provided that actions necessary to prepare for the timely implementation of this local law may be taken prior to its effective date.

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY10</b>	<b>FY Succeeding Effective FY11</b>	<b>Full Fiscal Impact FY11</b>
<b>Revenues (+)</b>	<b>(\$1,000,000)</b>	<b>(\$2,000,000)</b>	<b>(\$2,000,000)</b>
<b>Expenditures (-)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net</b>	<b>(\$1,000,000)</b>	<b>(\$2,000,000)</b>	<b>(\$2,000,000)</b>

**IMPACT ON REVENUES:** The fiscal impact on revenues resulting from the enactment of this legislation would be a loss of \$1,000,000 in sales tax revenue in Fiscal Year 2010, with the full fiscal impact of \$2,000,000 lost in Fiscal Year 2011. The basis of this estimate is the State’s 2009-2010 forecast of its other-than-cigarette tobacco tax revenue in the *2009-10 Executive Budget Economic and Revenue Outlook*, the Alcohol Tobacco Tax and Trade Bureau’s June 2009 *Statistical Report-Tobacco* which indicates that cigar sales are the bulk of other tobacco sales in the nation, and AC Nielsen Market Scanner data that 40 percent of single-stick cigar sales in the state were of flavored varieties in 2008. There is also a potential minimal increase in revenue through the enforcement of proposed Int. 433-A.

**IMPACT ON EXPENDITURES:** There would be no impact on expenses resulting from the enactment of this legislation due to both the Department of Health and Mental Hygiene and Department of Consumer Affairs using existing resources and personnel to carry out this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** Department of Consumer Affairs  
Department of Health and Mental Hygiene

**ESTIMATE PREPARED BY:** Latonia McKinney, Deputy Director  
Rocco D’Angelo, Supervising Legislative Financial Analyst  
Zaid Sadoun, Legislative Financial Analyst

**HISTORY:** Int. 433 was introduced on September 13, 2006, and referred to the Committee on Health. On October 19, 2006, the Committee on Health held a hearing on Int.433, and the legislation was laid over. On May 21, 2009 the Committee on Health held a hearing on Int. 433-A, which was amended and laid over. On October 13, 2009 the Committee on Health will consider the legislation as Proposed Int. 433-A.