

6505--A

2015-2016 Regular Sessions

I N A S S E M B L Y

March 25, 2015

Introduced by M. of A. CRESPO, PICHARDO, RIVERA, COOK, CROUCH, FINCH, RAIA, DILAN -- Multi-Sponsored by -- M. of A. LUPINACCI -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing the asthma prevention and education program (Part A); to amend the public health law, in relation to in-utero exposure to tobacco smoke prevention (Part B); to amend the public health law, in relation to reporting on the incidence of asthma (Part C); to amend the public health law, in relation to including certain respiratory diseases within disease management demonstration programs (Part D); to amend the public health law, in relation to the reduction of emphysema, chronic bronchitis and other chronic respiratory diseases in children (Part E); to amend the public health law, in relation to smoking restrictions in certain outdoor areas (Part F); to amend the education law, in relation to requiring all teachers to be trained in identifying and responding to asthma emergencies (Part G); to amend the real property law, in relation to residential rental property smoking policies (Part H); to amend the education law, in relation to requiring school districts and private elementary and secondary schools to establish and implement rules prohibiting the engine of any motor vehicle to remain idling while parked or standing on school grounds (Part I); to amend the education law, in relation to the use of inhalers and nebulizers (Part J); to amend the environmental conservation law, in relation to pesticide alternatives used at schools and day care centers (Part K); and to amend the public buildings law, in relation to curtailing the use of cleaning materials that induce or trigger asthma episodes (Part L)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD03883-04-5

1 Section 1. This act enacts into law major components of legislation
2 which combat the incidence of asthma and other respiratory diseases such
3 as emphysema and chronic bronchitis. Each component is wholly contained
4 within a Part identified as Parts A through L. The effective date for
5 each particular provision contained within such Part is set forth in the
6 last section of such Part. Any provision in any section contained within
7 a Part, including the effective date of the Part, which makes a refer-
8 ence to a section "of this act", when used in connection with that
9 particular component, shall be deemed to mean and refer to the corre-
10 sponding section of the Part in which it is found. Section four of this
11 act sets forth the general effective date of this act.

12 S 2. Legislative findings and purpose. The legislature finds that
13 asthma is a chronic, potentially life-threatening, respiratory illness
14 that affects over a million New Yorkers, including thousands of children
15 and adolescents. Asthma is the leading cause of school absences attri-
16 buted to chronic conditions. Asthma is also directly linked to large and
17 growing inpatient bills for medicaid and other health care payers.
18 Therefore, the legislature finds that establishing a comprehensive
19 statewide asthma prevention management and control program which coordi-
20 nates the efforts of individuals, families, health care providers,
21 schools and community-based organizations is in the public interest and
22 would benefit the people of the state of New York.

23 PART A

24 Section 1. The public health law is amended by adding a new article
25 27-BB to read as follows:

26 ARTICLE 27-BB

27 ASTHMA DISEASE MANAGEMENT AND CONTROL

28 SECTION 2725. ASTHMA DISEASE MANAGEMENT AND CONTROL PROGRAM.

29 2726. STUDY OF ASTHMA INCIDENCE AND PREVALENCE.

30 2727. ANNUAL REPORT.

31 S 2725. ASTHMA DISEASE MANAGEMENT AND CONTROL PROGRAM. 1. THERE IS
32 HEREBY CREATED WITHIN THE DEPARTMENT THE ASTHMA DISEASE MANAGEMENT AND
33 CONTROL PROGRAM (HEREINAFTER REFERRED TO IN THIS ARTICLE AS THE
34 "PROGRAM"). THE PURPOSE OF THE PROGRAM IS TO PROMOTE ASTHMA DISEASE
35 MANAGEMENT AND EDUCATION AND OUTREACH ABOUT ASTHMA TO PEOPLE WHO SUFFER
36 FROM ASTHMA AND THEIR FAMILIES, HEALTH CARE PROVIDERS, AND THE GENERAL
37 PUBLIC.

38 2. SERVICES TO BE PROVIDED BY THE PROGRAM MAY INCLUDE:

39 (A) ASTHMA DISEASE MANAGEMENT AND CASE MANAGEMENT FOR PATIENTS AND
40 THEIR FAMILIES;

41 (B) ASTHMA OUTREACH AND SCREENING;

42 (C) THE PROMOTION OF AWARENESS OF THE CAUSES OF ASTHMA;

43 (D) EDUCATION ON PREVENTION STRATEGIES;

44 (E) EDUCATION ON PROPER DISEASE MANAGEMENT PRACTICES; AND

45 (F) EDUCATION ON AVAILABLE TREATMENT MODALITIES.

