

1 made available for use in such facility, not less than biennially. The
2 commissioner may establish a fee for such inspection, which shall not
3 exceed [~~fifty~~] two hundred dollars per ultraviolet radiation device;
4 provided, however, that no facility shall be required to pay any such
5 fee on more than one occasion in any biennial registration period. The
6 commissioner may appoint and designate, from time to time, persons to
7 make the inspections authorized by this article.

8 § 4. Paragraph (a) of subdivision 2 of section 905 of the labor law,
9 as added by chapter 166 of the laws of 1991, is amended to read as
10 follows:

11 (a) The commissioner of health shall assess a fee of no more than
12 [~~twenty~~] fifty dollars for each asbestos safety program completion
13 certificate requested by the training sponsor for each full asbestos
14 safety program and a fee of no more than [~~twelve~~] thirty dollars for
15 each asbestos safety program completion certificate requested by the
16 training sponsor for each refresher training asbestos safety program,
17 provided, however, that in no event shall the cost of such certificates
18 be assessed by the sponsor against the participants.

19 § 5. This act shall take effect immediately.

20 PART EE

21 Section 1. The public health law is amended by adding three new
22 sections 1399-mm-1, 1399-mm-2, and 1399-mm-3 to read as follows:

23 § 1399-mm-1. Sale of flavored products prohibited. 1. For the purposes
24 of this section "flavored" shall mean any vapor product intended or
25 reasonably expected to be used with or for the consumption of nicotine,
26 with a distinguishable taste or aroma, other than the taste or aroma of
27 tobacco, imparted either prior to or during consumption of such product
28 or a component part thereof, including but not limited to tastes or
29 aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa,
30 dessert, alcoholic beverage, mint, wintergreen, menthol, herb or spice,
31 or any concept flavor that imparts a taste or aroma that is distinguish-
32 able from tobacco flavor but may not relate to any particular known
33 flavor. A vapor product intended or reasonably expected to be used with
34 or for the consumption of nicotine, shall be presumed to be flavored if
35 a product's retailer, manufacturer, or a manufacturer's agent or employ-
36 ee has made a statement or claim directed to consumers or the public,
37 whether expressed or implied, that such product or device has a distin-
38 guishable taste or aroma other than the taste or aroma of tobacco.

39 2. No vapor products dealer, or any agent or employee of a vapor
40 products dealer, shall sell or offer for sale at retail in the state any
41 flavored vapor product intended or reasonably expected to be used with
42 or for the consumption of nicotine.

43 3. Any vapor products dealer, or any agent or employee of a vapor
44 products dealer, who violates the provisions of this section shall be
45 subject to a civil penalty of not more than one hundred dollars for each
46 individual package of flavored vapor product intended or reasonably
47 expected to be used with or for the consumption of nicotine sold or
48 offered for sale, provided, however, that with respect to a manufactur-
49 er, it shall be an affirmative defense to a finding of violation pursu-
50 ant to this section that such sale or offer of sale, as applicable,
51 occurred without the knowledge, consent, authorization, or involvement,
52 direct or indirect, of such manufacturer. Violations of this section
53 shall be enforced pursuant to section thirteen hundred ninety-nine-ff of

1 this article, except that any person may submit a complaint to an
2 enforcement officer that a violation of this section has occurred.

3 4. The provisions of this section shall not apply to any vapor
4 products dealer, or any agent or employee of a vapor products dealer,
5 who sells or offers for sale, or who possess with intent to sell or
6 offer for sale, any flavored vapor product intended or reasonably
7 expected to be used with or for the consumption of nicotine that the
8 U.S. Food and Drug Administration has authorized to legally market as
9 defined under 21 U.S.C. § 387j and that has received a premarket review
10 approval order under 21 U.S.C. § 387j(c) et seq.

11 § 1399-mm-2. Sale in pharmacies. 1. No tobacco product, herbal ciga-
12 rette, or vapor product intended or reasonably expected to be used with
13 or for the consumption of nicotine, shall be sold in a pharmacy or in a
14 retail establishment that contains a pharmacy operated as a department
15 as defined by paragraph f of subdivision two of section sixty-eight
16 hundred eight of the education law. Provided, however, that such prohi-
17 bition on the sale of tobacco products, herbal cigarettes, or vapor
18 products intended or reasonably expected to be used with or for the
19 consumption of nicotine, shall not apply to any other business that owns
20 or leases premises within any building or other facility that also
21 contains a pharmacy or a retail establishment that contains a pharmacy
22 operated as a department as defined by paragraph f of subdivision two of
23 section sixty-eight hundred eight of the education law.

24 2. The commissioner shall have sole jurisdiction to enforce the
25 provisions of this section. The commissioner shall have the power to
26 assess penalties in accordance with section twelve of this chapter and
27 pursuant to a hearing conducted in accordance with section twelve-a of
28 this chapter. Nothing in this section shall be construed to prohibit the
29 commissioner from commencing a proceeding for injunctive relief to
30 compel compliance with this section.

31 § 1399-mm-3. Carrier oils. 1. For the purposes of this section "carri-
32 er oils" shall mean any ingredient of a vapor product intended to
33 control the consistency or other physical characteristics of such vapor
34 product, to control the consistency or other physical characteristics of
35 vapor, or to facilitate the production of vapor when such vapor product
36 is used in an electronic cigarette. "Carrier oils" shall not include any
37 product approved by the United States food and drug administration as a
38 drug or medical device or manufactured and dispensed pursuant to title
39 five-A of article thirty-three of this chapter.

40 2. The commissioner is authorized to promulgate rules and regulations
41 governing the sale and distribution of carrier oils that are suspected
42 of causing acute illness and have been identified as a chemical of
43 concern by the United States centers for disease control and prevention.
44 Such regulations may, to the extent deemed by the commissioner as neces-
45 sary for the protection of public health, prohibit or restrict the sell-
46 ing, offering for sale, possessing with intent to sell, or distributing
47 of carrier oils.

48 3. The provisions of this section shall not apply where preempted by
49 federal law. Furthermore, the provisions of this section shall be
50 severable, and if any phrase, clause, sentence, or provision is declared
51 to be invalid, or is preempted by federal law or regulation, the validi-
52 ty of the remainder of this section shall not be affected thereby. If
53 any provision of this section is declared to be inapplicable to any
54 specific category, type, or kind of carrier oil, the provisions of this
55 section shall nonetheless continue to apply with respect to all other
56 carrier oils.

