



## Legislation Details (With Text)

<b>File #:</b>	Int 1210-2013	<b>Version:</b>	A	<b>Name:</b>	Regulation of Electronic Cigarettes
<b>Type:</b>	Introduction	<b>Status:</b>	Enacted	<b>In control:</b>	Committee on Health
<b>On agenda:</b>	12/10/2013				
<b>Enactment date:</b>	12/30/2013	<b>Enactment #:</b>	2013/152		
<b>Title:</b>	A Local Law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes.				
<b>Sponsors:</b>	James F. Gennaro, Christine C. Quinn, Maria Del Carmen Arroyo, David G. Greenfield, James Vacca, Peter A. Koo, G. Oliver Koppell, Donovan J. Richards, Daniel Dromm				
<b>Indexes:</b>					
<b>Attachments:</b>	1. Int. No. 1210 - 12/10/13, 2. Committee Report 12/4/13, 3. Hearing Testimony 12/4/13, 4. Hearing Testimony 12/4/13 (Con't), 5. Hearing Transcript 12/4/13, 6. Committee Report 12/18/13, 7. Hearing Transcript 12/18/13, 8. Committee Report - Stated Meeting, 9. Fiscal Impact Statement, 10. Mayor's Letter, 11. Hearing Transcript - Stated Meeting 12-19-13, 12. Local Law 152				

Date	Ver.	Action By	Action	Result
12/4/2013	*	Committee on Health	Hearing on P-C Item by Comm	
12/4/2013	*	Committee on Health	P-C Item Laid Over by Comm	
12/10/2013	*	City Council	Referred to Comm by Council	
12/10/2013	*	City Council	Introduced by Council	
12/18/2013	*	Committee on Health	Hearing Held by Committee	
12/18/2013	*	Committee on Health	Amendment Proposed by Comm	
12/18/2013	*	Committee on Health	Amended by Committee	
12/18/2013	A	Committee on Health	Approved by Committee	Pass
12/19/2013	A	City Council	Approved by Council	Pass
12/19/2013	A	City Council	Sent to Mayor by Council	
12/30/2013	A	Mayor	Hearing Held by Mayor	
12/30/2013	A	Mayor	Signed Into Law by Mayor	
12/30/2013	A	City Council	Recved from Mayor by Council	

Int. No. 1210-A

By Council Members Gennaro, The Speaker (Council Member Quinn), Arroyo, Greenfield, Vacca, Koo, Koppell, Richards and Dromm

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes.

Be it enacted by the Council as follows:

Section 1. Legislative findings. Electronic cigarette devices have not been approved by the Food and Drug Administration (FDA) for smoking cessation and are currently unregulated by the FDA. Most devices contain nicotine, a highly addictive substance. Although the long-term effects of electronic cigarette devices require further study, the FDA has found that some devices contain toxins and carcinogens and has expressed concerns about their safety. Use of electronic cigarette devices, particularly in places where smoking is prohibited, may interfere with smokers' attempts to quit by making it easier for them to maintain their nicotine addiction. Children and youth who experiment with electronic cigarettes may become addicted to nicotine and ultimately switch to smoking cigarettes.

The use of electronic cigarette devices may be visually similar to the smoking of cigarettes, and has already been observed in locations where smoking is prohibited, creating concern and confusion that threatens to interfere with enforcement of the Smoke-Free Air Act. The use of electronic cigarette devices in places where smoking is prohibited may increase the social acceptability and appeal of smoking, particularly for youth, potentially undermining the enormous progress that has been made over the years in discouraging smoking.

The Council therefore finds that prohibiting the use of electronic cigarette devices in public places and places of employment will protect the health of the citizens of New York City, facilitate enforcement of the Smoke-Free Air Act, and protect youth from observing behaviors that could encourage them to smoke.

