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I N S E N A T E

February 28, 2012

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting smoking in certain outdoor areas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public health law is amended by adding a new section  
2 1399-o-1 to read as follows:  
3 S 1399-o-1. SMOKING RESTRICTIONS; CERTAIN OUTDOOR AREAS. 1. SMOKING  
4 SHALL NOT BE PERMITTED AND NO PERSON SHALL SMOKE IN ANY PUBLIC PARK OR  
5 PEDESTRIAN PLAZA.  
6 2. FOR THE PURPOSES OF THIS SECTION:  
7 (A) "PARK" MEANS PUBLIC PARKS, BEACHES, WATERS AND LAND UNDER WATER,  
8 POOLS, BOARDWALKS, MARINAS, PLAYGROUNDS, RECREATION CENTERS AND ALL  
9 OTHER PROPERTY, EQUIPMENT, BUILDINGS AND FACILITIES NOW OR HEREAFTER  
10 UNDER THE JURISDICTION, CHARGE OR CONTROL OF ANY STATE OR LOCAL GOVERN-  
11 MENT AGENCY OR DEPARTMENT.  
12 (B) "PEDESTRIAN PLAZA" MEANS AN AREA DESIGNATED BY THE DEPARTMENT OF  
13 TRANSPORTATION FOR USE AS A PLAZA LOCATED WITHIN THE BED OF A ROADWAY,  
14 WHICH MAY CONTAIN BENCHES, TABLES OR OTHER FACILITIES FOR PEDESTRIAN  
15 USE.  
16 3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO: (A) THE SIDE-  
17 WALKS IMMEDIATELY ADJOINING PARKS, SQUARES AND PUBLIC PLACES; (B) ANY  
18 PEDESTRIAN ROUTE THROUGH ANY PARK STRIP, MEDIAN OR MALL THAT IS ADJACENT  
19 TO VEHICULAR TRAFFIC; (C) PARKING LOTS OR ROADWAYS; (D) THEATRICAL  
20 PRODUCTIONS; AND (E) ANY PORTION OF A PARK THAT IS NOT USED FOR PARK  
21 PURPOSES. THIS SUBDIVISION SHALL NOT LIMIT THE APPLICABILITY OF ANY  
22 OTHER LAWS TO SUCH PLACES.  
23 S 2. Section 1399-v of the public health law, as added by chapter 244  
24 of the laws of 1989, is amended to read as follows:  
25 S 1399-v. Penalties. The commissioner may impose a civil penalty for  
26 a violation of this article in an amount not to exceed that set forth in  
27 subdivision one of section twelve of this chapter. Any other enforcement  
28 officer may impose a civil penalty for a violation of this article in an

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

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1 amount not to exceed that set forth in paragraph f of subdivision one of  
2 section three hundred nine of this chapter. NOTWITHSTANDING THE FOREGO-  
3 ING PROVISIONS, A VIOLATION OF THE PROVISIONS OF SECTION THIRTEEN  
4 HUNDRED NINETY-NINE-O-1 OF THIS ARTICLE SHALL BE PUNISHABLE BY A CIVIL  
5 PENALTY OF FIFTY DOLLARS FOR EACH VIOLATION.

6 S 3. This act shall take effect on the ninetieth day after it shall  
7 have become a law.