

An Act Protecting Youth from the Health Risks of Tobacco and Nicotine Addiction January 2019

“An Act Protecting Youth from the Health Risks of Tobacco and Nicotine Addiction”, Chapter 157 of the Acts of 2018 (“Act”), took effect on December 31, 2018.

Minimum Legal Age to Buy Tobacco Products. The Act raised the statewide minimum legal age to purchase tobacco products from 18 to 21 and extended to parents and guardians the prohibition against providing tobacco products to those under 21. The Act includes a carve-out provision allowing sale of tobacco products to persons who attained the age of 18 before the effective date of the act. Many municipalities have adopted local bylaws or ordinances, or board of health regulations, prohibiting the sale of tobacco products to persons between the ages of 18 and 21, which local prohibitions remain applicable and enforceable regardless of the state law carve-out.

Expansion of Definitions of “Smoking” and “Tobacco Products”. The Act expands existing prohibitions on public smoking by amending the definitions of “smoking” and “tobacco products” to include: electronic cigarettes, cigars, pipes, and nicotine delivery systems; and any other similar products that rely on vaporization or aerosolization. The Act strictly prohibits the use of such tobacco products on the grounds of any public or private primary, secondary or vocational school, on school buses and at school-sponsored events, and school committees and boards of trustees are required to establish policies regarding violations, which policies may include mandatory education on the hazards of using tobacco products. The Act also prohibits health care institutions, defined to include a pharmacy, hospital, other health care service provider or employer of licensed health care providers, from selling tobacco products in or on any of their buildings, facilities or grounds.

Other Provisions. The Act authorizes the Department of Public Health (“DPH”) to promulgate regulations relative to the sale, shipment and delivery of tobacco products. The DPH must also develop mandatory signage to be conspicuously posted in retail establishments providing smoking cessation resource information and stating the minimum legal sales age. The Act also creates a special legislative commission to study and provide recommendations regarding regulation of the vaping industry, education of students on its dangers, and best practices for restricting use of e-cigarette devices in and near schools. The Act requires the Center for Health Information and Analysis, together with the Division of Insurance, DPH, Group Insurance Commission and Office of Medicaid to study the tobacco cessation benefits offered by each health insurance plan and compare the same to the United States Preventive Services Task Force recommendations for tobacco smoking cessation in adults.

Please contact Attorneys Gregg Corbo (gcorbo@k-plaw.com) and Nicole Costanzo (ncostanzo@k-plaw.com) at 617.556.0007 with any questions or for guidance as to local regulation of tobacco.

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