§ 2. Section 17-502 of the administrative code of the city of New York is amended by adding new subdivisions qq and rr to read as follows:

qq. “Electronic cigarette” means an electronic device that delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the food and drug administration for sale as a drug or medical device.

rr. “Retail electronic cigarette store” means a retail store devoted primarily to the sale of

electronic cigarettes, and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than fifty percent of the total annual gross sales.

§ 3. Section 17-503 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, the heading of section 17-503 as amended by local law number 47 for the year 2002, the opening paragraph of subdivision a and paragraphs 1, 4, 5, 6, 8, 10, 11, 14 and 15 of subdivision a as amended by local law number 47 for the year 2002, paragraphs 12, 16 and 17 of subdivision a as added by local law number 5 for the year 1995, paragraphs 19, 20, 21 and 22 of subdivision a as added by local law number 47 for the year 2002, subdivision c as added by local law number 5 for the year 1995, the opening paragraph of subdivision c and paragraph 1 of subdivision c as amended by local law number 47 for the year 2002, paragraph 6 of subdivision c as added by local law number 50 for the year 2009, paragraph 7 of subdivision c as added by local law number 11 for the year 2011, subdivision d as added by local law number 5 for the year 1995, and paragraph 3 of subdivision d as added by local law number 11 for the year 2011, is amended to read as follows:

§ 17-503 Prohibition of smoking and use of electronic cigarettes.

a. Smoking [is], and using electronic cigarettes, are prohibited in all enclosed areas within public places except as otherwise restricted in accordance with the provisions below. Such public places include, but are not limited to, the following:

1. Public transportation facilities, including, but not limited to, ticketing, boarding and waiting areas of public transit depots.

2. Public means of mass transportation, including, but not limited to, subway cars and all underground areas of a subway station, buses, vans, taxicabs and all for-hire vehicles, including but not limited to limousines, required to be licensed or franchised by the city of New York.

3. Public restrooms.

4. Retail stores (other than retail tobacco stores).

5. Restaurants.

6. Business establishments (other than retail tobacco stores) including, but not limited to, banks and other financial institutions, catering halls, offices where trade or vocational activity occurs or professional or consumer services are rendered and non-profit entities, including religious institutions; provided however, that this paragraph shall not apply to membership associations.

7. Libraries, museums and galleries.

8. Motion picture theaters, concert halls, buildings or areas or rooms in buildings primarily used for or designed for the primary purpose of exhibiting movies or presenting performances, including, but not limited to, stage, musical recital, dance, lecture or other similar performances, except that smoking, and using electronic cigarettes, may be part of a theatrical production.

9. Auditoriums.

10. Convention halls.

11. Sports arenas and recreational areas.

12. Gymnasiums, health clubs and enclosed areas containing a swimming pool.

13. Places of meeting or public assembly during such time as a meeting open to the public is being conducted for educational, religious, recreational, or political purposes, but not including meetings conducted in private residences, unless such meetings are conducted in an area in a private residence where a child day care center or health care facility is operated during the times of operation or in an area which constitutes a common area of a multiple dwelling containing ten or more dwelling units.

14. Health care facilities including, but not limited to, hospitals, clinics, psychiatric facilities, residential health care facilities, physical therapy facilities, convalescent homes, and homes for the aged; provided however, that this paragraph shall not prohibit smoking, or the use of electronic cigarettes, by patients in separate enclosed rooms of residential health care facilities or facilities where day treatment programs are

provided, which are designated as smoking rooms for patients of such facilities or programs, provided, however, that prior written approval is received from the fire commissioner pursuant to section [27-4276] 310.2 of the fire code.

15. All schools other than public and private pre-primary, primary, and secondary schools providing instruction for students at or below the twelfth-grade level, including, but not limited to, community colleges, technical training establishments, specialty schools, colleges and universities.

16. Children's institutions.

17. Zoos.

18. Elevators.

19. Public areas where bingo is played.

20. Bars; provided however, that smoking shall be permitted in[:

(a)] tobacco bars[; (b) owner operated bars; and].