46 3. THE COMMISSIONER SHALL MAKE GRANTS WITHIN THE AMOUNTS APPROPRIATED
47 THEREFOR TO LOCAL HEALTH AGENCIES, HEALTH CARE PROVIDERS, SCHOOLS,
48 SCHOOL BASED HEALTH CENTERS AND COMMUNITY-BASED ORGANIZATIONS, AND OTHER
49 ORGANIZATIONS WITH DEMONSTRATED INTEREST AND EXPERTISE IN SERVING
50 PERSONS WITH ASTHMA TO PROVIDE THE SERVICES SET OUT IN THIS SECTION.
51 GRANT RECIPIENTS SHALL BE GOVERNMENT ENTITIES OR NOT-FOR-PROFIT ORGAN-
52 IZATIONS.

53 THE COMMISSIONER MAY COORDINATE GRANTS UNDER THIS SUBDIVISION WITH THE
54 AVAILABILITY OF GRANTS FROM OTHER SOURCES. THE COMMISSIONER MAY ALSO

1 ACCEPT OR SEEK GRANTS FROM OTHER SOURCES TO ENHANCE THE AMOUNTS APPRO-
2 PRIATED TO THE PROGRAM.

3 S 2726. STUDY OF ASTHMA INCIDENCE AND PREVALENCE. 1. THE DEPARTMENT
4 SHALL STUDY THE INCIDENCE AND PREVALENCE OF ASTHMA IN THE STATE'S POPU-
5 LATION AND CURRENT DISEASE MANAGEMENT PRACTICES. SUCH STUDY SHALL
6 UTILIZE INFORMATION OBTAINED PURSUANT TO ARTICLE TWENTY-FOUR-F OF THIS
7 CHAPTER, AND INCLUDE:

8 (A) THE CAUSE AND NATURE OF THE DISEASE;

9 (B) BEHAVIORAL AND ENVIRONMENTAL TRIGGERS;

10 (C) AN ASSESSMENT OF THE NEED FOR PATIENT-CENTERED CASE MANAGEMENT TO
11 MEET SPECIFIC PHYSICAL AND ENVIRONMENTAL NEEDS OF PATIENTS;

12 (D) OUTCOME EVALUATIONS, INCLUDING, BUT NOT LIMITED TO, PATIENT
13 PERCEPTIONS OF IMPROVEMENT, SIGNS AND SYMPTOMS OF ASTHMA, PULMONARY
14 FUNCTION, HISTORY OF ASTHMA EXACERBATIONS, PHARMACOTHERAPY, ASSESSMENT
15 OF HOSPITAL EMERGENCY ROOM VISITS FOR ASTHMA, AND PATIENT-PROVIDER
16 COMMUNICATION; AND

17 (E) AN ASSESSMENT OF THE ABILITY OF PROVIDERS, INCLUDING NON-PROFES-
18 SIONALS AND HEALTH CARE PROFESSIONALS SUCH AS PHYSICIANS, NURSES, PHAR-
19 MACISTS AND RESPIRATORY THERAPISTS, TO SYSTEMICALLY INSTRUCT AND DEVELOP
20 ASTHMA MANAGEMENT PLANS FOR PATIENTS AND FREQUENTLY REVIEW WITH PATIENTS
21 AND THEIR FAMILIES HOW TO MANAGE AND CONTROL THEIR ASTHMA.

22 2. THE DEPARTMENT SHALL GATHER DATA FOR MONITORING THE OCCURRENCE,
23 FREQUENCY, INCIDENCE, CAUSE, EFFECT AND SEVERITY OF ASTHMA.

24 (A) THE DEPARTMENT MAY REQUIRE THE FOLLOWING TO REPORT DATA UNDER THIS
25 SUBDIVISION:

26 I. THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE SYSTEM (SPARCS);

27 II. HEALTH MAINTENANCE ORGANIZATIONS LICENSED PURSUANT TO ARTICLE
28 FORTY-THREE OF THE INSURANCE LAW OR CERTIFIED PURSUANT TO THIS CHAPTER
29 OR AN INDEPENDENT PRACTICE ASSOCIATION CERTIFIED OR RECOGNIZED PURSUANT
30 TO THIS CHAPTER;

31 III. OTHER INSURERS;

32 IV. THE MEDICAID (TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT)
33 PROGRAM;

34 V. HEALTH FACILITIES;

35 VI. HEALTH CARE PRACTITIONERS;

36 VII. PATIENTS: SELF REPORTING;

37 VIII. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION; AND

38 IX. ANY OTHER SOURCE THE COMMISSIONER DEEMS APPROPRIATE.

39 (B) THE DEPARTMENT SHALL COMPILE AND ANALYZE DATA GATHERED UNDER PARA-
40 GRAPH (A) OF THIS SUBDIVISION AND ARTICLE TWENTY-FOUR-F OF THIS CHAPTER,
41 AND CORRELATE IT WITH DATA AS TO PLACES OF EMPLOYMENT, AREAS OF RESI-
42 DENCE, SCHOOLS ATTENDED, AGES OF THOSE AFFLICTED, ENVIRONMENTAL FACTORS
43 INCLUDING PROXIMITY TO SOURCE OF POLLUTION AND SUCH OTHER DATA AS THE
44 DEPARTMENT DEEMS APPROPRIATE.

