



Legislation Text

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Int. No. 617

By Council Members Rodriguez, Mendez, Vacca, Gentile and King

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of shisha.

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

REGULATION OF THE SALE OF SHSHA

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

a. “Hookah bar” means a bar or business establishment devoted primarily to the on-site sale or rental of shisha and paraphernalia 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.

b. “Person” means any natural person, partnership, firm, joint stock company, corporation, or employee thereof, or other legal entity.

c. “Retail tobacco store” means retail tobacco store as defined in subdivision (u) of section 17-502 of this code.

d. “Shisha” means any product made primarily of tobacco or other leaf, or any combination thereof, smoked or intended to be smoked in a hookah or water pipe.

e. “Tobacco bar” means tobacco bar as defined in subdivision (jj) of section 17-502 of this code.

§17-720 Sale of shisha prohibited. a. It shall be unlawful for any person to sell or offer for sale, or to possess with intent to sell or offer for sale, shisha except in:

1. a hookah bar;

2. a retail tobacco store; and

3. a tobacco bar.

b. There shall be a presumption that a person in possession of four or more shisha products possesses such products with intent to sell or offer for sale.

§ 17-721 Violations and penalties. Any person who violates section 17-720 of this subchapter shall be liable for a civil penalty of not more than one thousand dollars for the first violation, and not more than one thousand dollars for each additional violation committed on the same day; and not more than two thousand dollars for the second violation at the same place of business within a three-year period, and not more than two thousand dollars for each additional violation committed on the same day; and not more than five thousand dollars for the third and all subsequent violations at the same place of business within a three-year period.

§ 17-722 Enforcement. The department shall enforce the provisions of this subchapter. A proceeding to recover any civil penalty authorized pursuant to section 17-721 of this subchapter shall be commenced by the service of a notice of violation returnable to the health tribunal at the office of administrative trials and hearings where the department issues such a notice. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. The health tribunal at the office of administrative trials and hearings shall have the power to render decisions and to impose the remedies and penalties provided for in section 17-721 of this subchapter, in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil actions or proceedings.

§ 17-723 Rules. The commissioner of the department shall promulgate any rules as may be necessary for the purposes of carrying out the provisions of this subchapter.

§ 2. This local law shall take effect one hundred and twenty days after its enactment into law, provided that the commissioner of the department of health and mental hygiene shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

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