21. Tobacco businesses, except that smoking shall be permitted in areas within a tobacco business designated by such business for the purpose of testing or development of tobacco or tobacco products; provided, however, that such areas must all be located on no more than two floors of the building where such business is located.

22. Membership associations; provided however, that smoking shall only be allowed in membership associations in which all of the duties with respect to the operation of such association, including, but not limited to, the preparation of food and beverages, the service of food and beverages, reception and secretarial work, and the security services of the membership association are performed by members of such membership association who do not receive compensation of any kind from the membership association or any other entity for the performance of such duties.

b. Smoking [is], and using electronic cigarettes, are prohibited on any service line, waiting area, or portion thereof, whether located indoor or outdoor during the times in which the public is invited or

permitted, notwithstanding the fact that the service line, waiting area, or portion thereof, is in an area otherwise designated for smoking, or using electronic cigarettes, pursuant to subdivision a of this section; provided, however, that this subdivision shall not be construed to prohibit smoking, or using electronic cigarettes, in any area where smoking, or using electronic cigarettes, is permitted pursuant to section 17-505.

c. Smoking [is], and using electronic cigarettes, are prohibited in the following outdoor areas of public places, except as otherwise restricted in accordance with the provisions below:

1. Outdoor dining areas of restaurants with no roof or other ceiling enclosure; provided, however, that smoking, or using electronic cigarettes, may be permitted in a contiguous outdoor area designated for smoking, or using electronic cigarettes, so long as such area: (i) constitutes no more than twenty-five percent of the outdoor seating capacity of such restaurant; (ii) is at least three feet away from the outdoor area of such restaurant not designated for smoking, or using electronic cigarettes; and (iii) is clearly designated with written signage as a smoking area or an area for using electronic cigarettes.

2. Outdoor seating or viewing areas of open-air motion picture presentations or open-air concert, stage, dance, lecture or recital presentations or performances or other similar open-air presentations or performances, when seating or standing room is assigned by issuance of tickets.

3. Outdoor seating or viewing areas of sports arenas and recreational areas, when seating or standing room is assigned by issuance of tickets.

4. Outdoor areas of all children's institutions.

5. Playgrounds.

6. Hospital grounds, within fifteen feet of any hospital entrance or exit and within fifteen feet of the entrance to or exit from any hospital grounds.

7. Pedestrian plazas.

d. Smoking [is], and using electronic cigarettes, are prohibited in all indoor and outdoor areas of the following public places at all times:

1. All public and private pre-primary, primary, and secondary schools providing instruction for students at or below the twelfth-grade level, and any vehicles owned, operated or leased by such schools which are used to transport such students or the personnel of such schools.

2. All child day care centers; provided, however, that with respect to child day care centers operated in private residences, this paragraph shall apply only to those areas of such private residences where the child day care centers are operated during the times of operation or during the time employees are working in such child day care centers.

3. Any park or other property under the jurisdiction of the department of parks and recreation; provided, however, that this paragraph shall not apply to: (a) the sidewalks immediately adjoining parks, squares and public places; (b) any pedestrian route through any park strip, median or mall that is adjacent to vehicular traffic; (c) parking lots; and (d) theatrical productions.

§ 4. Section 17-504 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, subdivisions a, c, d, e, and i as amended by local law number 47 for the year 2002, is amended to read as follows:

§ 17-504 Regulation of smoking, and use of electronic cigarettes, in places of employment. a. Smoking [is], and using electronic cigarettes, are prohibited in those indoor areas of places of employment to which the general public does not generally have access. This section shall not prohibit smoking, or using electronic cigarettes, in any area where smoking, or using electronic cigarettes, is not regulated pursuant to section 17-505.

c. Smoking [is], and using electronic cigarettes, are prohibited in company vehicles occupied by more than one person. Smoking [is], and using electronic cigarettes, are prohibited in all vehicles owned by the city of New York.

