

6714--A

2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. MAYERSOHN, GOTTFRIED, FARRELL, MENG, DINOWITZ, GALEF, JACOBS, LAVINE, CLARK, D. WEPRIN, CUSICK, CAHILL, ARROYO, JAFFEE, MARKEY, CARROZZA, CASTRO, ROBINSON, SKARTADOS, HOYT -- Multi-Sponsored by -- M. of A. ALESSI, ALFANO, AUBRY, BARRA, BRODSKY, BROOK-KRASNY, CALHOUN, COOK, CORWIN, CRESPO, DenDEKKER, ENGLEBRIGHT, GABRYSZAK, GIBSON, GORDON, HEVESI, HYER-SPENCER, JEFFRIES, KAVANAGH, KELLNER, KOLB, KOON, LANCMAN, MAGNARELLI, MAISEL, McDONOUGH, McKEVITT, J. MILLER, M. MILLER, PAULIN, PRETLOW, RAI, N. RIVERA, SCARBOROUGH, SCHROEDER, SPANO, TITONE, TOBACCO, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to restricting areas where smoking is permitted

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

1 Section 1. Section 1399-o of the public health law is amended by  
2 adding a new subdivision 19 to read as follows:  
3 19. A. PRIVATE PASSENGER CARS, PRIVATE PASSENGER VANS OR PRIVATE  
4 PASSENGER TRUCKS WHERE MINORS UNDER FOURTEEN YEARS OF AGE ARE PASSENGERS  
5 IN ANY SUCH VEHICLES.  
6 B. A PERSON WHO HOLDS A LIGHTED CIGAR, CIGARETTE, PIPE OR ANY OTHER  
7 MATTER OR SUBSTANCE WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER  
8 THAT CAN BE SMOKED TO, OR IN THE IMMEDIATE PROXIMITY OF HIS OR HER  
9 PERSON WHILE IN SUCH VEHICLE IS PRESUMED TO BE ENGAGING IN SMOKING WITH-  
10 IN THE MEANING OF THIS SECTION. THE PRESUMPTION ESTABLISHED BY THIS  
11 PARAGRAPH IS REBUTTABLE BY EVIDENCE SHOWING THAT THE PERSON WAS NOT  
12 SMOKING A LIGHTED CIGAR, CIGARETTE, PIPE OR ANY OTHER MATTER OR  
13 SUBSTANCE WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER THAT CAN  
14 BE SMOKED.

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

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1 S 2. Subdivision 1 of section 1399-q of the public health law, as  
2 amended by chapter 13 of the laws of 2003, is amended to read as  
3 follows:

4 1. Private homes, private residences and private automobiles EXCEPT AS  
5 PROVIDED IN SUBDIVISION NINETEEN OF SECTION THIRTEEN HUNDRED  
6 NINETY-NINE-O OF THIS ARTICLE;

7 S 3. Section 1399-v of the public health law, as added by chapter 244  
8 of the laws of 1989, is amended to read as follows:

9 S 1399-v. Penalties. 1. The commissioner may impose a civil penalty  
10 for a violation of this article in an amount not to exceed that set  
11 forth in subdivision one of section twelve of this chapter. Any other  
12 enforcement officer may impose a civil penalty for a violation of this  
13 article in an amount not to exceed that set forth in paragraph [f] (F)  
14 of subdivision one of section three hundred nine of this chapter.

15 2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION  
16 ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION NINETEEN OF  
17 SECTION THIRTEEN HUNDRED NINETY-NINE-O OF THIS ARTICLE SHALL BE LIABLE  
18 FOR A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS TO BE IMPOSED BY ANY  
19 ENFORCEMENT OFFICER.

20 S 4. This act shall take effect on the one hundred twentieth day after  
21 it shall have become a law.