1 § 2. Section 1399-aa of the public health law is amended by adding
2 five new subdivisions 14, 15, 16, 17, and 18 to read as follows:

3 14. "Price reduction instrument" means any coupon, voucher, rebate,
4 card, paper, note, form, statement, ticket, image, or other issue,
5 whether in paper, digital, or any other form, used for commercial
6 purposes to receive an article, product, service, or accommodation with-
7 out charge or at a discounted price.

8 15. "Listed or non-discounted price" means the price listed for ciga-
9 rettes, tobacco products, or vapor products intended or reasonably
10 expected to be used with or for the consumption of nicotine, on their
11 packages or any related shelving, posting, advertising or display at the
12 location where the cigarettes, tobacco products, or vapor products
13 intended or reasonably expected to be used with or for the consumption
14 of nicotine, are sold or offered for sale, including all applicable
15 taxes.

16 16. "Retail dealer" means a person licensed by the commissioner of
17 taxation and finance to sell cigarettes, tobacco products, or vapor
18 products in this state.

19 17. "Vapor products" means any noncombustible liquid or gel, regard-
20 less of the presence of nicotine therein, that is manufactured into a
21 finished product for use in an electronic cigarette, including any
22 device that contains such noncombustible liquid or gel. "Vapor product"
23 shall not include any device, or any component thereof, that does not
24 contain such noncombustible liquid or gel, or any product approved by
25 the United States food and drug administration as a drug or medical
26 device, or manufactured and dispensed pursuant to title five-A of arti-
27 cle thirty-three of this chapter.

28 18. "Vapor products dealer" means a person licensed by the commission-
29 er of taxation and finance to sell vapor products in this state.

30 § 3. Section 1399-11 of the public health law, as added by chapter 262
31 of the laws of 2000, subdivisions 1 and 5 as amended and subdivision 6
32 as added by chapter 342 of the laws of 2013, is amended to read as
33 follows:

34 § 1399-11. Unlawful shipment or transport of cigarettes and vapor
35 products. 1. It shall be unlawful for any person engaged in the busi-
36 ness of selling cigarettes to ship or cause to be shipped any cigarettes
37 to any person in this state who is not: (a) a person licensed as a ciga-
38 rette tax agent or wholesale dealer under article twenty of the tax law
39 or registered retail dealer under section four hundred eighty-a of the
40 tax law; (b) an export warehouse proprietor pursuant to chapter 52 of
41 the internal revenue code or an operator of a customs bonded warehouse
42 pursuant to section 1311 or 1555 of title 19 of the United States Code;
43 or (c) a person who is an officer, employee or agent of the United
44 States government, this state or a department, agency, instrumentality
45 or political subdivision of the United States or this state and presents
46 himself or herself as such, when such person is acting in accordance
47 with his or her official duties. For purposes of this subdivision, a
48 person is a licensed or registered agent or dealer described in para-
49 graph (a) of this subdivision if his or her name appears on a list of
50 licensed or registered agents or dealers published by the department of
51 taxation and finance, or if such person is licensed or registered as an
52 agent or dealer under article twenty of the tax law.

53 1-a. It shall be unlawful for any person engaged in the business of
54 selling vapor products to ship or cause to be shipped any vapor products
55 intended or reasonably expected to be used with or for the consumption
56 of nicotine to any person in this state who is not: (a) a person that

1 receives a certificate of registration as a vapor products dealer under
2 article twenty eight-C of the tax law; (b) an export warehouse proprie-
3 tor pursuant to chapter 52 of the internal revenue code or an operator
4 of a customs bonded warehouse pursuant to section 1311 or 1555 of title
5 19 of the United States Code; or (c) a person who is an officer, employ-
6 ee or agent of the United States government, this state or a department,
7 agency, instrumentality or political subdivision of the United States or
8 this state and presents himself or herself as such, when such person is
9 acting in accordance with his or her official duties. For purposes of
10 this subdivision, a person is a licensed or registered agent or dealer
11 described in paragraph (a) of this subdivision if his or her name
12 appears on a list of licensed or registered agents or vapor product
13 dealers published by the department of taxation and finance, or if such
14 person is licensed or registered as an agent or dealer under article
15 twenty eight-C of the tax law.

16 2. It shall be unlawful for any common or contract carrier to knowingly
17 ly transport cigarettes to any person in this state reasonably believed
18 by such carrier to be other than a person described in paragraph (a),
19 (b) or (c) of subdivision one of this section. For purposes of the
20 preceding sentence, if cigarettes are transported to a home or resi-
21 dence, it shall be presumed that the common or contract carrier knew
22 that such person was not a person described in paragraph (a), (b) or (c)
23 of subdivision one of this section. It shall be unlawful for any other
24 person to knowingly transport cigarettes to any person in this state,
25 other than to a person described in paragraph (a), (b) or (c) of subdivi-
26 sion one of this section. Nothing in this subdivision shall be
27 construed to prohibit a person other than a common or contract carrier
28 from transporting not more than eight hundred cigarettes at any one time
29 to any person in this state. It shall be unlawful for any common or
30 contract carrier to knowingly transport vapor products intended or
31 reasonably expected to be used with or for the consumption of nicotine
32 to any person in this state reasonably believed by such carrier to be
33 other than a person described in paragraph (a), (b) or (c) of subdivi-
34 sion one-a of this section. For purposes of the preceding sentence, if
35 vapor products intended or reasonably expected to be used with or for
36 the consumption of nicotine are transported to a home or residence, it
37 shall be presumed that the common or contract carrier knew that such
38 person was not a person described in paragraph (a), (b) or (c) of subdivi-
39 sion one-a of this section. It shall be unlawful for any other person
40 to knowingly transport vapor products intended or reasonably expected to
41 be used with or for the consumption of nicotine to any person in this
42 state, other than to a person described in paragraph (a), (b) or (c) of
43 subdivision one of this section. Nothing in this subdivision shall be
44 construed to prohibit a person other than a common or contract carrier
45 from transporting vapor products, provided that the amount of vapor
46 products intended or reasonably expected to be used with or for the
47 consumption of nicotine shall not exceed the lesser of 500 milliliters,
48 or a total nicotine content of 3 grams at any one time to any person in
49 this state.

