

2417--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 15, 2013

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Introduced by M. of A. CRESPO, RODRIGUEZ, CASTRO, ARROYO, RIVERA, RAMOS, ESPINAL, MOYA, ORTIZ, SEPULVEDA, PRETLOW -- read once and referred 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, in relation to establishing the asthma prevention and education program (Part A); to amend the public health law, in relation to in-utero exposure to tobacco smoke prevention (Part B); to amend the public health law, in relation to reporting on the incidence of asthma (Part C); to amend the public health law, in relation to including certain respiratory diseases within disease management demonstration programs (Part D); to amend the public health law, in relation to the reduction of emphysema, chronic bronchitis and other chronic respiratory diseases in children (Part E); to amend the public health law, in relation to smoking restrictions in certain outdoor areas (Part F); to amend the education law, in relation to requiring all teachers to be trained in identifying and responding to asthma emergencies (Part G); to amend the real property law, in relation to residential rental property smoking policies (Part H); to amend the education law, in relation to requiring school districts and private elementary and secondary schools to establish and implement rules prohibiting the engine of any motor vehicle to remain idling while parked or standing on school grounds (Part I); to amend the education law, in relation to the use of inhalers and nebulizers (Part J); to amend the environmental conservation law, in relation to pesticide alternatives used at schools and day care centers (Part K); and to amend the public buildings law, in relation to curtailing the use of cleaning materials that induce or trigger asthma episodes (Part L)

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

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

LBD00970-03-3

1 Section 1. This act enacts into law major components of legislation  
2 which combat the incidence of asthma and other respiratory diseases such  
3 as emphysema and chronic bronchitis. Each component is wholly contained  
4 within a Part identified as Parts A through L. The effective date for  
5 each particular provision contained within such Part is set forth in the  
6 last section of such Part. Any provision in any section contained within  
7 a Part, including the effective date of the Part, which makes a refer-  
8 ence to a section "of this act", when used in connection with that  
9 particular component, shall be deemed to mean and refer to the corre-  
10 sponding section of the Part in which it is found. Section four of this  
11 act sets forth the general effective date of this act.

12 S 2. Legislative findings and purpose. The legislature finds that  
13 asthma is a chronic, potentially life-threatening, respiratory illness  
14 that affects over a million New Yorkers, including thousands of children  
15 and adolescents. Asthma is the leading cause of school absences attri-  
16 buted to chronic conditions. Asthma is also directly linked to large and  
17 growing inpatient bills for medicaid and other health care payers.  
18 Therefore, the legislature finds that establishing a comprehensive  
19 statewide asthma prevention management and control program which coordi-  
20 nates the efforts of individuals, families, health care providers,  
21 schools and community-based organizations is in the public interest and  
22 would benefit the people of the state of New York.

23 PART A

24 Section 1. The public health law is amended by adding a new article  
25 27-BB to read as follows:

26 ARTICLE 27-BB

27 ASTHMA DISEASE MANAGEMENT AND CONTROL

28 SECTION 2725. ASTHMA DISEASE MANAGEMENT AND CONTROL PROGRAM.

29 2726. STUDY OF ASTHMA INCIDENCE AND PREVALENCE.

30 2727. ANNUAL REPORT.

31 S 2725. ASTHMA DISEASE MANAGEMENT AND CONTROL PROGRAM. 1. THERE IS  
32 HEREBY CREATED WITHIN THE DEPARTMENT THE ASTHMA DISEASE MANAGEMENT AND  
33 CONTROL PROGRAM (HEREINAFTER REFERRED TO IN THIS ARTICLE AS THE  
34 "PROGRAM"). THE PURPOSE OF THE PROGRAM IS TO PROMOTE ASTHMA DISEASE  
35 MANAGEMENT AND EDUCATION AND OUTREACH ABOUT ASTHMA TO PEOPLE WHO SUFFER  
36 FROM ASTHMA AND THEIR FAMILIES, HEALTH CARE PROVIDERS, AND THE GENERAL  
37 PUBLIC.

