

3082--A

2011-2012 Regular Sessions

I N S E N A T E

February 8, 2011

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

22 S 1399-v. Penalties. 1. The commissioner may impose a civil penalty
23 for a violation of this article in an amount not to exceed that set

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

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

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

11 S 4. The vehicle and traffic law is amended by adding a new section
12 1229-e to read as follows:

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

18 2. A PERSON WHO HOLDS A LIGHTED CIGAR, CIGARETTE, PIPE OR ANY OTHER
19 MATTER OR SUBSTANCE WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER
20 THAT CAN BE SMOKED TO, OR IN THE IMMEDIATE PROXIMITY OF HIS OR HER
21 MOUTH, WHILE IN SUCH VEHICLE IS PRESUMED TO BE ENGAGING IN SMOKING WITH-
22 IN THE MEANING OF THIS SECTION. THE PRESUMPTION ESTABLISHED BY THIS
23 SUBDIVISION IS REBUTTABLE BY EVIDENCE SHOWING THAT THE PERSON WAS NOT
24 SMOKING A LIGHTED CIGAR, CIGARETTE, PIPE OR OTHER MATTER OR SUBSTANCE
25 WHICH CONTAINS TOBACCO OR ANY OTHER PLANT OR MATTER THAT CAN BE SMOKED.

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