



**THE NASSAU COUNTY LEGISLATURE
OFFICE OF LEGISLATIVE BUDGET REVIEW
MAURICE CHALMERS, DIRECTOR
FISCAL IMPACT STATEMENT**

TITLE: A Local Law to Amend the Nassau County Administrative Code in relation to increasing the civil penalties associated with the sale of age restricted products to individuals under the age of twenty-one.

SUMMARY OF LEGISLATION:

Title H of the Nassau County Administrative Code prohibits the sale of age-restricted products, including tobacco and e-cigarette related products, to any person under the age of twenty-one, and contains certain prohibitions regarding the accessibility, display and marketing of such products.

This proposed law increases the penalties associated with violations of Title H. The current penalty for the first violation is a minimum of \$300, not to exceed \$1,000; and for each subsequent violation the minimum penalty is \$500, but not to exceed \$1,500. This law would increase the violations to a minimum of \$500, but not to exceed \$1,000 for first time offenses, and a minimum of \$1,000 but not to exceed \$2,000 for each subsequent offense. The chart below displays the current fines compared to the increased values.

Penalties Related to Tobacco				
	<u>First Violation</u>		<u>Subsequent Violations</u>	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
Current Penalty	\$300	\$1,000	\$500	\$1,500
Increased Penalty	500	1,000	1,000	2,000
Percentage Increase	66.7%	0.0%	100.0%	33.3%

EFFECTIVE DATE:

This Local Law shall take effect immediately.

ECONOMIC IMPACT:

No significant economic impact is expected as a result of this local law.

FISCAL IMPACT:

This proposed local law is expected to generate minimal revenue from the increased value of fines. The legislation is intended to act more as a deterrent to retailers from selling tobacco related products to minors. The following chart on the next page provides the fines collected by the Health Department that are related to Tobacco penalties from FY 16 through Year-to-Date FY 19:

Fines Collected Related to Tobacco By the Department of Health				
	2016	2017	2018	2019
				YTD
ATUPA & Tobacco 19	\$48,750	\$29,350	\$41,800	\$7,450

As reflected in the chart above, the department collected tobacco penalties of \$48,750 in FY 16, \$29,350 in FY 17, \$41,800 in FY 18 and \$7,450 in FY 19 YTD. This revenue includes fines collected from both the Adolescent Tobacco Use Prevention ATUPA program (which is in connection with not complying with the state law prohibiting the sale of tobacco to minors under the age of 18), and the County's Tobacco legislation. From FY 06 to FY 18 the County legislation restricted the sale of tobacco to minors under the age of 19. Last Summer, the County raised the minimum age to 21 years of age. According to the Department, the fines collected under the ATUPA program are under a different penalty structure from the County's Tobacco legislation, therefore different fine amounts could be levied under the ATUPA program.

In FY 18 where the largest amount of revenue was collected, Tobacco 19 represented 9.6% of the total revenue collected, or roughly \$4,000 of the \$41,800 amount. According to the department, the amount of revenue collected under the County's tobacco legislation may be understated since some of the Tobacco 19 fines could be included under the ATUPA program; therefore the \$4,000 figure is an estimate. Based on the minimum fine for the first violation which is increasing by 66.7% (from \$300 to \$500), the estimated revenue increase that could occur from the FY 18 collections is roughly \$2,680. However, based on the minimum fine for the subsequent violations, which is increasing by roughly 100% (\$500 to \$1,000), the estimated revenue increase could be roughly doubled or \$4,000.

For a more accurate projection, OLBR requested the number of violations that the Department charged related to the County's tobacco collections. According to the Department, an exact projection is difficult, since some of the violations charged related to the County's legislation could be commingled with the violations charged under the State's ATUPA program. However, they did refer OLBR to the Health Department's Summary of Fines Assessed by the Board of Health which is provided by on the Health Department's website. Based on this Summary of fines, the following provides a historical count of violations charged to the ATUPA program and Tobacco 21.

Summary of Fines by the Board of Health				
Violations Charged to ATUPA / Tobacco 19				
	2016	2017	2018	2019
				YTD
ATUPA	59	42	66	18
Tobacco 19	10	3	16	1
Total	69	45	82	19

As stated previously, the penalties imposed from this local law are intended to act as a deterrent to retailers from selling tobacco related products to minors.

PREPARED BY: Helen M. Carlson, Deputy Director

SOURCES:
Department of Health