38 2. SERVICES TO BE PROVIDED BY THE PROGRAM MAY INCLUDE:

39 (A) ASTHMA DISEASE MANAGEMENT AND CASE MANAGEMENT FOR PATIENTS AND  
40 THEIR FAMILIES;

41 (B) ASTHMA OUTREACH AND SCREENING;

42 (C) THE PROMOTION OF AWARENESS OF THE CAUSES OF ASTHMA;

43 (D) EDUCATION ON PREVENTION STRATEGIES;

44 (E) EDUCATION ON PROPER DISEASE MANAGEMENT PRACTICES; AND

45 (F) EDUCATION ON AVAILABLE TREATMENT MODALITIES.

46 3. THE COMMISSIONER SHALL MAKE GRANTS WITHIN THE AMOUNTS APPROPRIATED  
47 THEREFOR TO LOCAL HEALTH AGENCIES, HEALTH CARE PROVIDERS, SCHOOLS,  
48 SCHOOL BASED HEALTH CENTERS AND COMMUNITY-BASED ORGANIZATIONS, AND OTHER  
49 ORGANIZATIONS WITH DEMONSTRATED INTEREST AND EXPERTISE IN SERVING  
50 PERSONS WITH ASTHMA TO PROVIDE THE SERVICES SET OUT IN THIS SECTION.  
51 GRANT RECIPIENTS SHALL BE GOVERNMENT ENTITIES OR NOT-FOR-PROFIT ORGAN-  
52 IZATIONS.

53 THE COMMISSIONER MAY COORDINATE GRANTS UNDER THIS SUBDIVISION WITH THE  
54 AVAILABILITY OF GRANTS FROM OTHER SOURCES. THE COMMISSIONER MAY ALSO

1 ACCEPT OR SEEK GRANTS FROM OTHER SOURCES TO ENHANCE THE AMOUNTS APPRO-  
2 PRIATED TO THE PROGRAM.

3 S 2726. STUDY OF ASTHMA INCIDENCE AND PREVALENCE. 1. THE DEPARTMENT  
4 SHALL STUDY THE INCIDENCE AND PREVALENCE OF ASTHMA IN THE STATE'S POPU-  
5 LATION AND CURRENT DISEASE MANAGEMENT PRACTICES. SUCH STUDY SHALL  
6 UTILIZE INFORMATION OBTAINED PURSUANT TO ARTICLE TWENTY-FOUR-F OF THIS  
7 CHAPTER, AND INCLUDE:

8 (A) THE CAUSE AND NATURE OF THE DISEASE;

9 (B) BEHAVIORAL AND ENVIRONMENTAL TRIGGERS;

10 (C) AN ASSESSMENT OF THE NEED FOR PATIENT-CENTERED CASE MANAGEMENT TO  
11 MEET SPECIFIC PHYSICAL AND ENVIRONMENTAL NEEDS OF PATIENTS;

12 (D) OUTCOME EVALUATIONS, INCLUDING, BUT NOT LIMITED TO, PATIENT  
13 PERCEPTIONS OF IMPROVEMENT, SIGNS AND SYMPTOMS OF ASTHMA, PULMONARY  
14 FUNCTION, HISTORY OF ASTHMA EXACERBATIONS, PHARMACOTHERAPY, ASSESSMENT  
15 OF HOSPITAL EMERGENCY ROOM VISITS FOR ASTHMA, AND PATIENT-PROVIDER  
16 COMMUNICATION; AND

17 (E) AN ASSESSMENT OF THE ABILITY OF PROVIDERS, INCLUDING NON-PROFES-  
18 SIONALS AND HEALTH CARE PROFESSIONALS SUCH AS PHYSICIANS, NURSES, PHAR-  
19 MACISTS AND RESPIRATORY THERAPISTS, TO SYSTEMICALLY INSTRUCT AND DEVELOP  
20 ASTHMA MANAGEMENT PLANS FOR PATIENTS AND FREQUENTLY REVIEW WITH PATIENTS  
21 AND THEIR FAMILIES HOW TO MANAGE AND CONTROL THEIR ASTHMA.

