



Committee on Public Safety

~AGENDA~

Monday, April 16, 2018

1:02 PM

Committee Chair: Margaret A Cunzio

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

Meeting will be held jointly with the Committees on Legislation and Environment, Health & Energy

Legislator Johnson will participate in the meeting via video conference, his address will be: 201 Palisade Ave, Yonkers, NY 10703

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

1. **(ID # 10716) Local Law – LEGISLATORS SHIMSKY, BORGIA, BOYKIN, PARKER, A. WILLIAMS, L. WILLIAMS, MAHER, COVILL, BARR: Proposed Local Law - Raise the age to purchase tobacco products:**

A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products by persons less than 21 years of age.

Guests:

Deputy County Attorney Stacey Dolgin-Kmetz and Linda Trentacoste from the Law Department

2. **(ID # 10717) Resolution – LEGISLATORS SHIMSKY, BORGIA, BOYKIN, PARKER, A. WILLIAMS, L. WILLIAMS, MAHER, COVILL, BARR: PH - Raise the age to purchase tobacco products:**

A RESOLUTION setting a Public Hearing on a "LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products by persons less than 21 years of age." [Public Hearing set for _____, 2018 at _____ .m.; LOCAL LAW INTRO No. 10716-2018].

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

1. **(ID # 10811)** Communication – LEGISLATORS SHIMSKY, BORGIA, A. WILLIAMS AND PARKER: NYTimes Article - "Wounds from Military-Style Rifles? 'A Ghastly Thing to See'":

Forwarding a *New York Times* article entitled, "Wounds from Military-Style Rifles? 'A Ghastly Thing to See.'"

ADJOURNMENT

LOCAL LAW INTRO. NO. -2018

A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products by persons less than 21 years of age.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Section 535.11 of the Laws of Westchester County is hereby amended

by to read as follows:

Sec. 535.11. Definitions

1. "Bar" means any indoor area open to the public devoted to the sale and service of alcoholic beverages for on-premises consumption and where the service of food is only incidental to the consumption of such beverages. Service of food shall be considered incidental if the food service generates less than forty (40) percent of total annual gross sales. Any bar that generates forty (40) percent or more of the total annual gross sales from the sale of food for on-premises consumption shall be a food service establishment.

2. "Cigarette rolling paper" means paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

3. "Food service establishment" means any indoor area open to the public or portion thereof in which the business is the sale of food for on-premises consumption and which has an indoor seating capacity of greater than fifty (50) persons including, but not limited to restaurants, cafeterias, coffee shops, diners, sandwich shops or short order cafes. A food service establishment shall not include the bar area of such establishment.

4. "Lockout device" means a token or other type of device which enables the operator of a vending machine containing tobacco products to directly regulate the sale of said items by limiting access to the vending machines to authorized adults.

5. "Point-of-sale advertising" means all printed or graphical materials bearing the brand name, but not the cigarettes packs and cartons, which alone or in conjunction with any other word, logo, symbol, motto, selling message or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes, smokeless tobacco, electronic cigarettes, or other tobacco product which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location at which tobacco products are offered for sale.

6. "Tobacco business" means a sole proprietorship, corporation, partnership or other enterprise in which the primary activity is the sale, manufacture or promotion of

tobacco, tobacco products and accessories either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

7. "Tobacco products" means [cigarettes, cigars, chewing tobacco, powdered tobacco, smokeless tobacco or other similar products containing tobacco] any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah. "Tobacco products" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

8. "Token" means a facsimile coin made available by an establishment for the purpose of use in vending machines.

§2. Section 535.21 of the Laws of Westchester County is hereby amended by to read as follows:

Sec. 535.21. Sale of tobacco products to [minors] individuals under 21 years of age prohibited.

1. Any person operating a place of business wherein tobacco products are sold or offered for sale is prohibited from selling such products to individuals under [18] 21 years of age and shall post a sign upon which there shall be imprinted the following statement: "The Sale of Cigarettes, Cigars, Chewing Tobacco, Powdered Tobacco, electronic cigarettes, or other Tobacco Products, Rolling Papers or Pipes to Persons under [18] 21 Years of Age is Prohibited by Law." Such sign shall be printed on a white card in red letters at least one-half inch in height. The sign shall be posted in a conspicuous location both where the tobacco products are stored and at the point-of-sale, except where

the storage of the tobacco products and the point-of-sale are within three feet of each other, only one sign shall be required.

2. Sale of tobacco products in such places, other than by vending machine, 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 [18] 21 years of age.

