

7285--A

R. R. 337

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, P. RIVERA, ABINANTI, CAMARA -- Multi-Sponsored by -- M. of A. AUBRY, BROOK-KRASNY, CALHOUN, COOK, CRESPO, DenDEKKER, ENGLEBRIGHT, GABRYSZAK, GIBSON, HEVESI, KAVANAGH, KELLNER, LANCMAN, MAGNARELLI, MAISEL, McDONOUGH, McKEVITT, J. MILLER, M. MILLER, MILLMAN, PAULIN, PERRY, PRETLOW, N. RIVERA, SCARBOROUGH, SCHROEDER, SPANO, SWEENEY, TITONE, TITUS, TOBACCO, WEISENBERG, ZEBROW-SKI -- read once and referred to the Committee on Health -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the public health law and the vehicle and traffic 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 A MINOR UNDER FOURTEEN YEARS OF AGE IS A PASSEN-  
5 GER 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 MOUTH, 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 OTHER MATTER OR SUBSTANCE  
13 WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER THAT CAN BE SMOKED.  
14 S 2. Subdivision 1 of section 1399-q of the public health law, as  
15 amended by chapter 13 of the laws of 2003, is amended to read as  
16 follows:

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

LBD08590-02-1

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

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

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

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

18 S 4. The vehicle and traffic law is amended by adding a new section  
19 1229-e to read as follows:

20 S 1229-E. PROHIBITION ON SMOKING IN VEHICLES WHILE CHILDREN ARE PRES-  
21 ENT. 1. IT SHALL BE UNLAWFUL FOR ANY PERSON TO SMOKE IN A PRIVATE  
22 PASSENGER CAR, PRIVATE PASSENGER VAN, OR PRIVATE PASSENGER TRUCK WHERE A  
23 MINOR UNDER FOURTEEN YEARS OF AGE IS A PASSENGER IN SUCH CAR, VAN, OR  
24 TRUCK.

25 2. A PERSON WHO HOLDS A LIGHTED CIGAR, CIGARETTE, PIPE OR ANY OTHER  
26 MATTER OR SUBSTANCE WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER  
27 THAT CAN BE SMOKED TO, OR IN THE IMMEDIATE PROXIMITY OF HIS OR HER  
28 MOUTH, WHILE IN SUCH VEHICLE IS PRESUMED TO BE ENGAGING IN SMOKING WITH-  
29 IN THE MEANING OF THIS SECTION. THE PRESUMPTION ESTABLISHED BY THIS  
30 SUBDIVISION IS REBUTTABLE BY EVIDENCE SHOWING THAT THE PERSON WAS NOT  
31 SMOKING A LIGHTED CIGAR, CIGARETTE, PIPE OR OTHER MATTER OR SUBSTANCE  
32 WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER THAT CAN BE SMOKED.

33 S 5. This act shall take effect on the one hundred twentieth day after  
34 it shall have become a law.