22 2. THE DEPARTMENT SHALL GATHER DATA FOR MONITORING THE OCCURRENCE,  
23 FREQUENCY, INCIDENCE, CAUSE, EFFECT AND SEVERITY OF ASTHMA.

24 (A) THE DEPARTMENT MAY REQUIRE THE FOLLOWING TO REPORT DATA UNDER THIS  
25 SUBDIVISION:

26 I. THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE SYSTEM (SPARCS);

27 II. HEALTH MAINTENANCE ORGANIZATIONS LICENSED PURSUANT TO ARTICLE  
28 FORTY-THREE OF THE INSURANCE LAW OR CERTIFIED PURSUANT TO THIS CHAPTER  
29 OR AN INDEPENDENT PRACTICE ASSOCIATION CERTIFIED OR RECOGNIZED PURSUANT  
30 TO THIS CHAPTER;

31 III. OTHER INSURERS;

32 IV. THE MEDICAID (TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT)  
33 PROGRAM;

34 V. HEALTH FACILITIES;

35 VI. HEALTH CARE PRACTITIONERS;

36 VII. PATIENTS: SELF REPORTING;

37 VIII. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION; AND

38 IX. ANY OTHER SOURCE THE COMMISSIONER DEEMS APPROPRIATE.

39 (B) THE DEPARTMENT SHALL COMPILE AND ANALYZE DATA GATHERED UNDER PARA-  
40 GRAPH (A) OF THIS SUBDIVISION AND ARTICLE TWENTY-FOUR-F OF THIS CHAPTER,  
41 AND CORRELATE IT WITH DATA AS TO PLACES OF EMPLOYMENT, AREAS OF RESI-  
42 DENCE, SCHOOLS ATTENDED, AGES OF THOSE AFFLICTED, ENVIRONMENTAL FACTORS  
43 INCLUDING PROXIMITY TO SOURCE OF POLLUTION AND SUCH OTHER DATA AS THE  
44 DEPARTMENT DEEMS APPROPRIATE.

45 (C) THE DEPARTMENT SHALL MAINTAIN AND COMPILE REPORTED DATA IN A  
46 MANNER SUITABLE FOR RESEARCH PURPOSES AND SHALL COLLECT AND MAKE SUCH  
47 DATA AVAILABLE TO PERSONS IN THE MANNER SET FORTH IN SUBDIVISION THREE  
48 OF THIS SECTION.

49 3. ANY DATA COLLECTED OR REPORTED SHALL NOT CONTAIN THE NAME OF ANY  
50 PATIENT, HIS OR HER SOCIAL SECURITY NUMBER, OR ANY OTHER INFORMATION  
51 WHICH WOULD PERMIT A PATIENT TO BE IDENTIFIED. THE DEPARTMENT SHALL  
52 DEVELOP A UNIQUE, CONFIDENTIAL IDENTIFIER TO BE USED IN THE COLLECTION  
53 OF PATIENT INFORMATION AS REQUIRED BY THIS SECTION.

54 S 2727. ANNUAL REPORT. ON OR BEFORE THE FIRST OF JANUARY DURING THE  
55 TWO CALENDAR YEARS NEXT SUCCEEDING THE EFFECTIVE DATE OF THIS SECTION  
56 AND BIENNIALY THEREAFTER, THE COMMISSIONER SHALL SUBMIT A REPORT

REGARDING THE STATUS AND ACCOMPLISHMENTS OF THE PROGRAM AND PROVIDE RECOMMENDATIONS TO THE GOVERNOR, THE TEMPORARY PRESIDENT AND THE MINORITY LEADER OF THE SENATE, AND THE SPEAKER AND THE MINORITY LEADER OF THE ASSEMBLY. SUCH REPORT MAY BE SUBMITTED IN CONJUNCTION WITH THE REPORT REQUIRED BY ARTICLE TWENTY-FOUR-F OF THIS CHAPTER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become law. Effective immediately the commissioner of health is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement the provisions of this act on its effective date.