45 (C) THE DEPARTMENT SHALL MAINTAIN AND COMPILE REPORTED DATA IN A
46 MANNER SUITABLE FOR RESEARCH PURPOSES AND SHALL COLLECT AND MAKE SUCH
47 DATA AVAILABLE TO PERSONS IN THE MANNER SET FORTH IN SUBDIVISION THREE
48 OF THIS SECTION.

49 3. ANY DATA COLLECTED OR REPORTED SHALL NOT CONTAIN THE NAME OF ANY
50 PATIENT, HIS OR HER SOCIAL SECURITY NUMBER, OR ANY OTHER INFORMATION
51 WHICH WOULD PERMIT A PATIENT TO BE IDENTIFIED. THE DEPARTMENT SHALL
52 DEVELOP A UNIQUE, CONFIDENTIAL IDENTIFIER TO BE USED IN THE COLLECTION
53 OF PATIENT INFORMATION AS REQUIRED BY THIS SECTION.

54 S 2727. ANNUAL REPORT. ON OR BEFORE THE FIRST OF JANUARY DURING THE
55 TWO CALENDAR YEARS NEXT SUCCEEDING THE EFFECTIVE DATE OF THIS SECTION
56 AND BIENNIALY THEREAFTER, THE COMMISSIONER SHALL SUBMIT A REPORT

REGARDING THE STATUS AND ACCOMPLISHMENTS OF THE PROGRAM AND PROVIDE RECOMMENDATIONS TO THE GOVERNOR, THE TEMPORARY PRESIDENT AND THE MINORITY LEADER OF THE SENATE, AND THE SPEAKER AND THE MINORITY LEADER OF THE ASSEMBLY. SUCH REPORT MAY BE SUBMITTED IN CONJUNCTION WITH THE REPORT REQUIRED BY ARTICLE TWENTY-FOUR-F OF THIS CHAPTER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become law. Effective immediately the commissioner of health is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement the provisions of this act on its effective date.

PART B

Section 1. The public health law is amended by adding a new article 13-I to read as follows:

ARTICLE 13-I

IN-UTERO EXPOSURE TO TOBACCO SMOKE PREVENTION

SECTION 1399-XX. IN-UTERO EXPOSURE PREVENTION.

1399-YY. PROGRAMS.

S 1399-XX. IN-UTERO EXPOSURE PREVENTION. 1. EVERY HEALTHCARE PROVIDER, HEALTHCARE INSURER AND PREGNANCY PROGRAM SHALL DISTRIBUTE INFORMATION ON THE ADVERSE EFFECTS OF SMOKING DURING PREGNANCY FOR BOTH FIRSTHAND AND SECONDHAND SMOKE. SUCH ADVERSE EFFECTS TO THE INFANT INCLUDE LOWER BIRTH RATES, HIGHER INCIDENCE OF ASTHMA AND OBESITY, AND COGNITIVE AND DEVELOPMENTAL DAMAGE.

2. EVERY HEALTHCARE PROVIDER SHALL MONITOR EXPECTANT MOTHERS' SMOKING STATUSES AND OFFER CONTINUOUS TAILORED DISCUSSION OF QUITTING SMOKING WITH EXPECTANT MOTHERS DURING THEIR PRENATAL CARE.

S 1399-YY. PROGRAMS. THE FOLLOWING PROGRAMS SHALL BE ADDED TO EXISTING TOBACCO CONTROL PROGRAMS FOR PREGNANT WOMEN OR TO OTHER PREGNANCY RELATED PROGRAMS:

1. CARBON MONOXIDE MONITORING;

2. DEPRESSION, SOCIAL SUPPORT AND DOMESTIC VIOLENCE SCREENING AND REFERRALS;

3. REFERRALS FOR SMOKING CESSATION FOR HOUSEHOLD MEMBERS;

4. ONGOING SUPPORT BY COUNSELING AND EDUCATIONAL MATERIALS; AND

5. FINANCIAL INCENTIVES SUCH AS SHIPPING VOUCHER OR DIAPER COUPONS FOR QUITTING FOR MORE THAN FOUR WEEKS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Provided, that effective immediately the commissioner of health is authorized and directed to promulgate any and all rules and regulations, and take any other measures necessary to implement the provisions of this act on its effective date.

PART C

Section 1. The public health law is amended by adding a new article 24-F to read as follows:

ARTICLE 24-F

ASTHMA REPORTING

SECTION 2499-B. ASTHMA; DUTY TO REPORT.

2499-C. REPORTING.

