



New York Association of Convenience Stores
130 Washington Avenue, Suite 300, Albany NY 12210

TELEPHONE: (800) 33-NYACS or (518) 432-1400

FAX: (518) 432-7400

MEMORANDUM IN OPPOSITION

Proposed Int. No. 433-A by Council Member Joel Rivera

A Local Law to amend the administrative code of the city of New York,
in relation to prohibiting the sale of certain flavored tobacco products

The New York Association of Convenience Stores is a private, not-for-profit trade organization representing nearly 7,000 neighborhood mini-marts and convenience stores licensed by the State of New York to responsibly sell legal tobacco products to adult customers.

As parents, citizens and business owners, we share the sponsor's commitment to keeping tobacco out of the hands of kids. However, we respectfully oppose passage of this local law prohibiting the sale of flavored tobacco products, for the following reasons.

It's an outright ban, not a regulation. The City Council has been at the forefront of regulating the sale of tobacco products, in order to discourage smoking and prevent youth access to tobacco. This measure, however, would go beyond regulation, to an outright ban of the sale of certain legal products to adult customers, which we view as an inappropriate restraint of trade.

It is not necessary. Within the next several months, Congress is expected to approve legislation granting the Food and Drug Administration authority to regulate tobacco products, including restrictions on flavored products. With such nationwide regulation on the horizon, there is no urgent need for preemptive action by the City Council.

It would drive the sale of these products underground. Mayor Bloomberg's office will attest that New York City already has a thriving black market for cigarettes due to exorbitantly high state and city taxes and the ease of obtaining them "tax free" via the Internet and/or Native American outlets. If flavored tobacco products were no longer available through licensed, regulated, tax-collecting retail stores, bootleggers would have a field day selling them on the streets without concern for taxation or age verification – promoting crime, tax avoidance, underage tobacco use, and defeating the public health objective of the local law.

James S. Calvin
President, NYACS
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