#### PART B

Section 1. The public health law is amended by adding a new article 13-I to read as follows:

##### ARTICLE 13-I

##### IN-UTERO EXPOSURE TO TOBACCO SMOKE PREVENTION

SECTION 1399-XX. IN-UTERO EXPOSURE PREVENTION.

1399-YY. PROGRAMS.

S 1399-XX. IN-UTERO EXPOSURE PREVENTION. 1. EVERY HEALTHCARE PROVIDER, HEALTHCARE INSURER AND PREGNANCY PROGRAM SHALL DISTRIBUTE INFORMATION ON THE ADVERSE EFFECTS OF SMOKING DURING PREGNANCY FOR BOTH FIRSTHAND AND SECONDHAND SMOKE. SUCH ADVERSE EFFECTS TO THE INFANT INCLUDE LOWER BIRTH RATES, HIGHER INCIDENCE OF ASTHMA AND OBESITY, AND COGNITIVE AND DEVELOPMENTAL DAMAGE.

2. EVERY HEALTHCARE PROVIDER SHALL MONITOR EXPECTANT MOTHERS' SMOKING STATUSES AND OFFER CONTINUOUS TAILORED DISCUSSION OF QUITTING SMOKING WITH EXPECTANT MOTHERS DURING THEIR PRENATAL CARE.

S 1399-YY. PROGRAMS. THE FOLLOWING PROGRAMS SHALL BE ADDED TO EXISTING TOBACCO CONTROL PROGRAMS FOR PREGNANT WOMEN OR TO OTHER PREGNANCY RELATED PROGRAMS:

1. CARBON MONOXIDE MONITORING;

2. DEPRESSION, SOCIAL SUPPORT AND DOMESTIC VIOLENCE SCREENING AND REFERRALS;

3. REFERRALS FOR SMOKING CESSATION FOR HOUSEHOLD MEMBERS;

4. ONGOING SUPPORT BY COUNSELING AND EDUCATIONAL MATERIALS; AND

5. FINANCIAL INCENTIVES SUCH AS SHIPPING VOUCHER OR DIAPER COUPONS FOR QUITTING FOR MORE THAN FOUR WEEKS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Provided, that effective immediately the commissioner of health is authorized and directed to promulgate any and all rules and regulations, and take any other measures necessary to implement the provisions of this act on its effective date.

#### PART C

Section 1. The public health law is amended by adding a new article 24-F to read as follows:

##### ARTICLE 24-F

##### ASTHMA REPORTING

SECTION 2499-B. ASTHMA; DUTY TO REPORT.

2499-C. REPORTING.

2499-D. ASTHMA; REPORTS CONFIDENTIAL.

S 2499-B. ASTHMA; DUTY TO REPORT. 1. EVERY PHYSICIAN AND OTHER HEALTH CARE PROVIDER SHALL GIVE NOTICE TO THE DEPARTMENT WITHIN THIRTY DAYS OF

1 EVERY INCIDENT OF AN ASTHMA ATTACK COMING UNDER HIS OR HER CARE, EXCEPT  
2 AS OTHERWISE PROVIDED.

3 2. THE PERSON IN CHARGE OF EVERY ASTHMA REPORTING FACILITY SHALL GIVE  
4 NOTICE TO THE DEPARTMENT WITHIN THIRTY DAYS OF EVERY INCIDENT OF AN  
5 ASTHMA ATTACK COMING UNDER THE CARE OF SUCH FACILITY.

6 3. THE DEPARTMENT SHALL ESTABLISH REGULATIONS DESIGNATING WHICH  
7 SPECIFIC INFORMATION SHALL BE REPORTED TO THE DEPARTMENT PURSUANT TO  
8 THIS SECTION.

9 4. A PHYSICIAN OR HEALTH CARE PROVIDER OR ASTHMA REPORTING FACILITY  
10 WHICH VIOLATES ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO A CIVIL  
11 PENALTY PURSUANT TO SECTION TWELVE OF THIS CHAPTER.

