



A.G. Schneiderman Cracks Down On E-Cigarette Industry, Announces Settlements With Liquid Nicotine Retailers And Manufacturer To Keep Poisonous Substance Out Of Childrens' Hands

Amid Rise in Child Poisoning Reports, Settlements Ensure Prominent Retailers and Manufacturer Will Abide by New York Law Requiring Liquid Nicotine To Be Sold in Child-Resistant Bottles

Schneiderman: We Will Enforce NY Laws Requiring Protective Packaging

NEW YORK — Attorney General Eric T. Schneiderman today announced agreements with four liquid nicotine companies whose products were being sold in New York in violation of a law requiring that this form of nicotine be sold in child-resistant packaging. Liquid nicotine, together with other chemical additives, is used in electronic cigarettes, or e-cigarettes, to create the vapor that the user inhales. Liquid nicotine is highly toxic, and ingestion or even skin exposure to very small amounts can lead to serious illness and potentially coma and death, particularly for children. Two of the settlement agreements are with retailers Henley Vaporium and Beyond Vape, companies with retail outlets in New York City, including on St. Marks Place in Manhattan; while the two other companies sell their product to New Yorkers online or through local retailers.

As a result of today's agreements, the companies will be required to remove from all their distributors and retail purchasers any liquid nicotine sold in packaging that does not meet child-resistant standards. They will also be barred in the future from selling any container not in child-resistant packaging. The retail stores must also train their staff on the requirements of the New York legislation, in particular that bottles containing liquid nicotine be sold in child-resistant packaging, and that any knowledge of bottles being sold without proper packaging be reported to the Attorney General's Office. The agreements also require the companies to provide proof of testing of containers to demonstrate adherence to poison prevention packaging, to allow exchange of any bottles sold without appropriate protections, and to pay penalties to New York State.

"New York law is clear: liquid nicotine is highly toxic and must be sold in child-resistant packaging. Today, we are taking action against four companies, and putting others on notice: Stop selling liquid nicotine in anything but child-resistant containers, or we will

come after you,” Attorney General Schneiderman said. “As our investigation continues, I urge the federal government to do their part by requiring child-resistant packaging for these products nationwide, and to regulate the marketing and advertising of e-cigarettes.”

“We are deeply concerned about the growing number of calls to poison control centers across the country about liquid nicotine exposures -- including more than 1,600 last year involving children under

5,” said Chuck Bell, Programs Director of Consumers Union, publisher of Consumer Reports. “We commend Attorney General Eric Schniederman and his staff for aggressively enforcing New York’s law mandating child-resistant packaging, and getting these highly dangerous, noncompliant products off the market. We agree that a strong national safety standard for these products is urgently needed.”

Liquid nicotine is comprised of nicotine extracted from tobacco. It is used in electronic cigarettes, together with other chemical additives, to create a vapor inhaled by the user. Depending on the concentration of nicotine in the finished product, liquid nicotine can be highly toxic. Ingestion or skin exposure to even small amounts of liquid nicotine can lead to rapid heartbeat, elevated blood pressure, nausea, vomiting, diarrhea, dizziness, confusion, seizures and possibly coma and death.

In 2014, an 18-month-old boy in Upstate New York died from ingesting liquid nicotine. According to the American Association of Poison Control Centers, more than 3,700 exposures to liquid nicotine were reported to poison control centers around the country in 2014 – a sharp increase from previous years. Half of those calls related to the poisoning of children under the age of five by this toxic product.

The agreements come during a period of exponential growth for the e-cigarette industry, with a particularly significant increase in use among minors. A survey by the U.S. Centers for Disease Control and Prevention (“CDC”) reports that e-cigarette use among middle and high school students tripled from 2013 to 2014. According to the CDC, research suggests that nicotine is as addictive as heroin, cocaine, or alcohol.

Of additional concern, manufacturers of liquid nicotine have developed an array of flavors, including fruit and candy flavors with strong and sweet aromas, especially enticing to children. Attorney General Schneiderman’s investigation found that Beyond Vape was selling liquid nicotine without child-resistant packaging with names such as Vaperlicious Passion Peach and Vaporboy Berry Peached Tea and that Henley was selling liquid nicotine without the proper packaging with the name Cosmic Charlie’s Chalk Dust.

In June 2014, the New York Legislature passed a bill, sponsored by State Senator Kemp Hannon and Assemblymember Linda Rosenthal, requiring that all liquid nicotine sold or offered for sale in the state be packaged in child-resistant bottles designed to prevent exposure of children to these liquids. After the law became effective, in late December 2014, Attorney General Schneiderman’s Tobacco Compliance and Health Care bureaus initiated an investigation to gauge compliance with the new statute. Investigators made

purchases of liquid nicotine from retailers located across New York, as well as from manufacturers and web-based businesses selling their products to New Yorkers. The investigation revealed that a number of entities were selling bottles of liquid nicotine without any packaging protections at all, in clear violation of the new law, New York General Business Law § 399- gg.

Signatories of the agreements being announced today are retailers that sell liquid nicotine online and in New York City stores: Henley Vaporium, headquartered in Manhattan; Beyond Vape, a California- based seller with three store fronts in New York City, including on St. Marks Place; Rocket Sheep, an e-liquid manufacturer; and ECig Distributors, Inc., a corporation that also does business as eCigDistributors.com, ejuices.com, and eliquid.com, which sells bottles of liquid nicotine to New Yorkers. As part of the agreements, the retail stores must train their staff on the requirements of the New York legislation, in particular that bottles containing liquid nicotine be sold in child-resistant packaging and any knowledge of bottles being sold without proper packaging be reported to the

Attorney General's Office. The training will also include that there are penalties for noncompliance. Total penalties due from the companies under the settlements are \$95,000. The agreements also require the companies to provide proof of testing of containers to demonstrate adherence to stringent poison prevention packaging on any bottles offered for sale, and to allow exchange of any bottles sold without appropriate protections.