2499-D. ASTHMA; REPORTS CONFIDENTIAL.

S 2499-B. ASTHMA; DUTY TO REPORT. 1. EVERY PHYSICIAN AND OTHER HEALTH CARE PROVIDER SHALL GIVE NOTICE TO THE DEPARTMENT WITHIN THIRTY DAYS OF

1 EVERY INCIDENT OF AN ASTHMA ATTACK COMING UNDER HIS OR HER CARE, EXCEPT
2 AS OTHERWISE PROVIDED.

3 2. THE PERSON IN CHARGE OF EVERY ASTHMA REPORTING FACILITY SHALL GIVE
4 NOTICE TO THE DEPARTMENT WITHIN THIRTY DAYS OF EVERY INCIDENT OF AN
5 ASTHMA ATTACK COMING UNDER THE CARE OF SUCH FACILITY.

6 3. THE DEPARTMENT SHALL ESTABLISH REGULATIONS DESIGNATING WHICH
7 SPECIFIC INFORMATION SHALL BE REPORTED TO THE DEPARTMENT PURSUANT TO
8 THIS SECTION.

9 4. A PHYSICIAN OR HEALTH CARE PROVIDER OR ASTHMA REPORTING FACILITY
10 WHICH VIOLATES ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO A CIVIL
11 PENALTY PURSUANT TO SECTION TWELVE OF THIS CHAPTER.

12 5. THE NOTICES REQUIRED BY THIS SECTION SHALL BE UPON FORMS SUPPLIED
13 BY THE COMMISSIONER AND SHALL CONTAIN SUCH INFORMATION AS SHALL BE
14 REQUIRED BY THE COMMISSIONER.

15 6. FOR THE PURPOSES OF THIS SECTION, AN "ASTHMA REPORTING FACILITY"
16 MEANS A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THIS CHAPTER,
17 CLINIC, ANY ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF
18 THIS CHAPTER, OR OTHER SIMILAR PUBLIC OR PRIVATE INSTITUTION.

19 S 2499-C. REPORTING. 1. THE COMMISSIONER SHALL SUBMIT BIENNIAL REPORTS
20 TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF
21 THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER
22 OF THE ASSEMBLY. THE REPORTS SHALL INCLUDE AN EVALUATION OF THE ASTHMA
23 REGISTRY AS IT RELATES TO TIMELINESS, QUALITY AND COMPLETENESS; AN EVALU-
24 UATION OF THE UTILITY OF THE REGISTRY FOR SCIENTIFIC RESEARCH; AN EVALU-
25 ATION OF THE ACCESS, TIMELINESS AND QUALITY OF REPORTING INFORMATION TO
26 RESEARCHERS AND OTHER SIMILAR INDIVIDUALS; AN EVALUATION OF THE REGIS-
27 TRY'S DATA ELEMENTS, INCLUDING TREATMENT, SEVERITY OF DISEASE, OCCUPA-
28 TION, AGE AND RESIDENCE; AN EVALUATION OF THE FEASIBILITY AND UTILITY OF
29 INCLUSION OF OCCUPATIONAL HISTORY AND RESIDENCE HISTORY; AND AN EVALU-
30 ATION OF INTEGRATING THE REGISTRY WITH OTHER DATABASES MAINTAINED BY
31 STATE AGENCIES AND DEPARTMENTS, INCLUDING THE STATEWIDE PLANNING AND
32 RESEARCH COOPERATIVE SYSTEM.

33 2. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE
34 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE
35 MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY.
36 SUCH REPORT SHALL INCLUDE AN EVALUATION OF WHETHER THE REGISTRY IS
37 ACHIEVING ASTHMA INCIDENCE REGISTRY GOALS ESTABLISHED BY A NATIONALLY
38 RECOGNIZED ASTHMA REGISTRY ORGANIZATION, INCLUDING NUMERICAL GOALS
39 CONCERNING TIMELINESS, QUALITY, AND COMPLETENESS.

40 S 2499-D. ASTHMA; REPORTS CONFIDENTIAL. THE REPORTS OF ASTHMA ATTACKS
41 MADE PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL NOT BE DIVULGED OR
42 MADE PUBLIC BY ANY PERSON SO AS TO DISCLOSE THE IDENTITY OF ANY PERSON
43 TO WHOM THEY RELATE, EXCEPT IN SO FAR AS MAY BE AUTHORIZED IN THE SANI-
44 TARY CODE.

45 S 2. This act shall take effect on the one hundred eightieth day after
46 it shall have become a law. Effective immediately, the commissioner of
47 health is authorized to promulgate any and all rules and regulations and
48 take any other measures necessary to implement this act on its effective
49 date on or before such date.

