

TO: HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee recommends the adoption of “A LOCAL LAW amending Chapter 535 of the Laws of Westchester County to establish a rebuttable presumption in regards to the possession of certain vapor products in Westchester County.”

Your Committee recognizes that, in 2020, New York State banned the sale of flavored nicotine vapor products (“vapor products”) across the State, with the exception of unflavored and tobacco-flavored products, as well as vapor products approved by the federal government. The New York State Commissioner of Health had noted prior to the passage of the ban that:

Flavors are largely responsible for the dramatic increase in use of e-cigarettes by youth and are a principal reason that youth initiate and maintain e-cigarette use. According to Department of Health data, nearly 40 percent of 12th grade students and 27 percent of high school students in New York State are now using e-cigarettes, and this increase is largely driven by flavored e-liquids. High school use in 2018 (27.4%) is 160 percent higher than it was in 2014 (10.5%). While New York's high school student cigarette smoking rate dropped from 27.1% in 2000 to a record low of 4.3% in 2016, aggressive marketing strategies promoting flavored e-cigarettes are primed to reverse that trend.

NYS Department of Health, <https://health.ny.gov/press/releases/2020/2020-05-18-fl-nicotine-vapor-products-ban.htm>. The Commissioner also noted that flavoring had been a “key youth marketing strategy of the vaping/aerosol industry.”

Your Committee further recognizes that Westchester County recently banned the sale of vapor products designed to look like innocuous objects, such as highlighters, USB drives, ballpoint pens,

smartphone cases, smartwatches, toys, and drink containers (“camouflaged vapor products”). We did so because sales of camouflaged vapor products are a means by which underage users conceal nicotine delivery tools from parents, teachers, and other adults, and make it easier for vendors and individuals to sell illegal products to minors by evading detection by law enforcement.

Your Committee further recognizes that the challenge with the New York State’s prohibition on flavored vapor products and the County’s ban on camouflaged vapor products is that neither bans the outright possession of these products; that is because federal and state law permit retail dealers to sell these products to consumers online and/or in other states or jurisdictions where their sale is legal. According to the County’s Health Department, where a retail dealer is caught in possession of flavored nicotine vapor products or camouflaged vapor products, the retail dealer will simply claim that they possess them for purposes of out-of-state or online sales, without any proof thereof, thereby flouting the New York State ban on the sale of nicotine vapor products. This leaves the Health Department in the position where it is required to not only prove possession, but to prove intent, despite there being no evidence to support the retail dealer’s position.

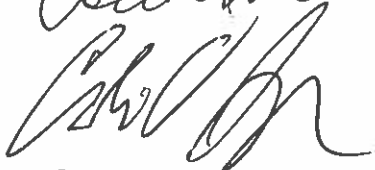
Your Committee is advised that, this proposed amendment to Chapter 535 of the Laws of Westchester County would close the loophole in (1) New York State law, in regards to flavored vapor products, and (2) in the Laws of Westchester County, in regards to camouflaged vaping products. If a retail dealer is found to be in possession of flavored nicotine vapor products, there would be a presumption of an intent to sell those products. The retail dealer would have an opportunity to rebut that presumption by a preponderance of the evidence that their possession was only with the intent to sell those products either on-line or out-of-state (where the sale of which is legal) and not in New York State or Westchester County.

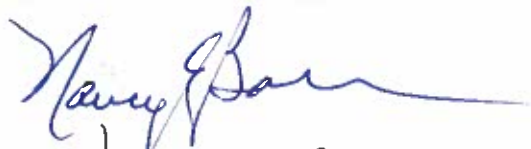
Your Committee is further advised that, the Department of Health will still be the agency responsible for enforcing the laws restricting the ban on flavored and camouflaged vaping products, as well as enforcing the presumption in regards to the illegal sale of these products pursuant to Article 13-F of the New York State Public Health Law entitled Regulation of Tobacco Products, Herbal Cigarettes and Smoking Paraphernalia; Distribution to Minors and Section 535.81 of the Laws of Westchester County.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). The proposed amendment does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 9, 2026, which is on file with the Clerk of the Board of Legislators.

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

Dated: July 27, 2026  
White Plains, New York

  
Vedat Gubli  
  
Maupien  
  
David Smith  
  
Chris

  
Nancy Bar  
  
Vedat Gubli  
  
David Smith  
  
Chris

COMMITTEES ON  
Legislation Health

Dated: July 27, 2026  
White Plains, New York

Margaret A. Cunzio

Ann Pijer

Henry Brillin Johnson

COMMITTEES ON

Legislation

Health

# FISCAL IMPACT STATEMENT

**SUBJECT:** Presumption Related to the Sale of Certain Vapor Products ☒ **NO FISCAL IMPACT PROJECTED**

## OPERATING BUDGET IMPACT

### SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense 0

Total Current Year Revenue 0

Source of Funds (check one):  
☐ Current Appropriations ☐ Transfer of Existing  
☐ Additional Appropriations ☐ Appropriations Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses: Annual Amount 0

Describe: \_\_\_\_\_

\_\_\_\_\_

Potential Related Operating Budget Revenues: Annual Amount 0

Describe: \_\_\_\_\_

\_\_\_\_\_

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

Current Year: \_\_\_\_\_

\_\_\_\_\_

Next Four Years: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Prepared by: Christina Rampata

Title: Deputy Budget Director

Department: Budget

Date: 07/29/2026

Approved by: Christina Rampata  
Digitally signed by Christina Rampata  
 Date: 2026.07.29 16:33:04  
 04700

**Budget Director**

Date: \_\_\_\_\_

A LOCAL LAW amending Chapter 535 of the Laws of Westchester County to establish a rebuttable presumption in regards to the possession of certain vapor products in Westchester County.

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

**Section 1.** Chapter 535 of the Laws of Westchester County is hereby amended to include a new Section 535.21-b, to read as follows:

Sec. 535.21-b. Presumption Related to the Sale of Certain Vapor Products

1. There shall be a rebuttable presumption that a vapor products dealer, as defined in Section 1399-aa(18) of the New York State Public Health Law, in possession of four (4) or more individual packages or packets of flavored vapor products, as defined by Section 1399-mm-1(1) of the New York State Public Health Law, in or on the premises of a tobacco business or retail establishment, possesses those products to sell, offer for sale, or transfer to persons flavored vapor products in violation of Section 1399-mm-1 of the New York State Public Health Law. There shall also be a rebuttable presumption that any person in possession of four (4) or more camouflaged e-cigarettes or vaping products possesses those products to sell, offer for sale, or transfer to persons camouflaged e-cigarettes or vaping products in violation of Section 535.21-a of this Chapter.

2. Any vapor products dealer charged with a violation of Section 1399-mm-1 of the New York State Public Health Law, or any person charged with a violation of Section 535.21-a of this Chapter, may overcome the presumption in subdivision 1 of this section by establishing by a preponderance of the evidence that said (a) camouflaged e-cigarettes or vaping products and/or (b)

individual packages or packets of flavored vapor products are for sale or offered for sale solely to consumers on-line and residing in other states and jurisdictions where their sale is not prohibited.

**Section 2.** Effective Date. This Local Law shall take effect immediately.