§3. Section 535.31 of the Laws of Westchester County is hereby amended by to read as follows:

Sec. 535.31. Restrictions on self service sale and free-standing display of tobacco products.

1. Except as provided in section 535.51 below, it shall be unlawful for any person to display or store a tobacco product for sale, storage, or distribution without charge, in a manner which permits the purchaser or recipient of the tobacco product direct access or self-service to tobacco products.

2. No person operating a place of business wherein tobacco products are sold or offered for sale may display and store such products except as follows:

- a. Behind a manned counter that is under the plain view and direct supervision and control of a business employee who is at least [18] 21 years of age; or
- b. Under lock and key and under the control of a business employee who is at least [18] 21 years of age.

§4. Section 535.41 of the Laws of Westchester County is hereby amended by to read as follows:

Sec. 535.41. Sale and distribution of tobacco products by vending machines.

1. It shall be unlawful for any person to sell or distribute any tobacco product by vending machine to any person under the age of [18] 21.

2. No person, firm, partnership, company or corporation shall operate a vending machine which dispenses tobacco products, unless:

a. Such machine is located in:

i. A bar or bar area of a food service establishment with a valid, on-premises full liquor license;

ii. A private club;

iii. A tobacco business; or

iv. A place of employment in which an insignificant portion of its regular workforce is comprised of persons under the age of [18] 21, and only in locations that are not accessible to the general public; and

b. Provided that any such vending machine:

i. Contains a lockout device;

ii. Is under the plain view and direct supervision and control of the person in charge of the location or his or her designated agent or employee who is at least [18] 21 years of age; and

iii. Is located at least 20 feet or more from an entry door into the premises.

3. Any person, firm, partnership, company or corporation that operates a vending machine pursuant to subdivision 2. above shall post in a conspicuous place on the front of the vending machine the following notice: "The Sale of Cigarettes, Cigars, Chewing Tobacco, Powdered Tobacco, electronic cigarettes, or other Tobacco Products, Rolling Papers or Pipes to Persons under [18] 21 Years of Age is Prohibited by Law."

4. The individual responsible for the vending machine as set forth in subsection 2.(b)(ii) above shall monitor its use and shall require the identification of any individual utilizing the vending machine to assure that the person is at least [18] 21 years of age.

5. No person, firm, partnership, company or corporation operating a vending machine which dispenses tobacco products shall use such vending machine to dispense any non-tobacco products; provided, however, that such machine may dispense matches.

§5. Section 535.51 of the Laws of Westchester County is hereby amended by to read as follows:

Sec. 535.51. Sale of cigarette rolling paper.

No merchant or other person shall sell or cause to be sold cigarette rolling paper or any device used for or in connection with the consumption of tobacco to a person under [18] 21 years of age.

§6. Section 535.71 of the Laws of Westchester County is hereby amended by to read as follows:

Sec. 535.71. Distribution of tobacco products without charge.

1. No person engaged in the business of selling or otherwise distributing tobacco products for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business:

a. Distribute without charge any tobacco products to any individual, provided that the distribution of a package containing tobacco products in violation of this subdivision shall constitute a single violation without regard to the number of items in the package; or

b. Distribute coupons which are redeemable for tobacco products to any individual, provided that this subdivision shall not apply to coupons contained in

newspapers, magazines or other types of publications, coupons obtained through the purchase of tobacco products or obtained at locations which sell tobacco products provided that such distribution is confined to a designated area or to coupons sent through the mail.

2. The prohibitions contained in subdivision (1) of this section shall not apply to the following locations:

a. Private social functions as defined in section thirteen hundred ninety-nine-q of the Public Health Law;

b. Conventions and trade shows that comply with the provisions of subdivision three of section thirteen hundred ninety-nine-q of the Public Health Law; provided that the distribution is confined to designated areas generally accessible only to persons over the age of [18] 21;

c. Events sponsored by tobacco manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of [18] 21;

d. Bars as defined in subdivision two of section thirteen hundred ninety-nine-q of the Public Health Law;

e. Tobacco business as defined in subdivision twelve of section thirteen hundred ninety-nine-n of the Public Health Law;

f. Factories as defined in subdivision four of section thirteen hundred ninety-nine-n of the Public Health Law and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of [18] 21.

3. No person shall distribute tobacco products at the locations set forth in paragraphs (b), (c) and (f) of subdivision (2) of this section unless such person gives five days written notice to the enforcement officer.