50 PART D

51 Section 1. Subdivisions 2 and 4 of section 2111 of the public health
52 law, as added by section 21 of part C of chapter 58 of the laws of 2004,
53 are amended to read as follows:

1 2. The department shall establish the criteria by which individuals
2 will be identified as eligible for enrollment in the demonstration
3 programs. Persons eligible for enrollment in the disease management
4 demonstration program shall be limited to individuals who: receive
5 medical assistance pursuant to title eleven of article five of the
6 social services law and may be eligible for benefits pursuant to title
7 18 of the social security act (Medicare); are not enrolled in a Medicaid
8 managed care plan, including individuals who are not required or not
9 eligible to participate in Medicaid managed care programs pursuant to
10 section three hundred sixty-four-j of the social services law; are diag-
11 nosed with chronic health problems as may be specified by the entity
12 undertaking the demonstration program, including, but not limited to one
13 or more of the following: congestive heart failure, chronic obstructive
14 pulmonary disease, asthma, EMPHYSEMA, CHRONIC BRONCHITIS, OTHER RESPIR-
15 ATORY DISEASES, diabetes or other chronic health conditions as may be
16 specified by the department; or have experienced or are likely to expe-
17 rience one or more hospitalizations or are otherwise expected to incur
18 excessive costs and high utilization of health care services.

19 4. The demonstration program shall offer evidence-based services and
20 interventions designed to ensure that the enrollees receive high quali-
21 ty, preventative and cost-effective care, aimed at reducing the necessi-
22 ty for hospitalization or emergency room care or at reducing lengths of
23 stay when hospitalization is necessary. The demonstration program may
24 include screening of eligible enrollees, developing an individualized
25 care management plan for each enrollee and implementing that plan.
26 Disease management demonstration programs that utilize information tech-
27 nology systems that allow for continuous application of evidence-based
28 guidelines to medical assistance claims data and other available data to
29 identify specific instances in which clinical interventions are justi-
30 fied and communicate indicated interventions to physicians, health care
31 providers and/or patients, and monitor physician and health care provid-
32 er response to such interventions, shall have the enrollees, or groups
33 of enrollees, approved by the department for participation. The services
34 provided by the demonstration program as part of the care management
35 plan may include, but are not limited to, case management, social work,
36 individualized health counselors, multi-behavioral goals plans, claims
37 data management, health and self-care education, drug therapy management
38 and oversight, personal emergency response systems and other monitoring
39 technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONI-
40 TORING, telehealth services and similar services designed to improve the
41 quality and cost-effectiveness of health care services.

42 S 2. This act shall take effect immediately.

43

PART E

44 Section 1. Subdivision 1 of section 2599-b of the public health law,
45 as amended by section 88 of part B of chapter 58 of the laws of 2005, is
46 amended to read as follows:

47 1. The program shall be designed to prevent and reduce the incidence
48 and prevalence of obesity in children and adolescents, especially among
49 populations with high rates of obesity and obesity-related health
50 complications including, but not limited to, diabetes, heart disease,
51 cancer, osteoarthritis, asthma, EMPHYSEMA, CHRONIC BRONCHITIS, OTHER
52 CHRONIC RESPIRATORY DISEASES and other conditions. The program shall use
53 recommendations and goals of the United States departments of agricul-
54 ture and health and human services, the surgeon general and centers for

disease control in developing and implementing guidelines for nutrition education and physical activity projects as part of obesity prevention efforts. The content and implementation of the program shall stress the benefits of choosing a balanced, healthful diet from the many options available to consumers, without specifically targeting the elimination of any particular food group, food product or food-related industry.

S 2. Paragraphs (f) and (g) of subdivision 2 of section 2599-b of the public health law, as amended by section 88 of part B of chapter 58 of the laws of 2005, are amended and a new paragraph (h) is added to read as follows:

(f) developing training programs for medical and other health professionals to teach practical skills in nutrition and exercise education to children and their parents and caregivers; [and]

(g) developing screening programs in coordination with health care providers and institutions including but not limited to day care centers and schools for overweight and obesity for children aged two through eighteen years, using body mass index (BMI) appropriate for age and gender, and notification, in a manner protecting the confidentiality of such children and their families, of parents of BMI status, and explanation of the consequences of such status, including recommended actions parents may need to take and information about resources and referrals available to families to enhance nutrition and physical activity to reduce and prevent obesity[.]; AND

(H) COORDINATING WITH THE EDUCATION DEPARTMENT, OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF CHILDREN AND FAMILY SERVICES AND OTHER FEDERAL, STATE AND LOCAL AGENCIES TO INCORPORATE STRATEGIES TO CURTAIL THE INCIDENCE OF ASTHMA, EMPHYSEMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIRATORY DISEASES TO ENABLE ADULTS AND CHILDREN TO SAFELY INCREASE PHYSICAL ACTIVITY TO HELP CURB THE INCIDENCE OF OBESITY.

S 3. This act shall take effect immediately.