d. No employer shall take any retaliatory adverse personnel action against any employee or applicant for employment on the basis of such person's exercise, or attempt to exercise, his or her rights under

this chapter with respect to the place of employment. Such adverse personnel action includes, but is not limited to, dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, compensation or other benefit, failure to hire, failure to appoint, failure to promote, or transfer or assignment or failure to transfer or assign against the wishes of the affected employee. The employer shall establish a procedure to provide for the adequate redress of any such adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this chapter with respect to the place of employment.

e. By November 1, 1995, every employer subject to the provisions of this chapter shall adopt, implement, make known, maintain and update to reflect any changes, a written smoking and electronic cigarette use policy which shall contain at minimum, the following requirements:

1. The prohibition of smoking, and using electronic cigarettes, except in accordance with the provisions of this chapter and any rules promulgated pursuant thereto, and a description of the smoking restrictions and restrictions on the use of electronic cigarettes adopted or implemented.

2. As set forth in subdivision d of this section, the (A) protection from retaliatory adverse personnel action with respect to all employees or applicants for employment who exercise, or attempt to exercise, any rights granted under such subdivision; and (B) the establishment of a procedure to provide for the adequate redress of any such adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this chapter with respect to the place of employment.

f. Employers shall prominently post the smoking and electronic cigarette use policy in the workplace, and shall, within three weeks of its adoption and any modification, disseminate the policy to all employees, and to new employees when hired.

g. Employers shall supply a written copy of the smoking and electronic cigarette use policy upon request to any employee or prospective employee.

h. A copy of the smoking and electronic cigarette use policy shall be provided to the department,



the department of buildings, the department of consumer affairs, the department of environmental protection, the fire department and the department of sanitation upon request.

i. This section shall not be construed to permit smoking, and using electronic cigarettes, in any area in which smoking [is], and using electronic cigarettes, are prohibited or restricted pursuant to section 17-503. Where a place of employment is also a public place where smoking [is], and using electronic cigarettes, are prohibited or restricted pursuant to section 17-503, and is not exempt from regulation under section 17-505, smoking, and using electronic cigarettes, shall be prohibited.

j. Nothing in this section shall be construed to impair, diminish, or otherwise affect any collectively bargained procedure or remedy available to an employee, existing as of February 1, 1995, with respect to disputes arising under the employer's smoking policy or with respect to the establishment of a procedure for redress of any adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this chapter with respect to the place of employment. Upon expiration of any such collectively bargained procedure or remedy, the provisions of this section shall take effect.

§ 5. Section 17-505 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, and subdivision h as amended by local law number 47 for the year 2002, is amended to read as follows:

§ 17-505 Areas where smoking [is], and using electronic cigarettes, are not regulated by this chapter.

The following areas shall not be subject to the smoking and electronic cigarette restrictions of this chapter; provided however, that nothing in this section shall be construed to permit smoking, or using electronic cigarettes, where smoking [is], and using electronic cigarettes, are otherwise prohibited or restricted by any other law or rule:

b. Private residences, except any area of a private residence where a child day care center or

health care facility is operated (i) during the times of operation or (ii) during the times when employees are working in such child day care center or health care facility areas; provided, however, that a common area of a multiple dwelling containing ten or more dwelling units shall be subject to smoking and electronic cigarette restrictions.

c. Hotel and motel rooms occupied by, or available for, occupancy by guests.

f. Private automobiles.

g. Retail tobacco stores.

h. Enclosed rooms in restaurants, bars, catering halls, convention halls, hotel and motel conference rooms, and other such similar facilities during the time these enclosed areas or rooms are being used exclusively for functions where the public is invited for the primary purpose of promoting and sampling tobacco products or electronic cigarettes, and the service of food and drink is incidental to such purpose, provided that the operator of such function shall have provided notice to the department of health and mental hygiene in a form satisfactory to such department at least two weeks before such a function begins, and such notice has identified the dates on which such function shall occur. No such facility may permit smoking, or using electronic cigarettes, under this subdivision for more than five days in any calendar year.

i. Retail electronic cigarette stores; provided however, that such stores may only permit the use of electronic cigarettes.