4. The distribution of tobacco products pursuant to subdivision (2) of this section 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 indicating that the individual is at least [18] 21 years of age. Such identification need not be required of any individual who reasonably appears to be at least [25] 27 years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product to an individual.

§7. This Local Law shall take effect six months from the date of enactment.

LOCAL LAW INTRO. NO. -2018

A LOCAL LAW superseding Westchester County Board of Legislators' Resolution No. 167-77 (adopted 8-22-1977) and reconstituting the Westchester County Environmental Management Council.

BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. Westchester County Board of Legislators' Resolution No. 167-77 (adopted 8-22-1977) as amended is hereby superseded by this local law.

Section 2. A new Chapter 342 of the Laws of Westchester County is hereby created to read as follows:

Chapter 342

WESTCHESTER COUNTY ENVIRONMENTAL MANAGEMENT COUNCIL

Sec. 342.01. Westchester County Environmental Management Council created; membership.

There shall be and there hereby is created a Westchester County Environmental Management Council consisting of twenty-seven (27) voting members:

1. The County Legislators shall recommend to the County Executive a list of individuals from each of the seventeen (17) legislative districts who are qualified to serve on the Westchester County Environmental Management Council. The County Executive will consider the recommendations and appoint seventeen (17) members—one individual from each of the seventeen (17) legislative districts.
2. The County Executive shall appoint an additional ten (10) members at large to the Westchester County Environmental Management Council to contribute to the

effective planning and coordination of environmental programs and actions within the county.

3. There shall also be four (4) ex-officio members who will serve on the Westchester County Environmental Management Council but who will not have the right to vote:
 - (i) The Commissioner of the Department of Parks, Recreation and Conservation;
 - (ii) The Commissioner of the Department of Environmental Facilities;
 - (iii) The Commissioner of the Department of Public Works and Transportation; and
 - (iv) The Commissioner of the Department of Planning.
4. The Chair and Vice Chair of the Westchester County Environmental Management Council shall be appointed by the County Executive.

Sec. 342.11. Terms of office.

1. All members appointed pursuant to Section 342.01(1) shall serve for a term of two years. Notwithstanding the aforementioned, and in order to stagger the terms of office, the individuals representing the odd number legislative districts that are first appointed to the Westchester County Environmental Management Council pursuant to this local law shall serve until December 31, 2019, and the individuals representing the even number legislative districts that are first appointed to the Westchester County Environmental Management Council pursuant to this local law shall serve until December 31, 2020.

2. The ten (10) members appointed to the council pursuant to Section 342.01(2) shall serve for a term of three years. Notwithstanding the aforementioned, and in order to stagger the terms of office, four of the individuals that are first appointed to the Westchester County Environmental Management Council shall serve until December 31, 2019; three individuals that are first appointed shall serve until December 31, 2020; and three individuals that are first appointed shall serve under December 31, 2021.

Sec. 342.21. Rules and records.

The Westchester County Environmental Management Council shall adopt rules and procedures for its meetings, consistent with county policy and state law, and shall keep accurate records of its meetings and activities and shall prepare an annual report no later than the first day of April of each year concerning the activities and work of the council and provide a copy of said report to the County Executive and the County Board of Legislators.

Sec. 342.31. Powers, duties and functions.

The powers, duties and functions of said Westchester County Environmental Management Council shall be the same as those provided for county environmental management councils under Article 47 of the New York State Environmental Conservation Law.

Section 3. This local law shall take effect immediately.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products to persons less than 21 years of age and amending Section 534.02 of the Laws of Westchester County to reflect the expanding definition of tobacco products.”

Your Committee finds that there is compelling research showing that delaying the start of the use of tobacco products greatly diminishes the length and severity of lifetime use, providing significant health benefits for the residents of Westchester County. According to the U.S. Department of Health and Human Services (HHS) report issued in 2014, tobacco use stands as the nation’s leading cause of preventable death, killing 480,000 people annually. Another HHS report also issued in 2014 states that 350 kids under the age of 18 in the United States become regular, daily smokers every day, and almost one-third of them will die from it.