PART F

Section 1. Legislative intent. The legislature recognizes that exposure to second-hand smoke is known to cause cancer, pneumonia, asthma, bronchitis and heart disease in humans, and to trigger asthma attacks. The legislature finds that prohibiting smoking within a presumptively reasonable minimum distance of fifteen feet from entrances and exits that serve enclosed areas where smoking is prohibited is consistent with such prohibition. This legislation will apply to any individual occupying such area with the purpose of smoking, but provides exceptions for individuals passing through such area. Therefore, the legislature finds that smoking in such area shall be prohibited and owners and other individuals in control of such area are recommended to post signs indicating no smoking areas and providing for fines for violations.

S 2. Section 1399-o-1 of the public health law, as added by chapter 102 of the laws of 2013, is amended to read as follows:

S 1399-o-1. Smoking restrictions; certain outdoor areas. 1. A. Smoking shall not be permitted and no person shall smoke during the hours between sunrise and sunset, when one or more persons under the age of twelve are present at any playground. For the purposes of this [section] SUBDIVISION, the term "playground" means an improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures. Play-

1 grounds or playground equipment constructed upon one, two and three-fa-
2 mily residential real property are exempt from the requirements of this
3 [section] SUBDIVISION. This [section] SUBDIVISION shall not apply to
4 any playground located within the city of New York.

5 [2.] B. No police officer, peace officer, regulatory officer or law
6 enforcement official may arrest, ticket, stop or question any person
7 based solely or in part on an alleged violation of PARAGRAPH A OF THIS
8 subdivision [one of this section], nor may an alleged violation of PARA-
9 GRAPH A OF THIS subdivision [one of this section] support probable cause
10 to conduct any search or limited search of any person or his or her
11 immediate surroundings.

12 2. A. SMOKING IS PROHIBITED WITHIN A PRESUMPTIVELY REASONABLE MINIMUM
13 DISTANCE OF FIFTEEN FEET FROM ENTRANCES OR EXITS OF PUBLIC BUILDINGS OR
14 PRIVATE BUILDINGS THAT CONTAIN STATE OR MUNICIPAL OFFICES OR EDUCATIONAL
15 FACILITIES FOR ELEMENTARY OR SECONDARY SCHOOL STUDENTS. SUCH DISTANCE
16 SHALL BECOME A DESIGNATED NO SMOKING ZONE.

17 B. LOCAL HEALTH DEPARTMENTS ARE AUTHORIZED TO ADOPT REGULATIONS AS ARE
18 REQUIRED TO IMPLEMENT THIS SUBDIVISION. ANY PENALTY ASSESSED AND RECOV-
19 ERED IN AN ACTION BROUGHT UNDER THIS SUBDIVISION SHALL BE PAID TO AND
20 USED BY THE MUNICIPALITY BRINGING THE ACTION.

21 C. THIS SUBDIVISION SHALL NOT APPLY TO INDIVIDUALS WALKING THROUGH THE
22 DESIGNATED NO SMOKING ZONE OF SUCH AREA FOR THE PURPOSE OF GETTING TO
23 ANOTHER DESTINATION, BUT SHALL ONLY APPLY TO INDIVIDUALS OCCUPYING THE
24 DESIGNATED NO SMOKING ZONE FOR THE PURPOSE OF SMOKING.

25 D. ANY PERSON VIOLATING THE PROVISIONS OF THIS SUBDIVISION SHALL BE
26 GUILTY OF A VIOLATION, AND IS SUBJECT TO A FINE OF THIRTY-FIVE DOLLARS.

27 E. THE COMMISSIONER MAY RECOMMEND DESIGNS FOR SIGNS WHICH MAY BE USED
28 BY THE OWNERS, OPERATORS, MANAGERS, EMPLOYERS OR OTHER PERSONS, AT THEIR
29 OPTION, WHO CONTROL AREAS WHERE SMOKING IS PROHIBITED PURSUANT TO
30 SECTION THIRTEEN HUNDRED NINETY-NINE-O OF THIS ARTICLE. SUCH SIGNS SHALL
31 INCLUDE THE WARNING THAT "SMOKING IN THIS AREA IS PUNISHABLE BY LAW AND
32 ALL VIOLATORS SHALL BE SUBJECT TO A FINE OF THIRTY-FIVE DOLLARS."

33 F. NOTHING CONTAINED IN THIS SUBDIVISION IS INTENDED TO REGULATE SMOK-
34 ING IN A PRIVATE RESIDENCE OR IN THE GENERAL PUBLIC OUTDOORS, EXCEPTING
35 PLACES IN WHICH SMOKING IS PROHIBITED THROUGH THE LOCAL FIRE DEPARTMENT,
36 OR BY OTHER LAW, ORDINANCE OR REGULATION.