§ 6. Subdivisions a, b and c of section 17-506 of the administrative code of the city of New York, subdivision a as amended by local law number 5 for the year 1995, subdivision b as amended by local law number 47 for the year 2002, and subdivision c as added by local law number 5 for the year 1995, are amended to read as follows:

a. Except as may otherwise be provided by rules promulgated by the commissioner, "Smoking" or "No Smoking" signs, or the international symbols indicating the same, "Electronic Cigarette Use Permitted" or "Electronic Cigarette Use Prohibited" signs, and any other signs necessary to comply with the provisions of

this chapter shall be prominently and conspicuously posted where smoking [is], and using electronic cigarettes, are either prohibited, permitted or otherwise regulated by this chapter, by the owner, operator, manager or other person having control of such area. The size, style and location of such signs shall be determined in accordance with rules promulgated by the commissioner, but in promulgating such rules, the commissioner shall take into consideration the concerns of the various types of establishments regulated herein with respect to the style and design of such signs.

b. In addition to the posting of signs as provided in subdivision a, every owner, manager or operator of a theatre which exhibits motion pictures to the public shall show upon the screen for at least five seconds prior to the showing of each feature motion picture, information indicating that smoking [is], and using electronic cigarettes, are prohibited within the premises.

c. The owner, operator or manager of a hotel or motel that chooses to develop and implement a smoking and electronic cigarette use policy for rooms rented to guests shall post a notice at the reception area of the establishment as to the availability, upon request, of smoke-free and electronic cigarette-free rooms.

§ 7. Subdivisions c, d and e of section 17-507 of the administrative code of the city of New York, subdivision c as amended and subdivisions d and e as added by local law number 5 for the year 1995, are amended to read as follows:

c. With respect to a public place or place of employment, the operator or employer shall inform, or shall designate an agent who shall be responsible for informing, individuals smoking, or using electronic cigarettes, in restricted areas that they are in violation of this local law; provided, however, that the obligations under this subdivision with respect to an operator of a multiple dwelling containing ten or more dwelling units shall be limited to (i) those multiple dwellings where an agent is on duty and (ii) designating such agent to be responsible for informing individuals smoking, or using electronic cigarettes, in restricted common indoor areas where such agent is on duty, during the times such agent is on duty, that such individuals are in violation of this local law.

d. Where an owner or building manager of a public place where smoking [is], and using electronic cigarettes, are prohibited or restricted pursuant to section 17-503 is not the operator of such public place but has an agent on duty in such place, the owner or building manager shall designate such agent to inform individuals smoking, or using electronic cigarettes, in restricted common indoor areas (i) where such agent is on duty and (ii) during the times when such agent is on duty, that such individuals are in violation of this local law.

e. Where an owner or building manager of a building in which a place of employment is located where smoking [is], and using electronic cigarettes, are prohibited or restricted pursuant to section 17-504 is not the operator or employer of such place of employment but has an agent on duty in such place, the owner or building manager shall designate such agent to inform individuals smoking, or using electronic cigarettes, in restricted common indoor areas (i) where such agent is on duty and (ii) during the times when such agent is on duty, that such individuals are in violation of this local law. Such owner or building manager shall also mail a notice to tenants operating such place of employment, informing such tenants of their obligations under this chapter with respect to such restricted common indoor areas. A copy of the mailed notice shall be provided to the department upon request.

