

**RESOLUTION NO. 866 -2016, ADOPTING LOCAL LAW  
NO. 29 -2016, A LOCAL LAW TO REGISTER RETAILERS OF  
ELECTRONIC NICOTINE DELIVERY SYSTEMS IN SUFFOLK  
COUNTY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on June 21, 2016, a proposed local law entitled, "**A LOCAL LAW TO REGISTER RETAILERS OF ELECTRONIC NICOTINE DELIVERY SYSTEMS IN SUFFOLK COUNTY**"; now, therefore be it

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

**LOCAL LAW NO. 29 -2016, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO REGISTER RETAILERS OF ELECTRONIC  
NICOTINE DELIVERY SYSTEMS IN SUFFOLK COUNTY**

**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 electronic nicotine delivery systems, commonly known as "e-cigarettes", have been growing steadily in popularity since entering the United States retail market in 2007.

This Legislature further finds and determines that e-cigarettes are advertised as alternatives to traditional tobacco products.

This Legislature determines that many convenience and grocery stores sell these products with some dedicated "vape shops" exclusively selling e-cigarettes, liquid nicotine and related products.

This Legislature finds that, since their introduction, Suffolk County has regulated the sale and use of e-cigarettes and liquid nicotine, ensuring that these products can only be sold to adults over the age of 21.

This Legislature also finds that, in order to enforce the County's laws regulating the sale of electronic nicotine delivery systems, it is essential that the County know the locations of all retailers of these products.

This Legislature further finds that electronic nicotine delivery system retailers should register with the Department of Labor, Licensing and Consumer Affairs to ensure that the County can effectively enforce its laws governing e-cigarettes and related products.

Therefore, the purpose of this law is to require that all businesses selling electronic nicotine delivery systems register with the Department of Labor, Licensing and Consumer Affairs, with enforcement provided by the Department of Health Services.

## **Section 2. Definitions.**

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

“Business” - Any person, business, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint-stock association, or other business entity of any kind.

“Department” – the Suffolk County Department of Labor, Licensing and Consumer Affairs.

“Electronic Nicotine Delivery System (ENDS)” – 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. This term shall include the component parts designed for such systems including, but not limited to, liquid nicotine and other e-liquids, glass or plastic vials containing e-liquid, cartridges, atomizers, batteries, cartomizers and clearomizers, digital displays/lights that adjust settings, tank systems, drip tips, flavoring for ENDS and programmable software

## **Section 3. Registration Required.**

- A. No business shall sell or offer for sale electronic nicotine delivery systems within the County of Suffolk unless it has registered with the Department in accordance with the provisions of this law. Registration shall be filed biennially with registration fee of \$50.
- B. Each registrant must provide to the Department with the following information:
  - 1) the name of the business;
  - 2) the names of all owners of the business; and
  - 3) the address and physical location of the business where e-cigarettes and/or electronic nicotine delivery systems are sold.
- C. The Department shall provide each registered business which has complied with registration requirements a registration certificate, which shall have a registration number and expiration date.

## **Section 4. Enforcement.**

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

## **Section 5. Rules and Regulations.**

- A. The Department of Health Services and the Department of Labor, Licensing and Consumer Affairs are hereby authorized and empowered to develop such rules and regulations as they may deem necessary for the implementation and enforcement of this law.
- B. All proposed rules and regulations associated with the implementation and enforcement of this law shall be subject to approval by the County Legislature via a duly authorized resolution prior to becoming effective.

## **Section 6. Exemptions.**

Businesses that are currently registered to sell tobacco products through the New York State Department of Taxation and Finance shall be exempted from the provisions of this law.

## **Section 7. Penalties for Offenses.**

- A. Any business which sells or offers for sale electronic nicotine delivery systems without registering pursuant to this law shall be subject to a civil penalty of \$500 for each violation. Each action in violation of this law shall constitute a separate and distinct violation.
- B. A penalty may only be assessed by the Commissioner of the Department of Health Services following a hearing and opportunity for an alleged violator to be heard.

## **Section 8. Applicability.**

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

## **Section 9. Reverse Preemption.**

This local law shall be null and void on the day that federal and statewide 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 duly enacted resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

## **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 one hundred twenty (120) days after filing in the Office of the Secretary of State.

DATED: October 5, 2016

APPROVED BY:

/s/ Steven Bellone  
County Executive of Suffolk County

Date: November 3, 2016

After a public hearing duly held on October 17, 2016  
Filed with the Secretary of State on November 22, 2016