50 3. When a person engaged in the business of selling cigarettes ships
51 or causes to be shipped any cigarettes to any person in this state,
52 other than in the cigarette manufacturer's original container or wrap-
53 ping, the container or wrapping must be plainly and visibly marked with
54 the word "cigarettes". When a person engaged in the business of selling
55 vapor products ships or causes to be shipped any vapor products intended
56 or reasonably expected to be used with or for the consumption of nico-

1 tine to any person in this state, other than in the vapor products
2 manufacturer's original container or wrapping, the container or wrapping
3 must be plainly and visibly marked with the words "vapor products".

4 4. Whenever a police officer designated in section 1.20 of the crimi-
5 nal procedure law or a peace officer designated in subdivision four of
6 section 2.10 of such law, acting pursuant to his or her special duties,
7 shall discover any cigarettes or vapor products intended or reasonably
8 expected to be used with or for the consumption of nicotine which have
9 been or which are being shipped or transported in violation of this
10 section, such person is hereby empowered and authorized to seize and
11 take possession of such cigarettes or vapor products intended or reason-
12 ably expected to be used with or for the consumption of nicotine, and
13 such cigarettes or vapor products intended or reasonably expected to be
14 used with or for the consumption of nicotine shall be subject to a
15 forfeiture action pursuant to the procedures provided for in article
16 thirteen-A of the civil practice law and rules, as if such article
17 specifically provided for forfeiture of cigarettes or vapor products
18 intended or reasonably expected to be used with or for the consumption
19 of nicotine seized pursuant to this section as a pre-conviction forfei-
20 ture crime.

21 5. Any person who violates the provisions of subdivision one, one-a,
22 or two of this section shall be guilty of a class A misdemeanor and for
23 a second or subsequent violation shall be guilty of a class E felony. In
24 addition to the criminal penalty, any person who violates the provisions
25 of subdivision one, one-a, two or three of this section shall be subject
26 to a civil penalty not to exceed the greater of (a) five thousand
27 dollars for each such violation; ~~(b)~~ (b) one hundred dollars for each
28 pack of cigarettes shipped, caused to be shipped or transported in
29 violation of such subdivision; or (c) one hundred dollars for each vapor
30 product intended or reasonably expected to be used with or for the
31 consumption of nicotine shipped, caused to be shipped or transported in
32 violation of such subdivision.

33 6. The attorney general may bring an action to recover the civil
34 penalties provided by subdivision five of this section and for such
35 other relief as may be deemed necessary. In addition, the corporation
36 counsel of any political subdivision that imposes a tax on cigarettes or
37 vapor products intended or reasonably expected to used with or for the
38 consumption of nicotine may bring an action to recover the civil penal-
39 ties provided by subdivision five of this section and for such other
40 relief as may be deemed necessary with respect to any cigarettes or
41 vapor products intended or reasonably expected to be used with or for
42 the consumption of nicotine shipped, caused to be shipped or transported
43 in violation of this section to any person located within such political
44 subdivision. All civil penalties obtained in any such action shall be
45 retained by the state or political subdivision bringing such action,
46 provided that no person shall be required to pay civil penalties to both
47 the state and a political subdivision with respect to the same violation
48 of this section.

49 § 4. Section 1399-bb of the public health law, as amended by chapter
50 508 of the laws of 2000, the section heading as amended by chapter 4 of
51 the laws of 2018, subdivision 2 as amended by chapter 13 of the laws of
52 2003, and paragraphs (b), (c), and (f) of subdivision 2 and subdivisions
53 4 and 5 as amended by chapter 100 of the laws of 2019, is amended to
54 read as follows:

55 § 1399-bb. Distribution of tobacco products, ~~[electronic cigarettes]~~
56 vapor products, or herbal cigarettes without charge. 1. No ~~[person]~~

1 retail dealer, or any agent or employee of a retail dealer engaged in
2 the business of selling or otherwise distributing tobacco products,
3 vapor products intended or reasonably expected to be used with or for
4 the consumption of nicotine, or herbal cigarettes for commercial
5 purposes, or any agent or employee of such ~~[person]~~ retail dealer, or
6 any agent or employee of a retail dealer, shall knowingly, in further-
7 ance of such business:

8 (a) distribute without charge any tobacco products, vapor products
9 intended or reasonably expected to be used with or for the consumption
10 of nicotine, or herbal cigarettes to any individual, provided that the
11 distribution of a package containing tobacco products, vapor products
12 intended or reasonably expected to be used with or for the consumption
13 of nicotine, or herbal cigarettes in violation of this subdivision shall
14 constitute a single violation without regard to the number of items in
15 the package; or

16 (b) distribute ~~[coupons]~~ price reduction instruments which are redeem-
17 able for tobacco products, vapor products intended or reasonably
18 expected to be used with or for the consumption of nicotine, or herbal
19 cigarettes to any individual, provided that this subdivision shall not
20 apply to coupons contained in newspapers, magazines or other types of
21 publications, coupons obtained through the purchase of tobacco products,
22 vapor products intended or reasonably expected to be used with or for
23 the consumption of nicotine, or herbal cigarettes or obtained at
24 locations which sell tobacco products, vapor products intended or
25 reasonably expected to be used with or for the consumption of nicotine,
26 or herbal cigarettes provided that such distribution is confined to a
27 designated area or to coupons sent through the mail.

28 1-a. No retail dealer engaged in the business of selling or otherwise
29 distributing tobacco products, herbal cigarettes, or vapor products
30 intended or reasonably expected to be used with or for the consumption
31 of nicotine for commercial purposes, or any agent or employee of such
32 retail dealer, shall knowingly, in furtherance of such business:

33 (a) honor or accept a price reduction instrument in any transaction
34 related to the sale of tobacco products, herbal cigarettes, or vapor
35 products intended or reasonably expected to be used with or for the
36 consumption of nicotine to a consumer;

37 (b) sell or offer for sale any tobacco products, herbal cigarettes, or
38 vapor products intended or reasonably expected to be used with or for
39 the consumption of nicotine to a consumer through any multi-package
40 discount or otherwise provide to a consumer any tobacco products, herbal
41 cigarettes, or vapor products intended or reasonably expected to be used
42 with or for the consumption of nicotine for less than the listed price
43 or non-discounted price in exchange for the purchase of any other tobac-
44 co products, herbal cigarettes, or vapor products intended or reasonably
45 expected to be used with or for the consumption of nicotine by such
46 consumer;

47 (c) sell, offer for sale, or otherwise provide any product other than
48 a tobacco product, herbal cigarette, or vapor product intended or
49 reasonably expected to be used with or for the consumption of nicotine
50 to a consumer for less than the listed price or non-discounted price in
51 exchange for the purchase of a tobacco product, herbal cigarette, or
52 vapor product intended or reasonably expected to be used with or for the
53 consumption of nicotine by such consumer; or

54 (d) sell, offer for sale, or otherwise provide a tobacco product,
55 herbal cigarette, or vapor product intended or reasonably expected to be

1 used with or for the consumption of nicotine to a consumer for less than
2 the listed price or non-discounted price.

3 2. The prohibitions contained in subdivision one of this section shall
4 not apply to the following locations:

5 (a) private social functions when seating arrangements are under the
6 control of the sponsor of the function and not the owner, operator,
7 manager or person in charge of such indoor area;

8 (b) conventions and trade shows; provided that the distribution is
9 confined to designated areas generally accessible only to persons over
10 the age of twenty-one;

11 (c) events sponsored by tobacco, vapor product intended or reasonably
12 expected to be used with or for the consumption of nicotine, or herbal
13 cigarette manufacturers provided that the distribution is confined to
14 designated areas generally accessible only to persons over the age of
15 twenty-one;

16 (d) bars as defined in subdivision one of section thirteen hundred
17 ninety-nine-n of this chapter;

18 (e) tobacco businesses as defined in subdivision eight of section
19 thirteen hundred ninety-nine-aa of this article;

20 (f) factories as defined in subdivision nine of section thirteen
21 hundred ninety-nine-aa of this article and construction sites; provided
22 that the distribution is confined to designated areas generally accessi-
23 ble only to persons over the age of twenty-one.

24 3. No ~~[person]~~ retail dealer shall distribute tobacco products, vapor
25 products intended or reasonably expected to be used with or for the
26 consumption of nicotine, or herbal cigarettes at the locations set forth
27 in paragraphs (b), (c) and (f) of subdivision two of this section unless
28 such person gives five days written notice to the enforcement officer.

29 4. No ~~[person]~~ retail dealer engaged in the business of selling or
30 otherwise distributing electronic cigarettes or vapor products intended
31 or reasonably expected to be used with or for the consumption of nico-
32 tine for commercial purposes, or any agent or employee of such person,
33 shall knowingly, in furtherance of such business, distribute without
34 charge any electronic cigarettes to any individual under twenty-one
35 years of age.

36 5. The distribution of tobacco products, electronic cigarettes, vapor
37 products intended or reasonably expected to be used with or for the
38 consumption of nicotine, or herbal cigarettes pursuant to subdivision
39 two of this section or the distribution without charge of electronic
40 cigarettes, or vapor products intended or reasonably expected to be used
41 with or for the consumption of nicotine, shall be made only to an indi-
42 vidual who demonstrates, through (a) a driver's license or ~~[other-photo-~~
43 ~~graphic]~~ non-driver identification card issued by ~~[a-government-entity~~
44 ~~or-educational-institution]~~ the commissioner of motor vehicles, the
45 federal government, any United States territory, commonwealth, or
46 possession, the District of Columbia, a state government within the
47 United States, or a provincial government of the dominion of Canada, (b)
48 a valid passport issued by the United States government or the govern-
49 ment of any other country, or (c) an identification card issued by the
50 armed forces of the United States, indicating that the individual is at
51 least twenty-one years of age. Such identification need not be required
52 of any individual who reasonably appears to be at least twenty-five
53 years of age; provided, however, that such appearance shall not consti-
54 tute a defense in any proceeding alleging the sale of a tobacco product,
55 electronic cigarette, vapor product intended or reasonably expected to
56 be used with or for the consumption of nicotine, or herbal cigarette or

1 the distribution without charge of electronic cigarettes, or vapor
2 products intended or reasonably expected to be used with or for the
3 consumption of nicotine to an individual.

4 § 5. The public health law is amended by adding a new article 17 to
5 read as follows:

6 ARTICLE 17
7 INGREDIENT DISCLOSURES FOR
8 VAPOR PRODUCTS AND E-CIGARETTES

9 Section 1700. Definitions.

10 1701. Disclosure.

11 1702. Penalties.

12 § 1700. Definitions. As used in this article, the following terms
13 shall have the following meanings:

14 1. "Vapor products" shall mean any vapor product, as defined by
15 section thirteen hundred ninety-nine-aa of this chapter, intended or
16 reasonably expected to be used with or for the consumption of nicotine.

17 2. "Electronic cigarette" or "e-cigarette" shall have the same meaning
18 as defined by section thirteen hundred ninety-nine-aa of this chapter.

19 3. "Ingredient" shall mean all of the following:

20 (a) any intentional additive present in any quantity in a vapor prod-
21 uct;

22 (b) a byproduct or contaminant, present in a vapor product in any
23 quantity equal to or greater than one-half of one percent of the content
24 of such product by weight, or other amount determined by the commission-
25 er;

26 (c) a byproduct present in a vapor product in any quantity less than
27 one-half of one percent of the content of such product by weight,
28 provided such element or compound has been published as a chemical of
29 concern on one or more lists identified by the commissioner; and

30 (d) a contaminant present in a vapor product in a quantity determined
31 by the commissioner and less than one-half of one percent of the content
32 of such product by weight, provided such element or compound has been
33 published as a chemical of concern on one or more lists identified by
34 the commissioner.

35 4. "Intentionally added ingredient" shall mean any element or compound
36 that a manufacturer has intentionally added to a vapor product at any
37 point in such product's supply chain, or at any point in the supply
38 chain of any raw material or ingredient used to manufacture such prod-
39 uct.

40 5. "Byproduct" shall mean any element or compound in the finished
41 vapor product, or in the vapor produced during consumption of a vapor
42 product, which: (a) was created or formed during the manufacturing
43 process as an intentional or unintentional consequence of such manufac-
44 turing process at any point in such product's supply chain, or at any
45 point in the supply chain of any raw material or ingredient used to
46 manufacture such product; or (b) is created or formed as an intentional
47 or unintentional consequence of the use of an e-cigarette or consumption
48 of a vapor product. "Byproduct" shall include, but is not limited to,
49 an unreacted raw material, a breakdown product of an intentionally added
50 ingredient, a breakdown product of any component part of an e-cigarette,
51 or a derivative of the manufacturing process.

