



**County
Health Officials
of New York**
Leading the way to healthier communities

SUPPORTS

With Recommendations



A.47/S.428 (Rosenthal/Hoylman)

AN ACT to amend the public health law, in relation prohibiting the sale and distribution of flavored e-liquid for use in e-cigarettes

The New York State Association of County Health Officials (NYSACHO) and the New York State Public Health Association (NYSPHA) support, with recommendations, prohibiting the sale and distribution of flavored e-liquid for use in e-cigarettes. NYSACHO recommends that the proposed fines for violating the prohibition of sale be elevated from \$100 to fines commensurate to those levied in Section 1399-ff of the public health law, for violations of the New York Adolescent Tobacco Use Prevention Act (ATUPA), because the flavored e-liquids are particularly effective in enticing children and adolescents to use these products .

A U.S Department of Health and Human Service’s 2014 report regarding tobacco use estimates that over 480,000 Americans die annually from tobacco-caused disease, making it the leading cause of preventable death. Tobacco products exact a high financial toll on New York taxpayers. Each year, New York spends an estimated \$10.4 billion on tobacco-related health care needs, of which Medicaid covers \$3.3 billion. An additional \$6 billion annually can be attributed to lost productivity from smoking.

While conventional cigarette use had declined, electronic cigarette use has risen, especially among adolescents and young adults. Young adults are more likely to used flavored e-cigarettes compared to older adults. According to surveys, youth noted that flavoring was one of their biggest draws to try electronic cigarettes, and a majority of youth who have tried e-cigarettes first used a flavored product. Tobacco companies use these flavored products to entice young people to begin smoking. In November 2018, in recognition of this growing public health concern, the U.S. Food and Drug Administration initiated steps to restrict youth access to flavored e- liquids. While this is promising, we believe it is in the best interest of New Yorkers, to move forward with strong state laws prohibiting the use of these products completely.

This bill would eliminate tobacco companies’ ability to use flavor e-liquid to lure young people into becoming regular users of tobacco products. However, the proposed fine of \$100 for violation is not high enough to compel compliance and support enforcement activities. NYSACHO recommends that a fine for a first violation be a minimum of \$300, not to exceed \$1000, and that a fine of a minimum of \$500, not to exceed \$1500 be set for subsequent violations. This corresponds to current fines under section 1399-ff of the public health law. Local health departments have found that these higher fines serve as an appropriate deterrent to potential violators of tobacco-related laws.

For the reasons stated above, NYSACHO and NYSPHA support this legislation and recommend it be enacted into law, with amendments to raise the fines for violations (as recommended above) to assure compliance.

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