

## LOCAL LAW NO. "C" FOR 2016

### A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS, LIQUID NICOTINE OR ELECTRONIC CIGARETTES TO MINORS AND YOUNG ADULTS

Introduced: 2/9/16

By Messrs. Miller, Comisso, Mss. Lekakis, McKnight, Willingham, Chapman, Cunningham, Messrs. A. Joyce, Clay, Touchette, Fein, Reinhardt, Simpson, Beston, Domalewicz, Higgins and R. Joyce:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

#### SECTION 1.

Any person operating a place of business wherein cigarettes, tobacco products, liquid nicotine, or electronic cigarettes are sold or offered for sale is prohibited from selling such cigarettes, tobacco products, liquid nicotine, or electronic cigarettes to individuals under twenty-one years of age. Sale of cigarettes, tobacco products, liquid nicotine, or electronic cigarettes in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of cigarettes, tobacco products, liquid nicotine, or electronic cigarettes to an individual under twenty-one years of age.

#### SECTION 2.

Any person operating a place of business wherein non-tobacco shisha, pipes, or rolling papers are sold or offered for sale is prohibited from selling such non-tobacco shisha, pipes, or rolling papers to individuals under twenty-one years of age. Sale of non-tobacco shisha, pipes, or rolling papers in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of non-tobacco shisha, pipes, or rolling papers to an individual under twenty-one years of age.

#### SECTION 3.

Any person operating a place of business wherein cigarettes, tobacco products, liquid nicotine, electronic cigarettes, herbal cigarettes, nontobacco shisha, pipes, or

rolling papers are sold or offered for sale shall post in a conspicuous place a sign, in accordance with the rules of the department, advising persons about the minimum age requirements for the purchase of such items.

#### SECTION 4.

Any person who violates any provision of this article shall be subject to the imposition of a civil penalty by the Commissioner of the Albany County Department of Health of a minimum of \$300.00, but not to exceed \$1,000.00 for a first violation, and a minimum of \$500.00, but not to exceed \$1,500.00 for each subsequent violation.

For purposes of enforcing the ban on the sale of tobacco products and or herbal cigarettes to minors, other than by a vending machine, a sale 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. Such identification shall not be required of any individual who reasonably appears to be at least 30 years of age; provided however that such appearance shall not be a defense in any action alleging the sale to an individual under 21 years of age.

#### SECTION 5.

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as limited by such order or judgment.

#### SECTION 6.

This law shall be null and void on the 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 Albany. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions in this section.

#### SECTION 7.

This Local Law shall be effective immediately upon filing with the Office of the Secretary of State.

*Referred to Health and Audit and Finance Committees. 2/9/16*

*Favorable Recommendation – Health and Audit and Finance Committees.  
4/27/16*

*On roll call vote the following voted in favor: Messrs. Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Comisso, Ms. Cunningham, Messrs. Domalewicz,*

*Feeney, Fein, Higgins, A. Joyce, R. Joyce, Ms. Lekakis, Messrs. Mackey, Mayo, Mss. McKnight, McLean Lane, Messrs. Miller, Reinhardt, Simpson, Touchette, Ward and Ms. Willingham – 24.*

*Those opposed: Messrs. Burgdorf, Dawson, Drake, Ethier, Grimm, Hogan, Mauriello, Mendick, O'Brien, Signoracci, Smith, Stevens and Tunny – 13.*

*Abstained: Mr. Crouse*

*Local Law was adopted. 5/9/16*