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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. ORTIZ -- Multi-Sponsored by -- M. of A. BOYLAND, HOOPER, TOWNS -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the penal law, in relation to prohibiting the use of cellular or mobile telephones in certain public areas of hospitals, medical centers, or any other treatment center

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 article 13-I to read as follows:

ARTICLE 13-I
REGULATION OF MOBILE TELEPHONE USE IN CERTAIN PUBLIC AREAS

SECTION 1399-AAA. DEFINITIONS.
1399-BBB. MOBILE TELEPHONE USE RESTRICTIONS.
1399-CCC. POSTING OF SIGNS.
1399-DDD. GENERAL PROVISIONS.
1399-EEE. VIOLATIONS AND PENALTIES.

S 1399-AAA. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
1. "MOBILE TELEPHONE" SHALL MEAN A CELLULAR, ANALOG, WIRELESS, DIGITAL OR OTHER SIMILAR TELEPHONE OR COMMUNICATIONS DEVICE, WHICH CAN BE USED TO ACCESS TWO-WAY REAL TIME VOICE TELECOMMUNICATIONS SERVICE THAT IS INTERCONNECTED TO A PUBLIC SWITCHED TELEPHONE NETWORK AND IS PROVIDED BY A COMMERCIAL MOBILE RADIO SERVICE;
2. "USE" SHALL MEAN TO RECEIVE A MOBILE TELEPHONE CALL SIGNALED BY AN AUDIBLE SOUND, DIAL A MOBILE TELEPHONE, TALK OR LISTEN ON A MOBILE TELEPHONE; AND
3. "PUBLIC INDOOR AREAS" SHALL INCLUDE, BUT NOT BE LIMITED TO, WAITING AREAS, HALLWAYS, AND TREATMENT ROOMS.

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

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S 1399-BBB. MOBILE TELEPHONE USE RESTRICTIONS. MOBILE TELEPHONE USE SHALL BE PROHIBITED IN CERTAIN DESIGNATED PUBLIC INDOOR AREAS OF THE FOLLOWING:

1. HOSPITALS AS DEFINED IN ARTICLE TWENTY-EIGHT OF THIS CHAPTER; AND

2. RESIDENTIAL HEALTH CARE FACILITIES AS DEFINED IN ARTICLE TWENTY-EIGHT OF THIS CHAPTER, AND OTHER HEALTH CARE FACILITIES LICENSED BY THE STATE IN WHICH PERSONS RESIDE; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SUBDIVISION SHALL NOT PROHIBIT CELLULAR OR MOBILE TELEPHONE USE BY PATIENTS IN SEPARATE ENCLOSED ROOMS OF HOSPITALS, RESIDENTIAL HEALTH CARE FACILITIES, ADULT CARE FACILITIES ESTABLISHED OR CERTIFIED UNDER TITLE TWO OF ARTICLE SEVEN OF THE SOCIAL SERVICES LAW, COMMUNITY MENTAL HEALTH RESIDENCES ESTABLISHED UNDER SECTION 41.44 OF THE MENTAL HYGIENE LAW, OR FACILITIES WHERE DAY TREATMENT PROGRAMS ARE PROVIDED, WHICH ARE NOT DESIGNATED AS CELLULAR AND MOBILE TELEPHONE FREE ZONES FOR PATIENTS OF SUCH FACILITIES OR PROGRAMS.

S 1399-CCC. POSTING OF SIGNS. "NO MOBILE TELEPHONE USE" OR SIGNS WITH THE INTERNATIONAL "NO MOBILE TELEPHONE USE" SYMBOL, WHICH CONSISTS OF A PICTORIAL REPRESENTATION OF A TELEPHONE ENCLOSED IN A CIRCLE WITH A BAR ACROSS IT, SHALL BE PROMINENTLY POSTED AND PROPERLY MAINTAINED, WHERE THE PUBLIC USE OF MOBILE TELEPHONES IS PROHIBITED BY THIS ARTICLE, BY THE PERSON OR PERSONS HAVING CONTROL OVER SUCH PUBLIC INDOOR AREA.

S 1399-DDD. GENERAL PROVISIONS. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DENY THE FACILITY COVERED BY THIS ARTICLE THE RIGHT TO FURTHER REGULATE THE USE OF SUCH MOBILE TELEPHONES BY ITS EMPLOYEES.

2. NOTHING HEREIN SHALL BE CONSTRUED TO RESTRICT THE POWER OF ANY COUNTY, CITY, TOWN, OR VILLAGE TO ADOPT AND ENFORCE ADDITIONAL LOCAL LAW, ORDINANCES, OR REGULATIONS WHICH COMPLY WITH AT LEAST THE MINIMUM APPLICABLE STANDARDS SET FORTH IN THIS ARTICLE.

S 1399-EEE. VIOLATIONS AND PENALTIES. 1. IT SHALL BE A VIOLATION OF SECTION 240.22 OF THE PENAL LAW, FOR ANY PERSON TO USE A MOBILE TELEPHONE IN A PROHIBITED OR RESTRICTED AREA UNDER SECTION THIRTEEN HUNDRED NINETY-NINE-BBB OF THIS ARTICLE.

2. EVERY PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL, FOR A FIRST CONVICTION THEREOF, BE PUNISHED BY A FINE OF NOT LESS THAN TWENTY-FIVE DOLLARS NOR MORE THAN FIFTY DOLLARS; AND FOR A CONVICTION OF A SECOND VIOLATION, BOTH OF WHICH WERE COMMITTED WITHIN THE SAME CALENDAR YEAR, SUCH PERSON SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY-FIVE DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS.

S 2. The penal law is amended by adding a new section 240.22 to read as follows:

S 240.22 DISRUPTIVE USE OF A MOBILE TELEPHONE.

A PERSON IS GUILTY OF DISRUPTIVE USE OF A MOBILE TELEPHONE, WHEN HE OR SHE KNOWINGLY USES A MOBILE TELEPHONE IN A PUBLIC PLACE WHERE SUCH TELEPHONE USAGE IS PROHIBITED AND SUCH PROHIBITION IS CLEARLY POSTED.

DISRUPTIVE USE OF A MOBILE TELEPHONE IS A VIOLATION.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.