S T A T E O F N E W Y O R K

1137

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GALEF, GOTTFRIED, PAULIN, DINOWITZ, CLARK, ALFANO, FINCH, FIELDS, SPANO, N. RIVERA, TOBACCO, MENG -- Multi-Sponsored by -- M. of A. BARRA, BOYLAND, HEVESI, HOOPER, LANCMAN, LIFTON, MARKEY, MAYERSOHN, McKEVITT, MOLINARO, SWEENEY, THIELE -- read once and referred 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:

Section 1. The public health law is amended by adding a new section 1399-o-1 to read as follows:

S 1399-O-1. SMOKING RESTRICTIONS; CERTAIN OUTDOOR AREAS. 1. 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, 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. PLAYGROUNDS OR PLAYGROUND EQUIPMENT CONSTRUCTED UPON ONE, TWO AND THREE-FAMILY RESIDENTIAL REAL PROPERTY ARE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION.

2. NO POLICE OFFICER, PEACE OFFICER, REGULATORY OFFICER OR LAW ENFORCEMENT OFFICIAL MAY ARREST, TICKET, STOP OR QUESTION ANY PERSON BASED SOLELY OR IN PART ON AN ALLEGED VIOLATION OF SUBDIVISION ONE OF THIS SECTION, NOR MAY AN ALLEGED VIOLATION OF SUBDIVISION ONE OF THIS SECTION SUPPORT PROBABLE CAUSE TO CONDUCT ANY SEARCH OR LIMITED SEARCH OF ANY PERSON OR HIS OR HER IMMEDIATE SURROUNDINGS.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.

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