Medical research has revealed that the nicotine in tobacco products renders it a “gateway drug” to other addictions. The National Institute on Drug Abuse has indicated that there is a correlation between the use of nicotine and drug abuse because of the way that the nicotine molecule impacts the brain’s nerve cells and its neurotransmitters. Each neurotransmitter operates like a “key” that is specifically designed to fit into a particular nerve cell’s receptor to transmit specific information. The nicotine molecule is shaped like a particular neurotransmitter called acetylcholine and mimics its actions. Specifically, acetylcholine and its receptors are involved in many functions, including muscle

movement, breathing, heart rate, and learning and they operate as a catalyst that affects a person's mood, appetite, and memory, among other things. Nicotine also activates areas of the brain that produces feelings of pleasure and reward by raising the levels of dopamine, the same neurotransmitter that is involved in addictions to other drugs such as cocaine and heroin and which may also explain why it is so difficult for people to quit smoking.

A recent report from the Institute of Medicine (IOM) found that raising the minimum legal sale age to at least 21 years of age will significantly reduce smoking rates and potentially reduce susceptibility to other drug additions. The report found that tobacco use among today's teenagers would decrease by 12 percent (12%) by the time they become adults if the minimum age of sale were increased to 21. This report contains important findings that will help inform new policies that the IOM says could prevent about 223,000 deaths among people born between 2000 to 2019, including 50,000 fewer dying from lung cancer, the nation's leading cancer killer.

Your Committee is aware that New York City, Albany County, Cattaraugus County, Chautauqua County, Cortland County, Onondaga, Orange County, Rockland County, Schenectady County, Suffolk County, Sullivan County, Tompkins County, and a number of other localities have increased the age of tobacco purchase to 21. In total 18 localities in New York State have passed Tobacco 21, covering almost 67% of the state's population.

Your Committee is also aware that New York City found 80% of its smokers start smoking before age 21, and among young people who try tobacco, the transition from experimental to regular smoking occurs around age 20. The New York City Department of

Health’s website states that by increasing the minimum legal sales age, more New Yorkers will reach adulthood without experimenting with or becoming addicted to nicotine. In fact, about 95% of adult smokers begin smoking before they turn 21. Delaying the age when someone first uses tobacco helps reduce the risk of becoming a regular smoker.

The Committee is aware that the American Cancer Society Cancer Action Network, The American Lung Association, POW’R Against Tobacco, and the Campaign for Tobacco-Free Kids, leading advocates and researchers in the affects of smoking and smoking products, support raising the age of tobacco purchase to the age of 21.

Your Committee notes that because the County bears a significant portion of health care costs through Medicare and Medicaid, reducing smoking related health issues will provide a financial benefit to County taxpayers. Tobacco costs the state over \$10 billion annually in smoking related healthcare costs.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law does not require an environmental review. Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this
Local Law.

Dated: _____, 2018
White Plains, New York

COMMITTEE ON

4-4-2018

Attachment: Local Law - Raise the Age to purchase tobacco products - DRAFT 3 (10716 : Proposed Local Law - Raise the age to purchase

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products to persons less than 21 years of age and amending Section 534.02 of the Laws of Westchester County to reflect the expanding definition of tobacco products.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

FISCAL IMPACT STATEMENT

SUBJECT: Tobacco 21 NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ 0

Describe: _____

Potential Related Revenues: Annual Amount \$ _____

Describe: Potential loss in Sales Tax revenue related to tobacco products offset by increase in Sales Tax revenue by sales of non-tobacco related items.

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: None

Next Four years: Long term healthcare savings

Prepared by: William Olli

Title: Sr Budget Analyst

Department: Budget

Reviewed By: *Laurana C. Souza*


Budget Director

4/6/18

If you need more space, please attach additional sheets.

Attachment: Local Law - Raise the Age to purchase tobacco products - DRAFT 3 (10716 : Proposed Local Law - Raise the age to purchase

TO: Linda Trentacoste
Associate County Attorney

FROM: David Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: March 30, 2018

SUBJECT: **SEQR DOCUMENTATION FOR THE PROHIBITION OF TOBACCO SALES
TO PERSONS UNDER THE AGE OF 21**

Pursuant to your request for an environmental review of the above referenced action, the Planning Department has determined that no environmental review is necessary.

The action involves adoption of a local law by the Board of Legislators that will amend various provisions of Chapter 535 of the Laws of Westchester County in relation to the purchase and distribution of tobacco and tobacco related products by persons less than 21 years of age.

Since the proposed action will not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required.

Please contact my office if you need any additional information on this matter.

