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Int. No. 1562

By Council Member Yeger

A Local Law to amend the administrative code of the city of New York, in relation in relation to electronic cigarette advertisements

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 7 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-703.2 to read as follows:

§ 17-703.2 Advertising of electronic cigarettes. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Child day care center. The term “child day care center” means (i) any child care arrangement, public, private or parochial child care center, school-age child care program, day nursery school, kindergarten, play school or other similar school or service operating pursuant to authorization, license or permit of the city or state, (ii) any facility that provides child care services as defined in section 410-p of the social services law, or (iii) any child day care center as defined in section 390 of the social services law. The definition of “child day

care center” applies whether or not care is given for compensation but does not include child day care centers located in private dwellings and multiple dwelling units.

Covered advertisement. The term “covered advertisement” means any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other written indicia of product identification identical or similar to, or identifiable with, those used for any brand of electronic cigarettes, the purpose or effect of which is to promote the use or sale of electronic cigarettes, that is visible from a public area.

Covered retailer. The term “covered retailer” means any retail establishment that sells electronic cigarettes and is located within a certain distance, as determined by the commissioner pursuant to subdivision d of this section, of school buildings, child daycare centers, or youth centers.

School building. The term “school building” means any building or structure or any portion thereof, owned, occupied by, or under the custody or control of any public, private or parochial institution and lawfully used for the primary purpose of providing educational instruction to students at or below the 12th grade level.

Youth center. The term “youth center” means any building or structure or portion thereof, lawfully occupied by any person for the primary purpose of operating a trade school (including those conducting after-school, vocational, remedial, tutorial, educational assistance programs) or an indoor recreational center (including recreational, cultural, physical fitness, or sports programs) for persons under the age of 18 years.

b. The department shall conduct a study to review existing research linking advertising to youth electronic cigarette smoking rates, and to assess the estimated number of covered retailers that would be impacted by a prohibition on covered advertisements, with models using various distances from school buildings, child daycare centers, and youth centers. The study shall also examine the city-wide impact of prohibiting covered advertisements on youth smoking rates.

c. On or before April 1, 2020, the department shall submit a report to the speaker of the council detailing the findings of the study conducted pursuant to subdivision b of this section.

d. Effective September 1, 2020, covered advertisements are prohibited within a certain distance, to be determined by rule, of school buildings, child daycare centers and youth centers. Such distance shall be consistent with the findings of the study conducted pursuant to subdivision b of this section.

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner may take such actions as are necessary to implement this local law, including the promulgation of rules, before such date.

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