

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Sullivan

Local Law No. 2 of the year 2017

A local law A LOCAL LAW TO RAISE THE LEGAL AGE FOR PURCHASE OF TOBACCO
(Insert Title)
PRODUCTS IN SULLIVAN COUNTY TO 21

Be it enacted by the Legislature of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Sullivan as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2017 of the (County)(~~City~~)(~~Town~~)(~~Village~~) of Sullivan was duly passed by the Sullivan County Legislature on April 20 2017, in accordance with the applicable (Name of Legislative Body) provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local (Elective Chief Executive Officer*) law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

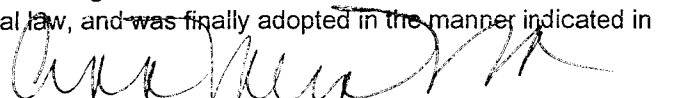
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ¹ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: May 1, 2017

(Seal)

**A LOCAL LAW TO RAISE THE LEGAL AGE FOR PURCHASE OF
TOBACCO PRODUCTS IN SULLIVAN COUNTY TO 21**

BE IT ENACTED, by the County Legislature of the County of Sullivan, New York, as follows:

Section 1. Legislative Findings and Intent.

The sale in Sullivan County of tobacco and related products to individuals under twenty-one years of age should be prohibited in order to:

- a) Further the goals of New York State’s tobacco use prevention and control program, as identified in New York State Public Health Law §1399-ii;
- b) Respond to the fact that tobacco is the leading cause of preventable death and disease in New York State;
- c) Respond to findings made by the Institute of Medicine, which prepared a report at the request of the U.S. Food and Drug Administration entitled “Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products,” concluding and suggesting that:
 - i. Adolescent brains are uniquely vulnerable to the effects of nicotine;
 - ii. A younger age of initiation is strongly associated with greater nicotine dependence and is also associated with greater intensity and persistence of smoking beyond adolescence and into adulthood;
 - iii. Almost one in five high school seniors is a current cigarette smoker;
 - iv. Underage users rely primarily on social sources, such as friends and family, to acquire tobacco, and most of these sources are likely to be between eighteen and twenty years old;
 - v. Raising the minimum legal age to twenty-one will mean that those who can legally obtain tobacco are less likely to be in the same social networks as high school students;
 - vi. Delaying initiation rates will likely decrease the prevalence of tobacco users in the U.S. population; and
 - vii. Raising the minimum legal age will likely immediately improve the health of adolescents and young adults by reducing the number of those with adverse physiological effects;
- d) Address the fact that, when adjusted for age, 24.5 % of adults in Sullivan

County smoke, which contributes to Sullivan County having the second worst ranking of overall health in the State;

- e) Respond to findings that most of those addicted to tobacco, start using tobacco before twenty-one years of age;
- f) Respond to the growing rates of electronic cigarette use among youth, which expose users to unhealthy levels of nicotine and other unknown harmful chemicals;
- g) Reduce the exposure of our youth to disease-causing toxins in secondhand smoke and in chemicals emitted from electronic cigarettes, liquid nicotine, shisha, herbal cigarettes, and other Prohibited Products as defined herein;
- h) Apply evidence-based strategies to address the public health issues that result from tobacco use including but not limited to cancer, heart disease, and lung disease;
- i) Prevent exposure of youth, who are particularly susceptible to addiction, to the chemically addictive effects of tobacco and related products, in an effort to improve public wellness and reduce health insurance expenditures; and
- j) Protect young Sullivan County residents from the unregulated and unknown effects of electronic cigarettes, herbal cigarettes, and other Prohibited Products.

Section 2. Definitions.

- a. “Prohibited Products” means Tobacco Products, Electronic Cigarettes, Smoking Paraphernalia and any other products the sale of which is prohibited by New York State Public health Law Article 13-F, as may be amended from time to time.
- b. “Tobacco Products” means any product made or derived from tobacco or which contains nicotine marketed or sold for human consumption, whether consumption occurs through inhalation or oral or dermal absorption. Tobacco product does not include drugs, devices, or combination products authorized for sale by the state or United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act. Examples of “Tobacco Products” include cigarettes, cigars, chewing tobacco, powdered tobacco, shisha, bidis, gutka, nicotine water, herbal cigarettes, electronic cigarettes, liquid nicotine, snuff, rolling papers, and smoking paraphernalia.
- c. “Bidis” means a product containing tobacco that is wrapped in Temburni leaf (*diospyros melanoxylon*) or tendra leaf (*diospyros exculpra*), or any other product offered to consumers as “beedies” or “bidis”;
- d. “Electronic Cigarettes” means an electronic device that, when activated, produces an aerosol that may be inhaled. “Electronic Cigarette” includes any component, part, but not accessory, and any liquid or other substance to be aerosolized, whether or not separately sold. Electronic Cigarette does not include drugs,

devices, or combination products authorized for sale by the state or United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act. ;

- e. "Smoking Paraphernalia" shall include those terms defined in New York State Public Health Law Article 13-F.
- f. "Enforcement Officer" means the Public Health Director of Sullivan County or her designee.
- g. "School" means any structure and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office.

