

5005

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting smoking at playgrounds

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

1     Section 1. The public health law is amended by adding a new section  
2     1399-o-1 to read as follows:  
3     S 1399-O-1. SMOKING RESTRICTIONS; CERTAIN OUTDOOR AREAS. 1. SMOKING  
4     SHALL NOT BE PERMITTED AND NO PERSON SHALL SMOKE DURING THE HOURS  
5     BETWEEN SUNRISE AND SUNSET, WHEN ONE OR MORE PERSONS UNDER THE AGE OF  
6     TWELVE ARE PRESENT AT ANY PLAYGROUND. FOR THE PURPOSES OF THIS SECTION,  
7     THE TERM "PLAYGROUND" MEANS AN IMPROVED AREA DESIGNED, EQUIPPED, AND SET  
8     ASIDE FOR PLAY OF SIX OR MORE CHILDREN WHICH IS NOT INTENDED FOR USE AS  
9     AN ATHLETIC PLAYING FIELD OR ATHLETIC COURT, AND SHALL INCLUDE ANY PLAY  
10    EQUIPMENT, SURFACING, FENCING, SIGNS, INTERNAL PATHWAYS, INTERNAL LAND  
11    FORMS, VEGETATION, AND RELATED STRUCTURES. PLAYGROUNDS OR PLAYGROUND  
12    EQUIPMENT CONSTRUCTED UPON ONE, TWO AND THREE-FAMILY RESIDENTIAL REAL  
13    PROPERTY ARE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION.  
14    2. NO POLICE OFFICER, PEACE OFFICER, REGULATORY OFFICER OR LAW  
15    ENFORCEMENT OFFICIAL MAY ARREST, TICKET, STOP OR QUESTION ANY PERSON  
16    BASED SOLELY OR IN PART ON AN ALLEGED VIOLATION OF SUBDIVISION ONE OF  
17    THIS SECTION, NOR MAY AN ALLEGED VIOLATION OF SUBDIVISION ONE OF THIS  
18    SECTION SUPPORT PROBABLE CAUSE TO CONDUCT ANY SEARCH OR LIMITED SEARCH  
19    OF ANY PERSON OR HIS OR HER IMMEDIATE SURROUNDINGS.  
20    S 2. This act shall take effect on the ninetieth day after it shall  
21    have become a law.

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

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