Last year, Attorney General Schneiderman led an effort by 29 state Attorneys General urging the U.S Food and Drug Administration to issue regulations regarding e-cigarettes, such as prohibiting marketing, advertising and sales to minors, a ban on flavored E-Cigarettes and requiring child-resistant packaging.

"A Public Hearing on E-Cigarettes and liquid nicotine I held in May, 2014 as Chair of the Senate Health Committee revealed just how dangerous this liquid, which is often flavored, can be especially to young children" said Senator Kemp Hannon. "As a result of those hearings, I sponsored the law which prohibits the sale of liquid nicotine to minors and requires it be sold in child resistant bottles. I applaud the Attorney General for enforcing the law. It is imperative that retailers of liquid nicotine abide by the law so no other fatalities occur."

"The reason I introduced and passed the bill into law barring sales of e-liquid to minors and mandating child-resistant packaging was to protect children from gaining access to the toxic liquid and being poisoned by it," said Assemblymember Linda B. Rosenthal. "Tragically, some retailers and manufacturers flouted the law and continued selling the product without the required precautions. I am gratified that the Attorney General, recognizing the dangers of liquid nicotine, pursued those who violated the law, and will see that the offending parties comply with it in the future. Liquid nicotine should never be in the hands of children, and following the law to prevent that from occurring must be a top priority for all retailers and manufacturers."

“More than half the calls to poison control centers regarding liquid nicotine involved children under 5 years old, NYC Smoke-Free applauds A.G. Schneiderman’s Office for taking action to help limit youth access to this dangerous substance,” said Patrick Kwan, Director of NYC Smoke-Free at Public Health Solutions. “Recent studies show dramatic increases in the use of tobacco products like e- cigarettes and hookah by youth, retailers must do more to stop youth exposure and access to marketing, sales and displays of these addictive tobacco products.”

“The American Heart Association commends Attorney General Eric Schneiderman for his efforts to protect young New Yorkers from the dangers of accessible liquid nicotine,” said Sean Scott, Community Grassroots Specialist for the American Heart Association in New York City. “These liquids are often marketed in child-friendly flavors such as mint, chocolate, strawberry, vanilla and apple. While the flavors may sound appealing, liquid nicotine is a toxic substance that requires appropriate protections. This is why New York implemented a law last winter to require child-proof packaging, and why the American Heart Association looks forward to the Attorney General’s next steps to strengthen this policy.”

Dr. Sophie Balk, attending pediatrician at the Children's Hospital at Montefiore, Professor of Clinical Pediatrics at the Albert Einstein College of Medicine and a member of the Executive Committee of the American Academy of Pediatrics Provisional Section on Tobacco Control said, "As a practicing pediatrician, I always try to educate parents about the importance of keeping liquid nicotine out of the hands of young children. Even one teaspoon of liquid nicotine can be lethal to a child, and smaller amounts can cause severe illness. It's extremely important to have liquid nicotine in childproof

packaging and kept out of the reach of children. This New York State law helps to keep our young children away from nicotine, a highly toxic substance."

American Cancer Society Cancer Action Network (ACS CAN) New York Metro Government Relations Director Michael Davoli said, “The American Cancer Society Cancer Action Network thanks Attorney General Schneiderman for his strong actions to protect New York’s children from the dangers of liquid nicotine and e-cigarettes. The usage of e-cigarettes among teens tripled in just one year. There are harmful chemicals emitted by e-cigarettes. Liquid nicotine itself is extremely dangerous and potentially deadly. The enforcement of this law is critical to saving lives.

The case was investigated by Investigator Michael Yun, and assisted by Investigators Edward Ortiz, Elsa Rojas, Ryan Fannon, and Brian Metz of the Attorney General’s Investigations Division, Investigators Kyle Vitale-O’Sullivan, Zylona Silva and Auditors Mathew Crogan and Kristina Kojomanian, along with Deputy Chief Jonathan Wood, Supervising Investigator Luis A. Carter, and under the direction of Deputy Chief Investigator John McManus. The Chief Investigator of the Criminal Division is Dominic Zarrella.

The case was handled by Assistant Attorneys General Christopher Leung and Joshua Sprague of the Tobacco Compliance Bureau, and Carol Hunt of the Health Care Bureau.

The Tobacco Compliance Bureau is led by Dana Biberman, and the Health Care Bureau is led by Lisa Landau. The bureaus are part of the Attorney General's Social Justice Division, which is led by Executive Deputy Attorney General Alvin Bragg.

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Amd SS1399-aa & 1399-cc, Pub Health L; amd S17-706, NYC Ad Cd; add S399-gg, Gen Bus L

Prohibits the sale of liquid nicotine to minors under the age of eighteen across the state and under the age of twenty-one in the city of New York; requires containers of electronic liquid to be child resistant.

<http://assembly.state.ny.us/leg/?bn=A09299&term=2013>

<http://www.ag.ny.gov/press-release/ag-schneiderman-cracks-down-e-cigarette-industry-announces-settlements-liquid-nicoti-0>