Section 3. Policy.

- a) The sale of Prohibited Products to those under the age of twenty-one is prohibited in Sullivan County.
- b) The identification requirements contained in New York State Public Health Law Article 13-F Section 1399-cc(3), as the same may be amended from time to time, are hereby incorporated into this law by reference, except that the age to be proven by such identification shall be twenty-one.
- c) Prohibited Products may not be sold in vending machines located in the County.
- d) No person operating a place of business wherein Prohibited Products are sold or offered for sale shall sell, permit to be sold, offer for sale or display for sale any Prohibited Product in any manner, unless such Product is stored for sale (a) behind a counter in an area accessible only to the personnel of such business, or (b) in a locked container; provided, however, such restriction shall not apply to tobacco businesses as defined in subdivision eight of §1399-aa of New York State Public Health Law Article 13-F, as the same may be amended from time to time, and to places to which admission is restricted to persons twenty-one years of age or older.

Section 4. Posting of Signs.

- a) Vendors of Prohibited Products shall post a sign in a conspicuous place imprinted with the statement "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA, BIDIS, GUTKA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, LIQUID NICOTINE, ELECTRONIC CIGARETTES, ROLLING PAPERS, OR SMOKING PARAPHERNALIA, TO

PERSONS UNDER TWENTY-ONE YEARS OF AGE, IS PROHIBITED BY LOCAL LAW.”

- b) Such sign shall be printed on a white card in red letters at least one-half inch in height. Signs shall be protected from tampering, damage, removal, or concealment.
- c) No sale of Prohibited Products shall occur within one thousand (1000) feet of a school. This provision shall not apply to any business within one thousand (1000) feet of a school that sells Prohibited Products at the time this Local Law is adopted, but shall apply upon change in ownership of such business.

Section 5. Enforcement.

- a) The Enforcement Officer is charged with ensuring compliance with this Local Law.
- b) For a violation of this Law which does not constitute a violation of New York State Public Health Law:
 - i. The Enforcement Officer may issue and serve upon the person complained against a written hearing notice, together with the complaint made against him or her. The Complaint shall specify the provision(s) of this Local Law of which such person is alleged to be in violation, accompanied by a statement of the manner in which that person is alleged to have violated it, and shall require the person so complained against to answer the charges of such complaint at a public hearing before the Enforcement Officer or her designated hearing officer, at a specified location, date, and time, not fewer than fifteen (15) days after the date of service of the notice;
 - ii. Notwithstanding the above, the Enforcement Officer or her designee may, in her discretion, offer a proposed stipulation to the person complained against, in which case the person complained against will have the option of executing the proposed stipulation within any time frame specified, or proceeding with a formal hearing;
 - iii. When the Enforcement Officer determines after a hearing that a violation of this Local Law has occurred, a civil penalty may be imposed by the Enforcement Officer pursuant to Section 6 of this Local Law. Nothing herein shall be construed as prohibiting an Enforcement Officer from commencing a proceeding for injunctive relief to compel compliance with this Local Law;
 - iv. Any person who desires to register a complaint under this Local Law may do so through the Enforcement Officer;
 - v. The decision of the Enforcement Officer shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules; and

- vi. The Enforcement Officer, subsequent to any appeal having been finally determined, may bring an action in a court of proper jurisdiction to recover the civil penalty assessed in accordance with Section 6 of this Local Law.

Section 6. Violations and Penalties.

Any person who violates any provision of this article shall be subject to the imposition of a civil penalty by the Enforcement Officer, a minimum of \$300.00 but not to exceed \$1000.00 for a first violation, and a minimum of \$500.00, but not to exceed \$1,500.00 for each subsequent violation.

Section 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its specific application.

Section 8. Reverse Preemption.

The Local 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 contained in this Local Law, or in the event that a pertinent State or Federal Agency promulgates regulations that preempt the provisions of this Law.

Section 9. Effective Date.

This local law shall become effective September 1, 2017