DSK/dsk

cc: Joan McDonald, Director of Operations
Paula Friedman, Assistant to the County Executive
John Nonna, County Attorney
Norma V. Drummond, Acting Commissioner of Planning
Tami Altschiller, Associate County Attorney

LOCAL LAW INTRO. NO. -2018

A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products to persons less than 21 years of age and amending Section 534.02 of the Laws of Westchester County to reflect the expanding definition of tobacco products.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Subsection 5 of Section 535.11 of the Laws of Westchester County is hereby amended to read as follows:

5. "Point-of-sale advertising" means all printed or graphical materials bearing the brand name, but not the cigarettes packs and cartons, which alone or in conjunction with any other word, logo, symbol, motto, selling message or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes, smokeless tobacco, electronic cigarettes, or other tobacco product which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location at which tobacco products are offered for sale.

§2. Subsection 7 of Section 535.11 of the Laws of Westchester County is hereby amended to read as follows:

7. "Tobacco products" means [cigarettes, cigars, chewing tobacco, powdered tobacco, smokeless tobacco or other similar products containing tobacco] any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah. "Tobacco products" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

§3. Section 535.21 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 535.21. Sale of tobacco products to [minors] individuals under 21 years of age prohibited.

1. Any person operating a place of business wherein tobacco products are sold or offered for sale is prohibited from selling such products to individuals under [18] 21 years of age and shall post a sign upon which there shall be imprinted the following statement: "The Sale of Cigarettes, Cigars, Chewing Tobacco, Powdered Tobacco, electronic cigarettes, or other Tobacco Products, Rolling Papers or Pipes to Persons under [18] 21 Years of Age is Prohibited by Law." Such sign shall be printed on a white card in red letters at least one-half inch in height. The sign shall be posted in a conspicuous location both where the tobacco products are stored and at the point-of-sale, except where the storage of the tobacco products and the point-of-sale are within three feet of each other, only one sign shall be required.

2. Sale of tobacco products [in such places, other than by vending machine,] 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 [18] 21 years of age.

§4. Subsection 2 of Section 535.31 of the Laws of Westchester County is hereby amended to read as follows:

2. No person operating a place of business wherein tobacco products are sold or offered for sale may display and store such products except as follows:

a. Behind a manned counter that is under the plain view and direct supervision and control of a business employee who is at least [18] 21 years of age; or

b. Under lock and key and under the control of a business employee who is at least [18] 21 years of age.

§5. Section 535.41 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 535.41. Sale and distribution of tobacco products by vending machines.

1. It shall be unlawful for any person to sell or distribute any tobacco product by vending machine to any person under the age of [18] 21.

2. No person, firm, partnership, company or corporation shall operate a vending machine which dispenses tobacco products, unless:

a. Such machine is located in:

i. A bar or bar area of a food service establishment with a valid, on-premises full liquor license;

ii. A private club;

iii. A tobacco business; or

iv. A place of employment in which an insignificant portion of its regular workforce is comprised of persons under the age of [18] 21, and only in locations that are not accessible to the general public; and

b. Provided that any such vending machine:

i. Contains a lockout device;

ii. Is under the plain view and direct supervision and control of the person in charge of the location or his or her designated agent or employee who is at least [18] 21 years of age; and

iii. Is located at least 20 feet or more from an entry door into the premises.

3. Any person, firm, partnership, company or corporation that operates a vending machine pursuant to subdivision 2. above shall post in a conspicuous place on the front of the vending machine the following notice: "The Sale of Cigarettes, Cigars, Chewing Tobacco, Powdered Tobacco, electronic cigarettes, or other Tobacco Products, Rolling Papers or Pipes to Persons under [18] 21 Years of Age is Prohibited by Law."

4. The individual responsible for the vending machine as set forth in subsection 2.(b)(ii) above shall monitor its use and shall require the identification of any individual utilizing the vending machine to assure that the person is at least [18] 21 years of age. Proof of age must be demonstrated by means of a driver's license or other photographic identification card issued by a government entity or educational institution.

5. No person, firm, partnership, company or corporation operating a vending machine which dispenses tobacco products shall use such vending machine to dispense any non-tobacco products; provided, however, that such machine may dispense matches.

§6. Section 535.51 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 535.51. Sale of cigarette rolling paper.

No merchant or other person shall sell or cause to be sold cigarette rolling paper or any device used for or in connection with the consumption of tobacco to a person under [18] 21 years of age.

§7. Subsection 2 of Section 535.71 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 535.71. Distribution of tobacco products without charge.