52 6. "Contaminant" shall mean any element or compound made present in a
53 vapor product as an unintentional consequence of manufacturing. Contam-
54 inants include, but are not limited to, elements or compounds present in
55 the environment which were introduced into a product, a raw material, or
56 a product ingredient as a result of the use of an environmental medium,

1 such as naturally occurring water, or other materials used in the manu-
2 facturing process at any point in a product's supply chain, or at any
3 point in the supply chain of any raw material or ingredient used to
4 manufacture such product.

5 7. "Manufacturer" shall mean any person, firm, association, partner-
6 ship, limited liability company, or corporation which produces,
7 prepares, formulates, or compounds a vapor product or e-cigarette, or
8 whose brand name is affixed to such product. In the case of a vapor
9 product or e-cigarette imported into the United States, "manufacturer"
10 shall mean the importer or first domestic distributor of such product if
11 the entity that manufactures such product or whose brand name is affixed
12 to such product does not have a presence in the United States.

13 § 1701. Disclosure. 1. Manufacturers of vapor products or e-cigarettes
14 distributed, sold, or offered for sale in this state, whether at retail
15 or wholesale, shall furnish to the commissioner for public record and
16 post on such manufacturer's website, in a manner prescribed by the
17 commissioner that is readily accessible to the public and machine read-
18 able, information regarding such products pursuant to rules or regu-
19 lations which shall be promulgated by the commissioner.

20 (a) For each vapor product, the information posted pursuant to this
21 subdivision shall include, but shall not be limited to:

22 (i) a list naming each ingredient of such vapor product in descending
23 order of predominance by weight in such product, except that ingredients
24 present at a weight below one percent may be listed following other
25 ingredients without respect to the order of predominance by weight;

26 (ii) the nature and extent of investigations and research performed by
27 or for the manufacturer concerning the effects on human health of such
28 product or its ingredients;

29 (iii) where applicable, a statement disclosing that an ingredient of
30 such product is published as a chemical of concern on one or more lists
31 identified by the commissioner; and

32 (iv) for each ingredient published as a chemical of concern on one or
33 more lists identified by the commissioner, an evaluation of the avail-
34 ability of potential alternatives and potential hazards posed by such
35 alternatives.

36 (b) For each e-cigarette the information posted pursuant to this
37 subdivision shall include, but shall not be limited to:

38 (i) a list naming any toxic metal, including but not limited to lead,
39 manganese, nickel, chromium, or zinc, as a constituent of any heating
40 element included in such e-cigarette;

41 (ii) a list naming each byproduct that may be introduced into vapor
42 produced during the normal use of such e-cigarette;

43 (iii) the nature and extent of investigations and research performed
44 by or for the manufacturer concerning the effects on human health of
45 such product or such ingredients;

46 (iv) where applicable, a statement disclosing that an ingredient is
47 published as a chemical of concern on one or more lists identified by
48 the commissioner; and

49 (v) for each constituent of any heating element identified as a toxic
50 metal and ingredient published as a chemical of concern on one or more
51 lists identified by the commissioner, an evaluation of the availability
52 of potential alternatives and potential hazards posed by such alterna-
53 tives.

54 2. Manufacturers shall furnish the information required to be posted
55 pursuant to subdivision one of this section on or before January first,
56 two thousand twenty-one, and every two years thereafter. In addition,

1 such manufacturers shall furnish such information prior to the sale of
2 any new vapor product or e-cigarette, when the formulation of a current-
3 ly disclosed product is changed such that the predominance of the ingre-
4 redients in such product is changed, when any list of chemicals of concern
5 identified by the commissioner pursuant to this article is changed to
6 include an ingredient present in a vapor product or e-cigarette subject
7 to this article, or at such other times as may be required by the
8 commissioner.

9 3. The information required to be posted pursuant to subdivision one
10 of this section shall be made available to the public by the commission-
11 er and manufacturers, in accordance with this section, with the excep-
12 tion of those portions which a manufacturer determines, subject to the
13 approval of the commissioner, are related to a proprietary process the
14 disclosure of which would compromise such manufacturer's competitive
15 position. The commissioner shall not approve any exceptions under this
16 subdivision with respect to any ingredient published as a chemical of
17 concern on one or more lists identified by the commissioner.

18 § 1702. Penalties. Notwithstanding any other provision of this chap-
19 ter, any manufacturer who violates any of the provisions of, or who
20 fails to perform any duty imposed by, this article or any rule or regu-
21 lation promulgated thereunder, shall be liable, in the case of a first
22 violation, for a civil penalty not to exceed five thousand dollars. In
23 the case of a second or any subsequent violation, the liability shall be
24 for a civil penalty not to exceed ten thousand dollars for each such
25 violation.

26 § 6. Subdivision 2 and paragraphs (e) and (f) of subdivision 3 of
27 section 1399-ee of the public health law, as amended by chapter 162 of
28 the laws of 2002, are amended to read as follows:

29 2. If the enforcement officer determines after a hearing that a
30 violation of this article has occurred, he or she shall impose a civil
31 penalty of a minimum of three hundred dollars, but not to exceed one
32 thousand ~~five hundred~~ one thousand dollars for a first violation, and a minimum of
33 [~~five hundred~~] one thousand dollars, but not to exceed [~~one~~] two thou-
34 sand five hundred dollars for each subsequent violation, unless a
35 different penalty is otherwise provided in this article. The enforcement
36 officer shall advise the retail dealer that upon the accumulation of
37 three or more points pursuant to this section the department of taxation
38 and finance shall suspend the dealer's registration. If the enforcement
39 officer determines after a hearing that a retail dealer was selling
40 tobacco products while their registration was suspended or permanently
41 revoked pursuant to subdivision three or four of this section, he or she
42 shall impose a civil penalty of twenty-five hundred dollars.

43 (e) Suspension. If the department determines that a retail dealer has
44 accumulated three points or more, the department shall direct the
45 commissioner of taxation and finance to suspend such dealer's registra-
46 tion for [~~six months~~] one year. The three points serving as the basis
47 for a suspension shall be erased upon the completion of the [~~six month~~]
48 one year penalty.

49 (f) Surcharge. A two hundred fifty dollar surcharge to be assessed for
50 every violation will be made available to enforcement officers and shall
51 be used solely for compliance checks to be conducted to determine
52 compliance with this section.