§ 8. Subdivisions a, b, d, e and f of section 17-508 of the administrative code of the city of New York, subdivision a as amended by local law number 47 for the year 2002, subdivision b as amended by local law number 5 for the year 1995, subdivision d as added by local law number 2 for the year 1988, and subdivisions e and f as amended by local law number 11 for the year 2011, are amended to read as follows:

a. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of premises in which smoking [is], and using electronic cigarettes, are prohibited or restricted pursuant to this chapter, or the designated agent thereof, to (i) provide a room designated for smoking, or using electronic cigarettes, including, but not limited to, a separate smoking room, room for using electronic cigarettes or an enclosed room, which fails to comply with the provisions of this chapter; provided, however, that the

obligations of an owner or building manager of a building (where such owner or building manager of a building in which a public place is located is not the operator or employer of such public place) with respect to such a room shall be limited to work authorized by any permits necessary to perform construction obtained by the owner or his or her agent; (ii) fail to post the signs required by section 17-506; (iii) fail to remove ashtrays as required by subdivision d of section 17-506; or (iv) fail to make a good faith effort to comply with subdivisions c, d and e of section 17-507. In actions brought for violations of this subdivision, the following shall be affirmative defenses: (i) that during the relevant time period actual control of the premises was not exercised by the respondent or a person under the control of the respondent, but rather by a lessee, sublessee or any other person; provided, however, that after receiving the notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that he or she has not exercised actual control during the relevant time period; (ii) that a person smoking, or using an electronic cigarette, in any area where smoking [is], and using electronic cigarettes, are prohibited pursuant to section 17-503 was informed by a person who owns, manages, operates or otherwise controls the use of such premises, or the designated agent thereof, that such person smoking, or using an electronic cigarette, is in violation of this local law and that such person who owns, manages, operates or otherwise controls the use of such premises has complied with all applicable provisions of this chapter during the relevant time period; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that respondent informed the person smoking, or using an electronic cigarette, in any area where smoking [is], and using electronic cigarettes, are prohibited pursuant to section 17-503 that such person was in violation of this local law and that respondent has complied with all applicable provisions of this chapter during the relevant time period; or (iii) that a person smoking, or using an electronic cigarette, in any restricted common indoor area where smoking [is], and using electronic cigarettes, are prohibited pursuant to section 17-503 was not informed by the owner or building manager of the premises (where such owner or building

manager of a building in which a public place or a place of employment is located is not the operator or employer of such public place or place of employment) or by the operator of a multiple dwelling containing ten or more dwelling units that such person smoking, or using an electronic cigarette, is in violation of this local law because such owner, building manager or operator did not have a designated agent on duty when such person was smoking, or using an electronic cigarette, and that such owner or building manager has, where applicable, complied with the mailing of a notice required pursuant to subdivision e of section 17-507; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that a person smoking, or using an electronic cigarette, in any restricted common indoor area where smoking [is], and using electronic cigarettes, are prohibited pursuant to section 17-503 was not informed by the respondent that such person smoking, or using an electronic cigarette, is in violation of this local law because the respondent did not have a designated agent on duty when such person was smoking, or using an electronic cigarette, and that the respondent has, where applicable, mailed the notice required pursuant to subdivision e of section 17-507.

b. It shall be unlawful for an employer whose place of employment is subject to regulation under section 17-504 to fail to comply with the provisions of that section, including, but not limited to, those provisions requiring the adoption, implementation, dissemination and maintenance of a written smoking and electronic cigarette use policy which conforms to the requirements of subdivision e of section 17-504, or to fail to make a good faith effort to comply with subdivision c of section 17-507. In actions brought for violations of this subdivision, it shall be an affirmative defense that the employer (i) has made good faith efforts to insure that employees comply with the provisions of such written smoking and electronic cigarette use policy and (ii) has complied with all applicable provisions of this chapter.

d. It shall be unlawful for any person to smoke, or use an electronic cigarette, in any area where smoking [is], and using electronic cigarettes, are prohibited under section 17-503 and section 17-504.

