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Int. No. 1462

By Council Members Rodriguez, Deutsch, Salamanca, Rosenthal, Maisel, Lander and King

A Local Law to amend the administrative code of the city of New York, in relation to the display of tobacco products and non-tobacco smoking products

Be it enacted by the Council as follows:

Section 1. Chapter 7 of title 17 of the administrative code of the city of New York is amended by adding a new subchapter 3 to read as follows:

SUBCHAPTER 3 DISPLAY OF TOBACCO PRODUCTS AND NON-TOBACCO SMOKING

PRODUCTS.

§ 17-719 Definitions. For purposes of this subchapter, the following terms have the following meanings:

Cigarette. The term “cigarette” means any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored,

adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

Legal customer. The term “legal customer” means a person to whom the applicable sale is not prohibited under this chapter.

Non-tobacco smoking product. The term “non-tobacco smoking product” means any product other than a cigarette that does not contain tobacco or nicotine and that is designed for human use or consumption by the inhalation of smoke.

Retail tobacco store. The term “retail tobacco store means "retail tobacco store" as defined in section subdivision (u) of section 17-502.

Tobacco product. The term “tobacco product” means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purpose.

§ 17-720 Display of tobacco products and non-tobacco smoking products prohibited.

a. It is unlawful to display or permit the display of any cigarettes, tobacco product, non-tobacco smoking product, cigarette packaging, tobacco product packaging, or non-tobacco smoking product packaging in a manner that allows a person to view such products or packaging prior to sale at any place of business.

b. Subdivision a of this section does not apply to retail tobacco stores, to places of business to which admission is restricted to persons 21 years of age or older, or during:

1. A sale to a legal customer; or
2. The restocking of cigarettes, tobacco products, or non-tobacco smoking products.

§ 17-721 Violations and penalties.

Any person who violates subdivision a of section 17-720 or any rules promulgated pursuant to such section shall be liable for a civil penalty in the following amounts:

- a. \$1000 for a first violation within a three year period;
- b. \$2000 for a second violation within a three year period; and
- c. \$5000 for a third or subsequent violation within a three year period.

§ 17-722 Enforcement.

a. The provisions of this subchapter may be enforced by any authorized agent or employee of the department or the department of consumer affairs.

b. Notices of violation of section 17-720 may be adjudicated at any tribunal authorized to hear a violation issued by the issuing agency.

§ 17-723 Rules.

The commissioner of the department shall promulgate any rules necessary for carrying out the provisions of this subchapter.

§ 2. This local law takes effect 180 days after it becomes law, except that the department of health and mental hygiene may take such actions, including the promulgation of rules, as are necessary for the timely implementation of this local law, prior to such effective date.

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