2. The prohibitions contained in subdivision (1) of this section shall not apply to the following locations:

a. Private social functions as defined in section thirteen hundred ninety-nine-q of the Public Health Law;

b. Conventions and trade shows that comply with the provisions of subdivision three of section thirteen hundred ninety-nine-q of the Public Health Law; provided that the distribution is confined to designated areas generally accessible only to persons over the age of [18] 21;

c. Events sponsored by tobacco manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of [18] 21;

d. Bars as defined in subdivision two of section thirteen hundred ninety-nine-q of the Public Health Law;

e. Tobacco business as defined in subdivision twelve of section thirteen hundred ninety-nine-n of the Public Health Law;

f. Factories as defined in subdivision four of section thirteen hundred ninety-nine-n of the Public Health Law and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of [18] 21.

§8. Subsection 2 of Section 535.71 of the Laws of Westchester County is hereby amended to read as follows:

4. The distribution of tobacco products pursuant to subdivision (2) of this section 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 indicating that the individual is at least [18] 21 years of age. Such identification need not

be required of any individual who reasonably appears to be at least [25] 27 years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product to an individual.

§9. Subdivision 4 of Section 534.02 of the Laws of Westchester County is hereby amended to read as follows:

Smoking shall mean the inhaling, exhaling, burning or carrying of any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco product as defined by §535.11(7), or plant product intended for inhalation, including hookahs, whether natural or synthetic, in any manner or in any form. [“Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor in any manner or any form.]

§10. This Local Law shall take effect sixty (60) days from the date of enactment.



TO: Sunday Vanderberg, Clerk of the Board of Legislators

FROM: Legislators Shimsky, Borgia, Boykin, Parker, A. Williams, L. Williams, Maher, Covill

DATE: February 22, 2018

RE: Tobacco 21 proposed Local Law

Please place the attached draft Local Law, a proposal to raise the age to purchase tobacco products to 21 years of age, on the February 26th Board of Legislators agenda to be referred to the committees on Legislation & Environment, Health & Energy.

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products by persons less than 21 years of age.”

Your Committee finds that there is compelling research showing that delaying the start of the use of tobacco products greatly diminishes the length and severity of lifetime use, providing significant health benefits for the residents of Westchester County. According to the U.S. Department of Health and Human Services (HHS) report issued in 2014, tobacco use stands as the nation’s leading cause of preventable death, killing 480,000 people annually. Another HHS report also issued in 2014 states that 700 kids under the age of 18 in the United States become regular, daily smokers every day, and almost one-third of them will die from it. A recent report from the Institute of Medicine (IOM) found that raising the minimum legal sale age to at least 21 years of age will significantly reduce smoking rates. The report found that tobacco use among today’s teenagers would decrease by 12 percent (12%) by the time they become adults if the minimum age of sale were increased to 21. This report contains important findings that will help inform new policies that the IOM says could prevent about 223,000 deaths among people born between 2000 to 2019, including 50,000 fewer dying from lung cancer, the nation’s leading cancer killer.

Your Committee is aware that New York City, Albany County, Cattaraugus County, Chattaqua County, Cortland County, Onondaga, Orange County, Schenectady County, Suffolk County, Sullivan County, Tompkins County, and a number of other localities have increased the age of tobacco purchase to 21. In total 18 localities in New York State have passed Tobacco 21, covering almost 67% of the state's population.

Your Committee is also aware that New York City found 80% of its smokers start smoking before age 21, and among young people who try tobacco, the transition from experimental to regular smoking occurs around age 20. The New York City Department of Health's website states that by increasing the minimum legal sales age, more New Yorkers will reach adulthood without experimenting with or becoming addicted to nicotine. In fact, about 95% of adult smokers begin smoking before they turn 21. Delaying the age when someone first uses tobacco helps reduce the risk of becoming a regular smoker.

The Committee is aware that the American Cancer Society Cancer Action Network, The American Lung Association, POW'R Against Tobacco, and the Campaign for Tobacco-Free Kids, leading advocates and researchers in the affects of smoking and smoking products, support raising the age of tobacco purchase to the age of 21.

Your Committee notes that because the County bears a significant portion of health care costs through Medicare and Medicaid, reducing smoking related health issues will provide a financial benefit to County taxpayers. Tobacco costs the state over \$10 billion annually in smoking related healthcare costs.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law does not require an environmental review. Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: _____, 2018
White Plains, New York

COMMITTEE ON

MM 2-6-15

RESOLUTION NO. ____ – 2018

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2018, entitled “A LOCAL LAW amending various provisions of Chapter 535 of the Laws of Westchester County in relation to the sale of and distribution of tobacco and tobacco related products by persons less than 21 years of age.” The public hearing will be held at __.m. on the ____ day of _____, 2018 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.