53 § 7. Paragraph 1 of subdivision h of section 1607 of the tax law, as
54 amended by chapter 162 of the laws of 2002, is amended to read as
55 follows:

1 1. A license shall be suspended for a period of [~~six months~~] one year
2 upon notification to the division by the commissioner of health of a
3 lottery sales agent's accumulation of three or more points pursuant to
4 subdivision three of section thirteen hundred ninety-nine-ee of the
5 public health law.

6 § 8. Section 1399-hh of the public health law, as added by chapter 433
7 of the laws of 1997, is amended to read as follows:

8 § 1399-hh. Tobacco and vapor product enforcement. The commissioner
9 shall develop, plan and implement a comprehensive program to reduce the
10 prevalence of tobacco use, and vapor product, intended or reasonably
11 expected to be used with or for the consumption of nicotine, use partic-
12 ularly among persons less than [~~eighteen~~] twenty-one years of age. This
13 program shall include, but not be limited to, support for enforcement of
14 this article [~~thirteen-F of this chapter~~].

15 1. An enforcement officer, as defined in section thirteen hundred
16 ninety-nine-t of this chapter, may annually, on such dates as shall be
17 fixed by the commissioner, submit an application for such monies as are
18 made available for such purpose. Such application shall be in such form
19 as prescribed by the commissioner and shall include, but not be limited
20 to, plans regarding random spot checks, including the number and types
21 of compliance checks that will be conducted, and other activities to
22 determine compliance with this article. Each such plan shall include an
23 agreement to report to the commissioner: the names and addresses of
24 tobacco retailers and vendors and vapor products dealers determined to
25 be unlicensed, if any; the number of complaints filed against licensed
26 tobacco retail outlets and vapor products dealers; and the names of
27 tobacco retailers and vendors and vapor products dealers who have paid
28 fines, or have been otherwise penalized, due to enforcement actions.

29 2. The commissioner shall distribute such monies as are made avail-
30 able for such purpose to enforcement officers and, in so doing, consider
31 the number of licensed vapor products dealers and retail locations
32 registered to sell tobacco products within the jurisdiction of the
33 enforcement officer and the level of proposed activities.

34 3. Monies made available to enforcement officers pursuant to this
35 section shall only be used for local tobacco and vapor product, intended
36 or reasonably expected to be used with or for the consumption of nico-
37 tine, enforcement activities approved by the commissioner.

38 § 9. Section 1399-jj of the public health law, as amended by chapter 1
39 of the laws of 1999, is amended to read as follows:

40 § 1399-jj. Evaluation requirements. 1. The commissioner shall evaluate
41 the effectiveness of the efforts by state and local governments to
42 reduce the use of tobacco products and vapor products, intended or
43 reasonably expected to be used with or for the consumption of nicotine,
44 among minors and adults. The principal measurements of effectiveness
45 shall include negative attitudes toward tobacco and vapor products,
46 intended or reasonably expected to be used with or for the consumption
47 of nicotine, use and reduction of tobacco and vapor products, intended
48 or reasonably expected to be used with or for the consumption of nico-
49 tine, use among the general population, and given target populations.

50 2. The commissioner shall ensure that, to the extent practicable, the
51 most current research findings regarding mechanisms to reduce and change
52 attitudes toward tobacco and vapor products, intended or reasonably
53 expected to be used with or for the consumption of nicotine, use are
54 used in tobacco and vapor product, intended or reasonably expected to be
55 used with or for the consumption of nicotine, education programs admin-
56 istered by the department.

1 3. To diminish tobacco and vapor product, intended or reasonably
2 expected to be used with or for the consumption of nicotine, use among
3 minors and adults, the commissioner shall ensure that, to the extent
4 practicable, the following is achieved:

5 The department shall conduct an independent evaluation of the state-
6 wide tobacco use prevention and control program under section thirteen
7 hundred ninety-nine-ii of this article. The purpose of this evaluation
8 is to direct the most efficient allocation of state resources devoted to
9 tobacco and vapor product, intended or reasonably expected to be used
10 with or for the consumption of nicotine, education and cessation to
11 accomplish the maximum prevention and reduction of tobacco and vapor
12 product, intended or reasonably expected to be used with or for the
13 consumption of nicotine, use among minors and adults. Such evaluation
14 shall be provided to the governor, the majority leader of the senate and
15 the speaker of the assembly on or before September first, two thousand
16 one, and annually on or before such date thereafter. The comprehensive
17 evaluation design shall be guided by the following:

18 (a) sound evaluation principles including, to the extent feasible,
19 elements of controlled experimental methods;

20 (b) an evaluation of the comparative effectiveness of individual
21 program designs which shall be used in funding decisions and program
22 modifications; and

23 (c) an evaluation of other programs identified by state agencies,
24 local lead agencies, and federal agencies.

25 § 10. Section 1399-kk of the public health law, as added by chapter
26 433 of the laws of 1997, is amended to read as follows:

27 § 1399-kk. Annual tobacco and vapor product enforcement reporting.
28 The commissioner shall submit to the governor and the legislature an
29 interim tobacco control report and annual tobacco control reports which
30 shall describe the extent of the use of tobacco products and vapor
31 products, intended or reasonably expected to be used with or for the
32 consumption of nicotine, by ~~minors~~ those under twenty-one years of age
33 in the state and document the progress state and local governments have
34 made in reducing such use among ~~minors~~ those under twenty-one years of
35 age.

36 1. The interim tobacco control report. The commissioner shall submit
37 to the governor and the legislature an interim tobacco control report on
38 or before September first, nineteen hundred ninety-eight. Such interim
39 report shall, to the extent practicable, include the following informa-
40 tion on a county by county basis:

41 (a) number of licensed and registered tobacco retailers and vendors;

42 (b) the names and addresses of retailers and vendors who have paid
43 fines, or have been otherwise penalized, due to enforcement actions;

44 (c) the number of complaints filed against licensed and registered
45 tobacco retailers;

46 (d) the number of fires caused or believed to be caused by tobacco
47 products and deaths and injuries resulting therefrom;

48 (e) the number and type of compliance checks conducted; and

49 (f) such other information as the commissioner deems appropriate.

50 2. The commissioner shall submit to the governor and the legislature
51 an annual tobacco and vapor products, intended or reasonably expected to
52 be used with or for the consumption of nicotine, control report which
53 shall describe the extent of the use of tobacco products and vapor
54 products, intended or reasonably expected to be used with or for the
55 consumption of nicotine, by ~~minors~~ those under twenty-one years of age
56 in the state and document the progress state and local governments have

1 made in reducing such use among [~~minors~~] those under twenty-one years of
2 age. The annual report shall be submitted to the governor and the
3 legislature on or before March thirty-first of each year beginning on
4 March thirty-first, nineteen hundred ninety-nine. The annual report
5 shall, to the extent practicable, include the following information on a
6 county by county basis:

7 (a) number of licensed and registered tobacco retailers and vendors
8 and licensed vapor products dealers;

9 (b) the names and addresses of retailers and vendors who have paid
10 fines, or have been otherwise penalized, due to enforcement actions;

11 (c) the number of complaints filed against licensed and registered
12 tobacco retailers and licensed vapor products dealers;

13 (d) the number of fires caused or believed to be caused by tobacco
14 products and vapor products, intended or reasonably expected to be used
15 with or for the consumption of nicotine, and deaths and injuries result-
16 ing therefrom;

17 (e) the number and type of compliance checks conducted;

18 (f) a survey of attitudes and behaviors regarding tobacco use among
19 [~~minors~~] those under twenty-one years of age. The initial such survey
20 shall be deemed to constitute the baseline survey;

21 (g) the number of tobacco and vapor product, intended or reasonably
22 expected to be used with or for the consumption of nicotine, users and
23 estimated trends in tobacco and vapor product, intended or reasonably
24 expected to be used with or for the consumption of nicotine, use among
25 [~~minors~~] those under twenty-one years of age;

26 (h) annual tobacco and vapor product, intended or reasonably expected
27 to be used with or for the consumption of nicotine, sales;

28 (i) tax revenue collected from the sale of tobacco products and vapor
29 products, intended or reasonably expected to be used with or for the
30 consumption of nicotine;

31 (j) the number of licensed tobacco retail outlets and licensed vapor
32 products dealers;

33 (k) the number of cigarette vending machines;

34 (l) the number and type of compliance checks;

35 (m) the names of entities that have paid fines due to enforcement
36 actions; and

37 (n) the number of complaints filed against licensed tobacco retail
38 outlets and licensed vapor products dealers.

39 The annual tobacco and vapor product, intended or reasonably expected
40 to be used with or for the consumption of nicotine, control report
41 shall, to the extent practicable, include the following information: (a)
42 tobacco and vapor product, intended or reasonably expected to be used
43 with or for the consumption of nicotine, control efforts sponsored by
44 state government agencies including money spent to educate [~~minors~~]
45 those under twenty-one years of age on the hazards of tobacco and vapor
46 product, intended or reasonably expected to be used with or for the
47 consumption of nicotine, use;

48 (b) recommendations for improving tobacco and vapor product, intended
49 or reasonably expected to be used with or for the consumption of nico-
50 tine, control efforts in the state; and

51 (c) such other information as the commissioner deems appropriate.

52 § 11. The public health law is amended by adding a new section
53 1399-ii-1 to read as follows:

54 § 1399-ii-1. Electronic cigarette and vaping prevention, awareness and
55 control program. The commissioner shall, in consultation and collab-
56 oration with the commissioner of education, establish and develop an

1 electronic cigarette and vaping prevention, control and awareness
2 program within the department. Such program shall be designed to educate
3 students, parents and school personnel about the health risks associated
4 with vapor product use and control measures to reduce the prevalence of
5 vaping, particularly among persons less than twenty-one years of age.
6 Such program shall include, but not be limited to, the creation of age-
7 appropriate instructional tools and materials that may be used by all
8 schools, and marketing and advertising materials to discourage electron-
9 ic cigarette use.

10 § 12. Section 1399-ii of the public health law, as amended by chapter
11 256 of the laws of 2019, is amended to read as follows:

12 § 1399-ii. Tobacco and vapor product use prevention and control
13 program. 1. To improve the health, quality of life, and economic well-
14 being of all New York state citizens, there is hereby established within
15 the department a comprehensive statewide tobacco and vapor product use
16 prevention and control program.

17 2. The department shall support tobacco and vapor product use
18 prevention and control activities including, but not limited to:

19 (a) Community programs to prevent and reduce tobacco use through local
20 involvement and partnerships;

21 (b) School-based programs to prevent and reduce tobacco use and use of
22 [~~electronic cigarettes~~] vapor products;

23 (c) Marketing and advertising to discourage tobacco, vapor product and
24 liquid nicotine use;

25 (d) [~~Tobacco~~] Nicotine cessation programs for youth and adults;

26 (e) Special projects to reduce the disparities in smoking prevalence
27 among various populations;

28 (f) Restriction of youth access to tobacco products [~~, electronic ciga-~~
29 ~~rettes~~] and [~~liquid nicotine~~] vapor products;

30 (g) Surveillance of smoking and vaping rates; and

31 (h) Any other activities determined by the commissioner to be neces-
32 sary to implement the provisions of this section.

33 Such programs shall be selected by the commissioner through an appli-
34 cation process which takes into account whether a program utilizes meth-
35 ods recognized as effective in reducing [~~smoking and tobacco~~] nicotine
36 use. Eligible applicants may include, but not be limited to, a health
37 care provider, schools, a college or university, a local public health
38 department, a public health organization, a health care provider organ-
39 ization, association or society, municipal corporation, or a profes-
40 sional education organization.

41 3. (a) There shall be established a tobacco use prevention and control
42 advisory board to advise the commissioner on tobacco use prevention and
43 control issues and [~~electronic cigarette and liquid nicotine~~] vapor
44 product use amongst [~~minors~~] persons less than twenty-one years of age,
45 including methods to prevent and reduce tobacco use in the state.

46 (b) The board shall consist of seventeen members who shall be
47 appointed as follows: nine members by the governor; three members by the
48 speaker of the assembly; three members by the temporary president of the
49 senate and one member each by the minority leader of the senate and
50 minority leader of the assembly. Any vacancy or subsequent appointment
51 shall be filled in the same manner and by the same appointing authority
52 as the original appointment. The chairperson of the board shall be
53 designated by the governor from among the members of the board.

54 (c) The members shall serve for terms of two years commencing on the
55 effective date of this section. Members of the board shall receive no

1 compensation but shall be reimbursed for reasonable travel and other
2 expenses incurred in the performance of their duties hereunder.