37 S 3. This act shall take effect on the one hundred twentieth day after
38 it shall have become a law.

39 PART G

40 Section 1. The education law is amended by adding a new section 3001-e
41 to read as follows:

42 S 3001-E. ASTHMA EMERGENCIES; TRAINING IN IDENTIFICATION AND RESPONSE.
43 THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, SHALL
44 ESTABLISH STANDARDS FOR THE TRAINING OF TEACHERS AND OTHER APPROPRIATE
45 PERSONNEL IN IDENTIFYING AND RESPONDING TO ASTHMA EMERGENCIES IN PUPILS
46 AND OTHER PERSONS. SUCH STANDARDS SHALL SPECIFY MINIMUM LEVELS OF KNOW-
47 LEDGE AND PROCEDURES TO BE FOLLOWED. SUCH STANDARDS SHALL PERMIT TRAIN-
48 ING TO BE GIVEN BY PERSONS OR ORGANIZATIONS DEEMED QUALIFIED TO DO SO BY
49 THE COMMISSIONER.

50 S 2. This act shall take effect one year after it shall have become a
51 law.

52 PART H

1 Section 1. The real property law is amended by adding a new section
2 235-h to read as follows:

3 S 235-H. RESIDENTIAL RENTAL PROPERTY SMOKING POLICIES. EVERY RENTAL
4 AGREEMENT FOR A DWELLING UNIT, IN A MULTIPLE DWELLING BUILDING WITH FOUR
5 OR MORE UNITS, SHALL INCLUDE A DISCLOSURE OF THE SMOKING POLICY FOR THE
6 PREMISES ON WHICH THE DWELLING UNIT IS LOCATED. THE DISCLOSURE MUST
7 STATE WHETHER SMOKING IS PROHIBITED ON THE PREMISES, ALLOWED ON THE
8 ENTIRE PREMISES OR ALLOWED IN LIMITED AREAS ON THE PREMISES. IF THE
9 SMOKING POLICY ALLOWS SMOKING IN LIMITED AREAS ON THE PREMISES, THE
10 DISCLOSURE MUST IDENTIFY THE AREAS ON THE PREMISES WHERE SMOKING IS
11 ALLOWED.

12 S 2. This act shall take effect on the first of January next succeed-
13 ing the date on which it shall have become a law.

14 PART I

15 Section 1. The education law is amended by adding a new section 1527-a
16 to read as follows:

17 S 1527-A. IDLING MOTOR VEHICLES ON SCHOOL GROUNDS. 1. ON OR BEFORE
18 SEPTEMBER FIRST, TWO THOUSAND SEVENTEEN AND CONSISTENT WITH THE COMMIS-
19 SIONER'S REGULATIONS, ADOPTED PURSUANT TO SECTION THIRTY-SIX HUNDRED
20 THIRTY-SEVEN OF THIS CHAPTER, THE BOARD OF EDUCATION OR BOARD OF TRUS-
21 TEES OF EVERY SCHOOL DISTRICT AND THE GOVERNING BODY OF EVERY PRIVATE
22 ELEMENTARY OR SECONDARY SCHOOL IN THE STATE SHALL PROMULGATE AND IMPLE-
23 MENT RULES PROHIBITING THE ENGINE OF ANY MOTOR VEHICLE, AS DEFINED IN
24 SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, TO
25 REMAIN IDLING FOR MORE THAN ONE MINUTE WHILE SUCH VEHICLE IS PARKED OR
26 STANDING ON SCHOOL GROUNDS, ADJACENT TO SCHOOL GROUNDS, OR IN FRONT OF
27 ANY SCHOOL WHILE LOADING OR OFF LOADING PASSENGERS.

28 2. EACH SCHOOL DISTRICT AND PRIVATE ELEMENTARY AND SECONDARY SCHOOL
29 SHALL CONSPICUOUSLY POST SIGNS UPON, ADJACENT AND IN FRONT OF SCHOOL
30 GROUNDS ADVISING OPERATORS OF MOTOR VEHICLES OF THE PROVISIONS OF THE
31 RULES ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

32 S 2. This act shall take effect immediately.

33 PART J

34 Section 1. The education law is amended by adding a new section 922
35 to read as follows:

36 S 922. USE OF NEBULIZER. 1. EVERY SCHOOL DISTRICT AND BOARD OF COOPER-
37 ATIVE EDUCATIONAL SERVICES IN THIS STATE MAY MAINTAIN ONE OR MORE NEBU-
38 LIZERS IN THE OFFICE OF THE SCHOOL NURSE OR IN A SIMILAR ACCESSIBLE
39 LOCATION.