e. Every person who violates subdivisions a or b of this section shall, for a first violation thereof, be liable for a civil penalty of not less than two hundred dollars nor more than four hundred dollars; for a second violation, both of which were committed within a period of twelve months, be liable for a civil penalty of not less than five hundred dollars nor more than one thousand dollars; and for a third or subsequent violation, all of which were committed within a period of twelve months, be liable for a civil penalty of not less than one thousand dollars nor more than two thousand dollars. Every person who violates subdivision d of this section shall be liable for a civil penalty of one hundred dollars for each violation, except that every person who violates subdivision d of this section by smoking, or using an electronic cigarette, in a pedestrian plaza as prohibited by paragraph seven of subdivision c of section 17-503 or in a park or other property under the jurisdiction of the department of parks and recreation as prohibited by paragraph three of subdivision d of section 17-503 shall be liable for a civil penalty of fifty dollars for each violation.

f. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision e of this section shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health, except that a proceeding to recover a civil penalty authorized pursuant to subdivision e for violation of subdivision d by smoking, or using an electronic cigarette, in a pedestrian plaza or in a park or other property under the jurisdiction of the department of parks and recreation, as prohibited by paragraph seven of subdivision c and by paragraph three of subdivision d of section 17-503 respectively, shall be commenced by the service of a notice of violation which shall be returnable to the environmental control board. The board of health's administrative tribunal and the environmental control board shall have the power to impose the civil penalties prescribed by subdivision e of this section.

§ 9. Section 17-510 of the administrative code of the city of New York, as added by local law number 2 for the year 1988, is amended to read as follows:

§ 17-510 Public education. The department shall engage in a continuing program to explain and clarify the provisions and purposes of this chapter and shall provide assistance to those persons who seek to

comply, and to those who want to stop smoking, or using electronic cigarettes.

§ 10. Subdivisions a, b and d of section 17-512 of the administrative code of the city of New York, subdivision a as added by local law number 2 for the year 1988, subdivision b as added by local law number 5 for the year 1995, and subdivision d as added by local law number 2 for the year 1988 and relettered by local law number 5 for the year 1995, are amended to read as follows:

a. Nothing in this chapter shall be construed to permit smoking, or using electronic cigarettes, where it is otherwise prohibited by law or regulation.

b. Nothing in this chapter shall be construed to prohibit owners, operators, managers, employers or other persons having control of any establishment subject to this chapter from adopting a smoke-free and electronic cigarette-free policy which completely prohibits smoking, and using electronic cigarettes, on the premises of such establishment at all times.

d. Nothing in this chapter shall be construed to preclude owners, operators, managers, employers or other persons having control of any establishment covered by this act from prohibiting smoking, and using electronic cigarettes, in such establishment to a greater extent than is provided by this chapter, in accordance with applicable law.

§ 11. Section 17-513.2 of the administrative code of the city of New York, as added by local law number 47 for the year 2002, is amended to read as follows:

§ 17-513.2 Construction.

The provisions of this chapter shall not be interpreted or construed to permit smoking, or using electronic cigarettes, where it is prohibited or otherwise restricted by other applicable laws, rules or regulations.

§ 12. Chapter 5 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-513.3 to read as follows:

§ 17-513.3 Retail tobacco store and retail electronic cigarette store registration.

It shall be unlawful for any individual to operate a retail tobacco store or a retail electronic



cigarette store without having registered with the department in accordance with the rules of the department.

§ 13. Chapter 5 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-513.4 to read as follows:

§ 17-513.4 Retail tobacco store and retail electronic cigarette store verification.

The department shall promulgate rules and regulations necessary to establish a system for review and verification of total annual gross sales of retail tobacco stores and retail electronic cigarette stores.

§ 14. Before the ninetieth day after this local law shall have become a law, every employer shall make any changes necessary in their written smoking policy to bring them into compliance with the requirements of chapter 5 of title 17 of the administrative code of the city of New York.

§ 15. This local law shall take effect one hundred twenty days after it shall have become a law, except that subdivisions (a) and (b) of section 17-506 of the administrative code of the city of New York, as amended by section six of this local law, shall take effect one hundred eighty days after this local law takes effect, provided however, that the commissioner shall take such actions, including the promulgation of rules, as are necessary for timely implementation of this local law.

LS # 5074  
DSH/KET  
12/11/13  
3:52 PM