

# MTA puts ban on electronic cigs

by Mollie Galchus, Chronicle Contributor | Posted: Thursday, July 25, 2013 10:30 am

The MTA has officially included electronic cigarettes in products that are banned from being used on the Long Island Rail Road and Metro-North trains.

LIRR Vice President, Joe Calderone, responded to a letter written by LIRR Commuter Council Chairman Mark Epstein that asked about the railroad's policy on electronic cigarettes. Epstein specifically asked about "the applicability of the Rail Road's smoking regulations to users of electronic cigarettes."

Calderone answered, "The LIRR's Legal Department advises that we interpret the ban on lighted cigarettes on outdoor ticketing, boarding or platform areas of a terminal or station to apply to electronic cigarettes, and have so advised customers who have asked us this question."

The vice president pointed to 21 NYCRR, Part 1097(o) in the Rules and Regulations of the LIRR, which states "no person in a terminal, station or train shall: Burn a lighted cigarette, cigar, pipe, or any other matter or substance which contains tobacco or any tobacco substitute on a train or in any indoor area within a terminal or station, or in an outdoor ticketing, boarding or platform area of a terminal or station."

These cigarettes produce a water vapor that usually contains nicotine, instead of tobacco smoke, and come in various flavors.

A spokesman for the MTA added, "As a result of legislation passed in Albany, smoking was banned on all outdoor areas, platforms, ticket offices and on the Long Island Rail Road and Metro-North by state legislation. The MTA and the LIRR and Metro-North have interpreted it to include e-cigarettes being banned."

Audrey Silk, the founder of C.L.A.S.H., Citizens Lobbying Against Smoker Harassment, says that this interpretation is not legal.

"What he's done, the LIRR head, is unlawful. He's interpreted what smoking is. It's not to be interpreted. He read me a piece of correspondence with their wording of what the provision is — their wording is erroneous."

She added, "What the LIRR guys are saying is tobacco or a tobacco substitute. There's no such language in the law. It has to burn and it has to contain tobacco."

But Silk emphasized that she believes the electronic cigarettes are not as harmful as suggested, saying, "Nobody is being harmed by water vapor."

A statement from Queens-Smoke Free Partnership said, "Studies show that e-cigarettes emit vapor that

holds toxic chemicals, and the FDA is concerned about their safety. Unlike nicotine gum and skin patches, e-cigarettes have not been evaluated for safety or effectiveness.”

It continued, “While we await further information from the FDA to comment on broader use, we believe our children and teenagers should not be able to purchase electronic cigarettes. The Queens Smoke-Free Partnership supports any measure that helps to prevent more of our young people from becoming addicted to nicotine.”

A New York State law signed last year makes it illegal to smoke electronic cigarettes within 100 feet from schools or public building entrances, the same restrictions on regular cigarettes, while another New York State law makes it illegal to sell electronic cigarettes to minors.

However, a spokeswoman for the city’s Department of Health and Mental Hygiene said that electronic cigarettes are not covered under the Smoke Free Air Act, and so individual organizations, like the MTA, are taking matters into their own hands regarding these devices.