

Intro. Res. No. 2174-2014
Introduced by Legislators Anker, Hahn and Calarco

Laid on Table 12/15/2014

**RESOLUTION NO. 107 -2015, ADOPTING LOCAL LAW
NO. 9 -2015, A LOCAL LAW TO WARN CONSUMERS OF THE
DANGERS OF LIQUID NICOTINE PRODUCTS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on December 15, 2014, a proposed local law entitled, "**A LOCAL LAW TO WARN CONSUMERS OF THE DANGERS OF LIQUID NICOTINE PRODUCTS**"; now, therefore be it

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

LOCAL LAW NO. 9 -2015, SUFFOLK COUNTY, NEW YORK

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

**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 hypertension, 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 further finds 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 finds that the County of Suffolk should ensure that potential consumers are warned of the dangers posed by liquid nicotine products.

Therefore, the purpose of this law is to require liquid nicotine retailers to post signage warning of the dangers associated with the use of liquid nicotine and need for appropriate storage of such products.

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.

“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.

Section 3. Signage requirements.

Any person operating a place of business which sells liquid nicotine shall post signage, obtained on the Department of Health Services website in PDF format, in a conspicuous place at the register where liquid nicotine may be purchased which states:

“Liquid Nicotine Warning:

Liquid nicotine may be poisonous if swallowed, inhaled or if it comes in contact with skin. It is not regulated so the amount of nicotine in any container is uncertain. KEEP OUT OF CHILDREN’S REACH.

The use of liquid nicotine can be addictive. It may increase heart rate and blood pressure, cause dizziness and nausea, and aggravate respiratory conditions. Women who are pregnant or breast-feeding, persons with, or at risk for heart disease, high blood pressure, diabetes, or taking medicine for depression or asthma should not use this product. INGESTION OF LIQUID NICOTINE MAY BE FATAL.”

Section 4. Enforcement.

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

Section 5. Rules and Regulations.

- A. The Department of Health Services is hereby authorized and empowered to promulgate rules and regulations necessary for the implementation of this law.
- B. The Department of Health Services shall post the language for liquid nicotine signs and/or a downloadable template sign, as established in Section 3 of this law, on its webpage for retailers to access.

Section 6. 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 7. 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 8. Applicability.

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

Section 9. 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 10. 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 11. Effective Date.

This law shall take effect 90 days following its filing in the Office of the Secretary of State.

DATED: March 3, 2015

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: March 23, 2015

After a public hearing duly held on March 16, 2015
Filed with the Secretary of State on April 17, 2015