40 2. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
41 MAY PROMULGATE REGULATIONS FOR THE ADMINISTRATION OF ASTHMA MEDICATION
42 THROUGH THE USE OF A NEBULIZER BY THE SCHOOL NURSE OR PERSON AUTHORIZED
43 BY REGULATION. THE REGULATIONS MAY INCLUDE:

44 A. A REQUIREMENT THAT EACH CERTIFIED NURSE OR OTHER PERSON AUTHORIZED
45 TO ADMINISTER ASTHMA MEDICATION IN SCHOOLS RECEIVE TRAINING IN AIRWAY
46 MANAGEMENT AND IN THE USE OF NEBULIZERS AND INHALERS CONSISTENT WITH
47 NATIONALLY RECOGNIZED STANDARDS; AND

48 B. A REQUIREMENT THAT EACH PUPIL AUTHORIZED TO USE ASTHMA MEDICATION
49 PURSUANT TO SUBDIVISION ONE OF SECTION NINE HUNDRED SIXTEEN OF THIS
50 ARTICLE OR A NEBULIZER HAVE AN ASTHMA TREATMENT PLAN PREPARED BY THE
51 PHYSICIAN OF THE PUPIL, WHICH IDENTIFY, AT A MINIMUM, ASTHMA TRIGGERS,

1 THE TREATMENT PLAN, AND SUCH OTHER ELEMENTS AS SHALL BE DETERMINED BY
2 THE REGENTS.

3 S 2. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law; provided, however, that effective immediate-
5 ly the commissioner of education is authorized to promulgate rules and
6 regulations for the implementation of this act on such effective date.

7 PART K

8 Section 1. Subdivision 7 of section 33-0303 of the environmental
9 conservation law, as added by chapter 85 of the laws of 2010, is amended
10 to read as follows:

11 7. The commissioner, in consultation with the commissioner of educa-
12 tion and the commissioner of health, shall develop guidance AND REGU-
13 LATIONS on pesticide alternatives to facilitate compliance with section
14 four hundred nine-k of the education law and three hundred ninety-g of
15 the social services law. PROVIDED, FURTHER, THAT SUCH PESTICIDE ALTERNA-
16 TIVES SHALL HELP TO MINIMIZE THE INCIDENCE OF ASTHMA ATTACKS IN PUBLIC
17 AND PRIVATE BUILDINGS AND RESIDENCES, WHILE STILL EFFECTIVELY CONTROL-
18 LING THE TARGETED PEST OR ORGANISM. SUCH REGULATIONS SHALL PROVIDE FOR
19 THE USE OF THE LEAST TOXIC PESTICIDE OR PESTICIDES, WHICH EFFECTIVELY
20 ERADICATES THE TARGETED PEST OR ORGANISM.

21 S 2. This act shall take effect immediately.

22 PART L

23 Section 1. The public buildings law is amended by adding a new
24 section 143 to read as follows:

25 S 143. CURTAIL USE OF CHEMICALS THAT INDUCE OR TRIGGER ASTHMA ATTACKS.
26 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
27 SUPERINTENDENT OF EVERY STATE PUBLIC BUILDING, AND OF EVERY TRANSPORTA-
28 TION FACILITY OPERATED BY A PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION
29 OR MUNICIPALITY SHALL TO THE BEST OF HIS OR HER ABILITY CURTAIL THE USE
30 OF CLEANING MATERIALS OR CHEMICALS, EXPOSURE TO WHICH MAY CAUSE EITHER
31 THE BUILDING CLEANING STAFF OR OTHER PERSONS WHO ENTER SUCH BUILDING TO
32 DEVELOP THE DISEASE OF ASTHMA, OR WHICH MAY EXACERBATE OR TRIGGER AN
33 ASTHMA ATTACK.

34 2. A DETERMINATION OF WHICH OR THE QUANTITY OR CONCENTRATION OF SUCH
35 CLEANING MATERIALS OR CHEMICALS EXPOSURE TO WHICH MAY CAUSE PERSONS TO
36 DEVELOP THE DISEASE OF ASTHMA, OR WHICH MAY EXACERBATE OR TRIGGER AN
37 ASTHMA ATTACK, SHALL BE MADE BY THE COMMISSIONER OF HEALTH WHO SHALL
38 PROMULGATE A LIST OF SUCH CLEANING MATERIALS OR CHEMICALS.

39 S 2. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law.

41 S 3. Severability clause. If any clause, sentence, paragraph, subdi-
42 vision, section or part of this act shall be adjudged by any court of
43 competent jurisdiction to be invalid, such judgment shall not affect,
44 impair, or invalidate the remainder thereof, but shall be confined in
45 its operation to the clause, sentence, paragraph, subdivision, section
46 or part thereof directly involved in the controversy in which such judg-
47 ment shall have been rendered. It is hereby declared to be the intent of
48 the legislature that this act would have been enacted even if such
49 invalid provisions had not been included herein.

50 S 4. This act shall take effect immediately provided, however, that
51 the applicable effective date of Parts A through L of this act shall be
52 as specifically set forth in the last section of such Parts.