3 (d) The board shall meet as often as it deems necessary, but no less
4 than four times a year. No nominee to the board shall have any past or
5 current affiliation with the tobacco industry, vapor products industry
6 or any industry, contractor, agent, or organization that engages in the
7 manufacturing, marketing, distributing, or sale of tobacco products. The
8 board shall be appointed in full within ninety days of the effective
9 date of this section.

10 (e) The department shall prepare and submit to the board a spending
11 plan for the tobacco and vapor product use prevention and control
12 program authorized pursuant to the provisions of subdivision one of this
13 section no later than thirty days after the submission of the budget to
14 the legislature.

15 § 13. The public health law is amended by adding a new section
16 1399-dd-1 to read as follows:

17 § 1399-dd-1. Public display of tobacco product and electronic ciga-
18 rette advertisements and smoking paraphernalia prohibited. 1. For
19 purposes of this section:

20 (a) "Advertisement" means words, pictures, photographs, symbols,
21 graphics or visual images of any kind, or any combination thereof, which
22 bear a health warning required by federal statute, the purpose or effect
23 of which is to identify a brand of a tobacco product, electronic ciga-
24 rette, or vapor product intended or reasonably expected to be used with
25 or for the consumption of nicotine, a trademark of a tobacco product,
26 electronic cigarette, or vapor product intended or reasonably expected
27 to be used with or for the consumption of nicotine or a trade name asso-
28 ciated exclusively with a tobacco product, electronic cigarette, or
29 vapor product intended or reasonably expected to be used with or for the
30 consumption of nicotine or to promote the use or sale of a tobacco prod-
31 uct, electronic cigarette, or vapor product intended or reasonably
32 expected to be used with or for the consumption of nicotine.

33 (b) "Smoking paraphernalia" means any pipe, water pipe, hookah, roll-
34 ing papers, electronic cigarette, vaporizer or any other device, equip-
35 ment or apparatus designed for the inhalation of tobacco or nicotine.

36 (c) "Vapor product" means any vapor product, as defined by section
37 thirteen hundred ninety-nine-aa of this article, intended or reasonably
38 expected to be used with or for the consumption of nicotine.

39 (d) "Tobacco products" shall have the same meaning as in subdivision
40 five of section thirteen hundred ninety-nine-aa of this article.

41 (e) "Electronic cigarette" shall have the same meaning as in subdivi-
42 sion thirteen of section thirteen hundred ninety-nine-aa of this arti-
43 cle.

44 2. (a) No person, corporation, partnership, sole proprietor, limited
45 partnership, association or any other business entity may place, cause
46 to be placed, maintain or to cause to be maintained, smoking parapher-
47 naliam or tobacco product, electronic cigarette, or vapor product
48 intended or reasonably expected to be used with or for the consumption
49 of nicotine advertisements in a store front or exterior window or any
50 door which is used for entry or egress by the public to the building or
51 structure containing a place of business within one thousand five
52 hundred feet of a school, provided that within New York city such prohi-
53 bitions shall only apply within five hundred feet of a school.

54 (b) Any person, corporation, partnership, sole proprietor, limited
55 partnership, association or any other business entity in violation of
56 this section shall be subject to a civil penalty of not more than five

1 hundred dollars for a first violation and not more than one thousand
2 dollars for a second or subsequent violation.

3 § 14. The general business law is amended by adding a new section
4 396-aaa to read as follows:

5 § 396-aaa. Public display of tobacco and electronic cigarette adver-
6 tisements and smoking paraphernalia prohibited. 1. For purposes of this
7 section:

8 (a) "Advertisement" means words, pictures, photographs, symbols,
9 graphics or visual images of any kind, or any combination thereof, which
10 bear a health warning required by federal statute, the purpose or effect
11 of which is to identify a brand of a tobacco product, electronic ciga-
12 rette, or vapor product intended or reasonably expected to be used with
13 or for the consumption of nicotine, a trademark of a tobacco product,
14 electronic cigarette, or vapor product intended or reasonably expected
15 to be used with or for the consumption of nicotine or a trade name asso-
16 ciated exclusively with a tobacco product, electronic cigarette, or
17 vapor product intended or reasonably expected to be used with or for the
18 consumption of nicotine, or to promote the use or sale of a tobacco
19 product, electronic cigarette, or vapor product intended or reasonably
20 expected to be used with or for the consumption of nicotine.

21 (b) "Smoking paraphernalia" means any pipe, water pipe, hookah, roll-
22 ing papers, electronic cigarette, vaporizer or any other device, equip-
23 ment or apparatus designed for the inhalation of tobacco or nicotine.

24 (c) "Vapor product" means any vapor product, as defined by section
25 thirteen hundred ninety-nine-aa of the public health law, intended or
26 reasonably expected to be used with or for the consumption of nicotine.

27 (d) "Tobacco products" shall have the same meaning as in subdivision
28 five of section thirteen hundred ninety-nine-aa of the public health
29 law.

30 (e) "Electronic cigarette" shall have the same meaning as in subdivi-
31 sion thirteen of section thirteen hundred ninety-nine-aa of the public
32 health law.

33 2. (a) No person, corporation, partnership, sole proprietor, limited
34 partnership, association or any other business entity may place, cause
35 to be placed, maintain or to cause to be maintained, smoking parapher-
36 nalialia or tobacco product, electronic cigarette, or vapor product
37 intended or reasonably expected to be used with or for the consumption
38 of nicotine, advertisements in a store front or any exterior window or
39 any door which is used for entry or egress by the public to the building
40 or structure containing a place of business within one thousand five
41 hundred feet of a school, provided that within New York city such prohi-
42 bititions shall only apply within five hundred feet of a school.

43 (b) Any person, corporation, partnership, sole proprietor, limited
44 partnership, association or any other business entity in violation of
45 this section shall be subject to a civil penalty of not more than five
46 hundred dollars for a first violation and not more than one thousand
47 dollars for a second or subsequent violation.

48 § 15. If any clause, sentence, paragraph, subdivision, or section of
49 this part shall be adjudged by any court of competent jurisdiction to be
50 invalid, such judgment shall not affect, impair, or invalidate the
51 remainder thereof, but shall be confined in its operation to the clause,
52 sentence, paragraph, subdivision, or section thereof directly involved
53 in the controversy in which such judgment shall have been rendered. It
54 is hereby declared to be the intent of the legislature that this act
55 would have been enacted even if such invalid provisions had not been
56 included herein.