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

7285

2011-2012 Regular Sessions

I N A S S E M B L Y

April 27, 2011

Introduced by M. of A. WEPRIN, GOTTFRIED, DINOWITZ, FARRELL, MENG, GALEF, JACOBS, LAVINE, CLARK, CUSICK, CAHILL, ARROYO, JAFFEE, MARKEY, CASTRO, ROBINSON, HOYT, HOOPER, ORTIZ -- Multi-Sponsored by -- M. of A. AUBRY, BROOK-KRASNY, CALHOUN, COOK, CRESPO, DenDEKKER, ENGLEBRIGHT, GABRYSZAK, GIBSON, HEVESI, KAVANAGH, KELLNER, KOLB, LANCMAN, MAGNARELLI, MAISEL, McDONOUGH, McKEVITT, J. MILLER, M. MILLER, PAULIN, PERRY, PRETLOW, RAIA, N. RIVERA, SCARBOROUGH, SCHROEDER, SPANO, SWEENEY, TITONE, TITUS, TOBACCO, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Health

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:

Section 1. Section 1399-o of the public health law is amended by adding a new subdivision 19 to read as follows:

19. A. PRIVATE PASSENGER CARS, PRIVATE PASSENGER VANS OR PRIVATE PASSENGER TRUCKS WHERE A MINOR UNDER FOURTEEN YEARS OF AGE IS A PASSENGER IN ANY SUCH VEHICLES.

B. A PERSON WHO HOLDS A LIGHTED CIGAR, CIGARETTE, PIPE OR ANY OTHER MATTER OR SUBSTANCE WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER THAT CAN BE SMOKED TO, OR IN THE IMMEDIATE PROXIMITY OF HIS OR HER MOUTH, WHILE IN SUCH VEHICLE IS PRESUMED TO BE ENGAGING IN SMOKING WITHIN THE MEANING OF THIS SECTION. THE PRESUMPTION ESTABLISHED BY THIS PARAGRAPH IS REBUTTABLE BY EVIDENCE SHOWING THAT THE PERSON WAS NOT SMOKING A LIGHTED CIGAR, CIGARETTE, PIPE OR OTHER MATTER OR SUBSTANCE WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER THAT CAN BE SMOKED.

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

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

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

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

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

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION NINETEEN OF SECTION THIRTEEN HUNDRED NINETY-NINE-O OF THIS ARTICLE SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS TO BE IMPOSED BY ANY ENFORCEMENT OFFICER IN ACCORDANCE WITH SECTION THIRTEEN HUNDRED NINETY-NINE-T OF THIS ARTICLE.

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