

Jewel F. Williams Johnson**Legislator, 8th District**

Chair, Committee on Budget & Appropriations

Chair, Sub-Committee on Health

Chair, Non-Profit Taskforce

**Committee Assignments:**

Families Taskforce

Housing & Planning

Human Services

Labor & Human Rights

Public Works & Transportation

MEMORANDUM OF LEGISLATION**DATE:** October 20, 2025**TITLE:** A law to close a loophole in the Flavored Nicotine Vapor Ban**SPONSOR:** Legislator Jewel Williams Johnson**PURPOSE OR GENERAL IDEA OF BILL:** A law to provide that the presence of a flavored vape product on the premises of a retail establishment shall create a prima facie rebuttable presumption that such a product is being sold.**INTENT:** To build upon section 1399-MM-1 of the New York State Public Health Law, which prohibits the sale of flavored vapor products within the state, by closing a loophole that allows retail establishments to “store” flavored vapor products on their premises.**JUSTIFICATION:** In 2020, the New York State Department of Health announced a statewide ban on flavored nicotine vapor products. This regulation targets the flavoring technique used by the vaping/aerosol industry that entices youth and is largely responsible for the stark increase of vapor use by youth.

However, while New York State Public Health Law prohibits the selling of flavored vapor nicotine products, it fails to address situations where establishments claim to store the flavored nicotine vapor products, purportedly to sell out of state. By enacting a law, which provides the presence of a flavored vape product on the premises of a retail establishment amounts to a rebuttable presumption that such product is being stored for purposes of selling within the state, the county DOH will be able to more effectively enforce the current state law. Additionally, retailers will have the opportunity to overcome the presumption by, among other things, demonstrating they have the infrastructure and capacity to make out-of-state sales while adhering to all other relevant laws (e.g. not selling the product to an out-of-state minor).

PRESENT LAW: Section 535 of the Laws of Westchester County contains provisions that regulate the sale of nicotine vape products.**FISCAL IMACT:** TBD