

**WITHDRAWN AS OF 11/21/2014**  
**AMENDED COPY AS OF 9/25/2014**

Intro. Res. No. 1394-2014  
Introduced by Legislator Anker

Laid on Table 4/29/2014

**RESOLUTION NO. -2014, ADOPTING LOCAL LAW**  
**NO. -2014, A LOCAL LAW TO WARN CONSUMERS OF THE**  
**DANGERS OF LIQUID NICOTINE**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on April 29, 2014, a proposed local law entitled, "**A LOCAL LAW TO WARN CONSUMERS OF THE DANGERS OF LIQUID NICOTINE**"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. -2014, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO WARN CONSUMERS OF THE DANGERS OF**  
**LIQUID NICOTINE**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF**  
**SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that the use of electronic cigarettes ("e-cigarettes") by consumers is continuing to increase in Suffolk County and throughout the nation.

This Legislature also finds and determines that liquid nicotine, which is comprised of nicotine, propylene glycol, flavoring and other chemicals, is the key component of e-cigarettes.

This Legislature further finds and determines that e-cigarettes use disposable or refillable cartridges for liquid nicotine. Products are available that allow e-cigarette users to refill their own cartridges with liquid nicotine.

This Legislature finds that exposure to nicotine in large doses is highly addictive, toxic, can cause nicotine poisoning, and, in extreme cases, may be lethal.

This Legislature determines that symptoms of nicotine poisoning include, but are not limited to, nausea, vomiting, abdominal pain, sweating, tachycardia, tremors, headache, dizziness and seizures. Higher levels of nicotine poisoning can result in hypotension, central nervous system depression, coma, muscle paralysis and respiratory failure.

This Legislature also finds that liquid nicotine is especially dangerous, as nicotine is easily absorbed through the skin and some flavors may be enticing to small children and animals. Even a small spill of liquid nicotine onto the hands or other body part of an adult, child or household pet can cause nicotine poisoning.

This Legislature also determines that calls to poison control centers involving liquid nicotine have increased sharply, with more than 50% of those calls involving children under the age of 5.

This Legislature finds that liquid nicotine products, like e-cigarettes, are not regulated by federal authorities.

This Legislature further finds that many manufacturers of liquid nicotine do not state on their product packaging the amount of nicotine contained in their product or the size of the cartridges or refill containers and do not warn consumers of the dangers associated with liquid nicotine use.

This Legislature also determines that the County of Suffolk was one of the first jurisdictions in the nation to recognize the health risks posed by e-cigarettes and liquid nicotine and prohibited the sale of these products to minors by Resolution No. 717-2009 and Resolution No. 185-2014.

This Legislature further determines that the County of Suffolk must further regulate liquid nicotine products to protect the health and safety of County residents.

Therefore, the purpose of this law is to require liquid nicotine retailers to provide consumers with product information and warnings on the use and storage of liquid nicotine.

## **Section 2. Definitions.**

As used in this law, the following terms shall have the meanings indicated:

“E-cigarette” shall mean any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquid nicotine and/or other substances mixed with propylene glycol to the user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

“Liquid nicotine” shall mean any liquid product composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes.

“Liquid nicotine cartridge” shall mean any container that can be filled with liquid nicotine and inserted into an e-cigarette to provide nicotine vapor to an e-cigarette user.

“Liquid nicotine refill” shall mean any liquid nicotine product that is manufactured and used to refill liquid nicotine cartridges for e-cigarettes.

“Person” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business or any kind.

“Prefilled liquid nicotine cartridge” shall mean any sealed container that is sold filled with liquid nicotine and can be inserted directly into an e-cigarette to provide nicotine vapor to an e-cigarette user.

**Section 3. Requirements for the sale of liquid nicotine.**

- A. Any person operating a place of business which sells liquid nicotine refills shall notify any prospective consumer of the following:
1. the level of nicotine contained in the product, measured in milligrams per milliliter;
  2. the size of the liquid nicotine container; and
  3. the ingredients in the liquid nicotine.

Manufacturer labeling may be used to meet all or part of these requirements.

- B. If the manufacturer does not provide the information required under paragraph (A) of this section on the packaging of their products, the person selling the liquid nicotine refills must obtain same to provide to consumers in written form either on signage or on a writing accompanying the product at the time of sale. The person selling the liquid nicotine refills shall disclose to consumers the source of its information. Retailers may rely on the information provided by manufacturers and shall not be subject to penalty under this law for disseminating information received from a manufacturer.
- C. Any person operating a place of business which sells liquid nicotine refills shall post signage in a conspicuous place at the register, where liquid nicotine refills may be purchased, which states in bold lettering on a contrasting background, with lettering in a font no less than 26 point in size: "Liquid nicotine products should not be used by non-smokers, women who are pregnant or nursing, those sensitive to nicotine, persons with or who are at risk for heart disease, high blood pressure or diabetes or by persons taking medication for depression or asthma. This product contains nicotine, a highly addictive and potentially toxic drug. KEEP OUT OF REACH OF CHILDREN."
- D. All text associated with the information requirements set forth in paragraphs (A) and (B) above shall be printed in a legible font no smaller than 6 point.

**Section 4. Exemption.**

The requirements set forth in this law shall not apply to the sale of liquid nicotine contained in a package with an e-cigarette or the sale of prefilled liquid nicotine cartridges.

**Section 5. Enforcement.**

This law shall be enforced by the Suffolk County Department of Health Services.

**Section 6. Rules and Regulations.**

The Department of Health Services is hereby authorized and empowered to promulgate rules and regulations necessary for the implementation of this law.

**Section 7. Penalties.**

- A. Violation of this law shall be subject to a civil penalty of up to \$250 for an initial violation, with a penalty of up to \$500 for a second violation and a penalty of up to \$1,000 for any subsequent violation.

- B. No penalties shall be imposed by the Department of Health Services until a hearing is held by the Commissioner or his or her designee and the alleged violator is given an opportunity to be heard.

**Section 8. Reverse preemption.**

This law shall be null and void on the same day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provisions of this section.

**Section 9. Applicability.**

This law shall apply to all sales of liquid nicotine refills occurring on or after the effective date of this law.

**Section 10. 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 11. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 12. Effective Date.**

This law shall take effect 180 days after its filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date: