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LOCAL LAW NO. 15 - 2017

A LOCAL LAW PROHIBITING THE SALE OF TOBACCO PRODUCTS, INCLUDING HERBAL CIGARETTES, ROLLING PAPERS, PIPES, AND ELECTRONIC SMOKING DEVICES TO ANYONE UNDER THE AGE OF 21, AND AMENDING LOCAL LAW NO. 2 - 2009

BE IT ENACTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY AS FOLLOWS:

Section 1. Findings/Purpose.

Local Law No. 2 – 2009 is amended by this local law to raise the legal age for purchasing tobacco products to 21. Such local law is further amended to add electronic smoking devices to the list of products for which the sale is prohibited to persons under the legal age.

This Legislature finds, based on reports from the Bureau of Tobacco Control and the New York State Department of Health, that the majority of smokers report having their first cigarette in their early teens, with over ninety percent (90%) starting by the twenty-first (21) year of age. The risk of starting to smoke does not decrease until the age of twenty-two (22). Furthermore, the transition from experimental smoking to regular smoking typically occurs around the age of twenty (20).

Based on recent data from the New York State Department of Health, cigarette smoking among high school youth has consistently declined over the past decade, however, the use of Electronic Smoking Devices, or e-cigarettes, among high school youth has more than doubled between 2014 and 2016, from 10.5% to 20.6%, making electronic cigarettes the most commonly used tobacco product.

Primary tobacco use is a known major cause of mortality and morbidity, directly causing an estimated 434,000 deaths per year in the United States; more deaths than are caused by alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined. The Legislature finds that tobacco use leads to disease and disability and is a burden to our healthcare costs; over \$10 billion dollars are spent annually in New York State to cover health care costs directly caused by smoking.

This Legislature finds that the effects of tobacco generated by the smoking of cigars, cigarettes, electronic smoking devices, pipes, and similar articles pose a threat to the health, safety and well-being of youth within Onondaga County. Increasing the minimum age of legal access to tobacco products to twenty-one (21) will prevent or delay initiation of tobacco use by adolescents and young adults. Therefore, the purpose of this local law is to make tobacco products inaccessible to Onondaga County youth and young people to reduce the chances that they will become addicted to tobacco at any age.

Section 2. Local Law No. 2 – 2009 is hereby amended as follows:

a. Throughout the entire text of the local law, all references to “19 years of age”, “nineteen (19) years of age”, and “age of 19” shall be stricken, with the language “21 years of age”, “twenty-one (21) years of age”, and “age of 21” to be substituted therefor, such that the prohibitions contained within Local Law No. 2 – 2009 shall apply to individuals under 21 years of age on and after the effective date of this local law.

b. Within Section 2, the definition of “Tobacco Products” in subsection (b) shall be amended to add “electronic smoking device,”, such that the definition reads as follows: “Tobacco products” means one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water, electronic smoking device, or any other tobacco products.”

c. Within Section 2, a new subsection (g) is added as follows: "Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include any battery or battery charger when sold separately. In addition, electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Section 3. Local Law No. 2-2009, is hereby amended to strike Section 3 in its entirety, and to substitute the following language as a new Section 3:

Any person operating a place of business wherein tobacco products or herbal cigarettes are sold or offered for sale is prohibited from selling such products, herbal cigarettes, rolling papers or pipes to individuals under 21 years of age, and shall post in a conspicuous place, a sign upon which there shall be imprinted the following statement:

"SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ROLLING PAPERS, PIPES OR ELECTRONIC SMOKING DEVICES, TO PERSON UNDER TWENTY-ONE (21) YEARS OF AGE, IS PROHIBITED UNDER PENALTY OF LAW."

Such sign shall be printed on a white card in red capital letters at least three quarters of an in (3/4) in height.

Sale of tobacco products or herbal cigarettes in such places, other than by a vending machine, shall be made only to an individual who demonstrates that such individual is at least 21 years of age through:

(a) a valid driver's license or non-driver's identification card issued by the Commissioner of Motor Vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada; or

(b) a valid passport issued by the United States government or any other country; or

(c) an identification card issued by the armed forces of the United States.

Such identification need not be required of any individual who reasonably appears to be at least twenty-five (25) years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product, electronic smoking device or herbal cigarettes in violation of this Local Law.

Section 4. Local Law No. 2-2009, is hereby amended to strike the following language from Section 6 (b) in its entirety, and to substitute the following language as a new Section 6 (b):

(b) For purposes of enforcing the ban on the sale of any tobacco products, electronic smoking devices and/or herbal cigarettes to minors, other than by a vending machine, a sale of any tobacco products, electronic smoking device and/or herbal cigarette shall be made only to an individual who demonstrates that he/she is at least 21 years of age and has demonstrated such in accordance with the guidelines set forth hereinabove in Section 3(a), (b) and (c).

Such identification need not be required of any individual who reasonably appears to be at least 25 years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of any tobacco product, electronic smoking device and/or herbal cigarette in violation of this Local Law.

Section 5. Applicability. Local Law No. 2 – 2009, as amended herein, shall be applicable to prohibited actions occurring on or after the effective date of this local law.

Section 6. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 7. Effective Date. This local law shall take effect on January 1, 2018, and shall be filed with the Secretary of State pursuant to Municipal Home Rule Law.

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I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF LEGISLATION DULY ADOPTED BY THE COUNTY LEGISLATURE OF ONONDAGA COUNTY ON THE 5<sup>th</sup> DAY OF December, 2017.

*Debra A. Metrus*

CLERK, COUNTY LEGISLATURE  
ONONDAGA COUNTY, NEW YORK

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