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

7588

2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

Introduced by M. of A. LINARES -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the advertisement of tobacco products and herbal cigarettes near schools

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

ADVERTISING TOBACCO PRODUCTS AND HERBAL CIGARETTES PROHIBITED NEAR SCHOOLS

SECTION 1399-AAA. DEFINITIONS.
1399-BBB. ADVERTISING PROHIBITED NEAR SCHOOLS.
1399-CCC. HEARINGS; PENALTIES.

S 1399-AAA. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "PERSON" MEANS A PERSON, FIRM, COMPANY, CORPORATION, PARTNERSHIP, SOLE PROPRIETOR, LIMITED PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP.

2. "TOBACCO PRODUCTS" MEANS ONE OR MORE CIGARETTES, CIGARS, BIDIS, CHEWING TOBACCO, POWDERED TOBACCO, NICOTINE WATER OR ANY OTHER TOBACCO PRODUCTS.

3. "HERBAL CIGARETTE" MEANS ANY PRODUCT MADE PRIMARILY OF AN HERB OR COMBINATION OF HERBS, AND INTENDED TO BE SMOKED IN ANY OF THE METHODS THAT TOBACCO IS SMOKED, INCLUDING BUT NOT LIMITED TO, AS A CIGARETTE, CIGAR OR PIPE FILTER.

4. "SCHOOL GROUNDS" MEANS (A) IN, ON OR WITHIN ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY LINE OF A PUBLIC OR PRIVATE ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH SCHOOL, OR (B) ANY AREA ACCESSIBLE TO THE PUBLIC LOCATED WITHIN ONE THOUSAND FEET OF THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL OR ANY PARKED

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

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AUTOMOBILE OR OTHER PARKED VEHICLE LOCATED WITHIN ONE THOUSAND FEET OF THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL. FOR THE PURPOSES OF THIS SECTION AN "AREA ACCESSIBLE TO THE PUBLIC" SHALL MEAN SIDEWALKS, STREETS, PARKING LOTS, PARKS, PLAYGROUNDS, STORES AND RESTAURANTS.

S 1399-BBB. ADVERTISING PROHIBITED NEAR SCHOOLS. NO PERSON ENGAGED IN THE BUSINESS OF MANUFACTURING, SELLING, ADVERTISING, MARKETING OR OTHERWISE DISTRIBUTING TOBACCO PRODUCTS OR HERBAL CIGARETTES, OR ANY AGENT OR EMPLOYEE OF SUCH PERSON, SHALL ADVERTISE, MARKET OR PROMOTE TOBACCO PRODUCTS OR HERBAL CIGARETTES OR THE PURCHASE OR USE THEREOF UPON SCHOOL GROUNDS.

S 1399-CCC. HEARINGS; PENALTIES. 1. HEARINGS WITH RESPECT TO VIOLATION OF THIS ARTICLE SHALL BE CONDUCTED IN THE SAME MANNER AS HEARINGS CONDUCTED UNDER ARTICLE THIRTEEN-E OF THIS CHAPTER.

2. IF THE ENFORCEMENT OFFICER DETERMINES AFTER A HEARING THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, HE OR SHE SHALL IMPOSE A CIVIL PENALTY OF A MINIMUM OF TWO HUNDRED FIFTY DOLLARS, BUT NOT TO EXCEED ONE THOUSAND DOLLARS FOR A FIRST VIOLATION, A MINIMUM OF FIVE HUNDRED DOLLARS, BUT NOT TO EXCEED TWO THOUSAND DOLLARS FOR A SECOND VIOLATION, AND A MINIMUM OF ONE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

S 2. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.