

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 191

Introduced by Council Members Rodriguez, Vacca, Gentile, Vallone, Rosenthal, Levine and Kallos.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to prohibiting the sale of non-tobacco smoking products to minors and young adults, and to repeal subdivision f of section 17-713 and section 17-714 of the administrative code of the city of New York, relating to the sale of herbal cigarettes to individuals under eighteen years of age

Be it enacted by the Council as follows:

Section 1. Section 17-702 of the administrative code of the city of New York is amended by adding new a subdivision cc to read as follows:

cc. "Non-tobacco smoking product" means any product that does not contain tobacco or nicotine and that is designed for human use or consumption by the inhalation of smoke, including but not limited to (i) pipes, water pipes, rolling papers, and any other component, part, or accessory of such product and (ii) shisha, as defined in subdivision (z) of this section, provided that such shisha does not contain tobacco or nicotine.

§ 2. Section 17-706 of the administrative code of the city of New York, as amended by local law number 144 for the year 2017, is amended to read as follows:

§ 17-706 Sale of cigarettes, tobacco products, liquid nicotine, [or] electronic cigarettes, *or non-tobacco smoking products* to minors and young adults prohibited.

a. Any person operating a place of business wherein cigarettes, tobacco products, or liquid nicotine are sold or offered for sale is prohibited from selling such cigarettes, tobacco products, or liquid nicotine to individuals under twenty-one years of age. Sale of cigarettes, tobacco products, or liquid nicotine in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of cigarettes, tobacco products, or liquid nicotine to an individual under twenty-one years of age.

a-1. Any person operating a place of business wherein electronic cigarettes are sold or offered for sale is prohibited from selling such electronic cigarettes to individuals under twenty-one years of age. Sales of electronic cigarettes in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of electronic cigarettes to an individual under twenty-one years of age.

b. Any person operating a place of business wherein non-tobacco [shisha, pipes, or rolling papers] *smoking products* are sold or offered for sale is prohibited from selling such non-tobacco [shisha, pipes, or rolling papers] *smoking products* to individuals under [eighteen] *twenty-one* years of age. Sale of non-tobacco [shisha, pipes, or rolling papers] *smoking products* in such places

shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least [eighteen] *twenty-one* years of age. Such identification need not be required of any individual who reasonably appears to be at least [twenty-five] *thirty* years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of non-tobacco [shisha, pipes, or rolling papers] *smoking products* to an individual under [eighteen] *twenty-one* years of age.

c. Any person operating a place of business wherein cigarettes, tobacco products, liquid nicotine, electronic cigarettes, [herbal cigarettes, non-tobacco shisha, pipes, or rolling papers] *or non-tobacco smoking products* are sold or offered for sale shall post in a conspicuous place a sign, in accordance with the rules of the department, advising persons about the minimum age requirements for the purchase of such items.

§ 3. Subdivision f of section 17-713 of the administrative code of the city of New York is REPEALED.

§ 4. Section 17-714 of the administrative code of the city of New York is REPEALED.

§ 5. Section 17-716 of the administrative code of the city of New York, as amended by local law number 146 for the year 2017, is amended to read as follows:

§ 17-716 Violations and penalties. a. [Any person who violates section 17-714 of this subchapter or any rules promulgated hereunder shall be liable for a civil penalty of not less than five hundred dollars, nor more than two thousand dollars for each violation.

b.] Any person who violates section 17-715 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 found on that 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 found on that 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. In addition, for a third violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a three-year period, any person who engages in business as a retail dealer, as such term is defined in section 20-201, shall be subject to the mandatory suspension of his or her license, issued pursuant to section 20-202, for such place of business, for a period not to exceed one year. Such license shall be suspended at the same hearing at which a retail dealer is found liable for a third violation or subsequent violations at the same place of business within a three-year period.

§ 6. Paragraph 3 of subdivision a of section 20-206 of the administrative code of the city of New York, as amended by local law number 95 for the year 2015, is amended to read as follows:

3. violated the provisions of *subdivision a or b* of section [17-714] 17-706 of this code or any rules promulgated thereunder; or

§ 7. 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.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on September 27, 2017 and approved by the Mayor on October 16, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 191 of 2017, Council Int. No. 1076-A of 2016) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.