



SUPPORTS

A4619-A/S4527 (Solages/Comrie)

AN ACT to amend the tax law, in relation to the taxation of vapor products

The New York State Association of County Health Officials (NYSACHO), representing New York’s local health departments, urges the Legislature to enact the above-referenced legislation, which would strengthen New York State’s approach to vapor product taxation, regulation, and enforcement, while providing critical tools to prevent youth access to harmful nicotine and synthetic analogues.

Youth nicotine product use, particularly vapor products, remains alarmingly high, eroding years of declining rates of tobacco use. According to the 2022 NYSDOH Youth Tobacco Survey¹, over 18.7% of high school students in New York State reported current use¹ of electronic vapor products. Of those who use e-cigarettes:

- 85% reported using flavored products
- Nearly 1 in 3 reported daily or near-daily use

Synthetic nicotine analogues - compounds designed to mimic or exceed the effects of nicotine - have increasingly appeared in these products, often unregulated and marketed in a deceptive manner, often failing to adhere to FDA guidelines for tobacco marketing. Products are often advertised as “tobacco-free” or “clean”, yet they remain addictive and can pose significant health risks, including leading to the use of combustible tobacco products. This legislation closes that loophole by prohibiting the sale of flavored nicotine analogue products.

Transitioning the tax from the retail level to the wholesale level aligns with best practices in tobacco taxation and strengthens the state’s ability to collect and enforce the tax effectively. Research shows that higher prices reduce youth consumption and increase quit attempts among users. Taxation at the wholesale level also improves compliance, as inspections at the retail level are largely conducted by public health inspectors who have no enforcement powers related to retailer failure to collect sales taxes beyond reporting it to the Department of Taxation and Finance.

A4619/S4527 requires all vapor product distributors - including out-of-state sellers - to be licensed, with meaningful penalties for violations. It equips the Department of Taxation and Finance with the authority to revoke licenses, seize illegal products, and inspect businesses, closing current enforcement gaps. Increased tax revenue from vapor products can be directed toward:

1. Youth education and counter-marketing

2. Cessation programs for addicted individuals
3. Targeted interventions in high-risk and under-resourced communities

Additionally, strengthened inspection and seizure authority for tax and law enforcement officials and alignment with enforcement provisions in the Public Health Law address current public health inspector safety concerns and the lack of ability to remove illegal products from the retail environment.

NYSACHO strongly supports A4619/S4527 as a critical public health measure to address the escalating youth vaping crisis and reinforce New York’s regulatory framework. We urge the Legislature to pass this legislation and equip local and state health authorities with the tools needed to protect our communities, especially our children, from nicotine addiction.

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¹ NYSDOH. Youth Tobacco Use Continues to Decline.

https://www.health.ny.gov/prevention/tobacco_control/reports/statshots/volume15/n1_youth_tobacco_use.pdf

¹ NYSDOH Press Release: New York State Department of Health Launches Effort to Reduce Youth Vaping.

https://www.health.ny.gov/press/releases/2024/2024-01-11_vaping.htm