12 5. THE NOTICES REQUIRED BY THIS SECTION SHALL BE UPON FORMS SUPPLIED  
13 BY THE COMMISSIONER AND SHALL CONTAIN SUCH INFORMATION AS SHALL BE  
14 REQUIRED BY THE COMMISSIONER.

15 6. FOR THE PURPOSES OF THIS SECTION, AN "ASTHMA REPORTING FACILITY"  
16 MEANS A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THIS CHAPTER,  
17 CLINIC, ANY ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF  
18 THIS CHAPTER, OR OTHER SIMILAR PUBLIC OR PRIVATE INSTITUTION.

19 S 2499-C. REPORTING. 1. THE COMMISSIONER SHALL SUBMIT BIENNIAL REPORTS  
20 TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF  
21 THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER  
22 OF THE ASSEMBLY. THE REPORTS SHALL INCLUDE AN EVALUATION OF THE ASTHMA  
23 REGISTRY AS IT RELATES TO TIMELINESS, QUALITY AND COMPLETENESS; AN EVALU-  
24 UATION OF THE UTILITY OF THE REGISTRY FOR SCIENTIFIC RESEARCH; AN EVALU-  
25 ATION OF THE ACCESS, TIMELINESS AND QUALITY OF REPORTING INFORMATION TO  
26 RESEARCHERS AND OTHER SIMILAR INDIVIDUALS; AN EVALUATION OF THE REGIS-  
27 TRY'S DATA ELEMENTS, INCLUDING TREATMENT, SEVERITY OF DISEASE, OCCUPA-  
28 TION, AGE AND RESIDENCE; AN EVALUATION OF THE FEASIBILITY AND UTILITY OF  
29 INCLUSION OF OCCUPATIONAL HISTORY AND RESIDENCE HISTORY; AND AN EVALU-  
30 ATION OF INTEGRATING THE REGISTRY WITH OTHER DATABASES MAINTAINED BY  
31 STATE AGENCIES AND DEPARTMENTS, INCLUDING THE STATEWIDE PLANNING AND  
32 RESEARCH COOPERATIVE SYSTEM.

33 2. THE COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE  
34 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE  
35 MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY.  
36 SUCH REPORT SHALL INCLUDE AN EVALUATION OF WHETHER THE REGISTRY IS  
37 ACHIEVING ASTHMA INCIDENCE REGISTRY GOALS ESTABLISHED BY A NATIONALLY  
38 RECOGNIZED ASTHMA REGISTRY ORGANIZATION, INCLUDING NUMERICAL GOALS  
39 CONCERNING TIMELINESS, QUALITY, AND COMPLETENESS.

40 S 2499-D. ASTHMA; REPORTS CONFIDENTIAL. THE REPORTS OF ASTHMA ATTACKS  
41 MADE PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL NOT BE DIVULGED OR  
42 MADE PUBLIC BY ANY PERSON SO AS TO DISCLOSE THE IDENTITY OF ANY PERSON  
43 TO WHOM THEY RELATE, EXCEPT IN SO FAR AS MAY BE AUTHORIZED IN THE SANI-  
44 TARY CODE.

45 S 2. This act shall take effect on the one hundred eightieth day after  
46 it shall have become a law. Effective immediately, the commissioner of  
47 health is authorized to promulgate any and all rules and regulations and  
48 take any other measures necessary to implement this act on its effective  
49 date on or before such date.

50 PART D

51 Section 1. Subdivisions 2 and 4 of section 2111 of the public health  
52 law, as added by section 21 of part C of chapter 58 of the laws of 2004,  
53 are amended to read as follows:

1 2. The department shall establish the criteria by which individuals  
2 will be identified as eligible for enrollment in the demonstration  
3 programs. Persons eligible for enrollment in the disease management  
4 demonstration program shall be limited to individuals who: receive  
5 medical assistance pursuant to title eleven of article five of the  
6 social services law and may be eligible for benefits pursuant to title  
7 18 of the social security act (Medicare); are not enrolled in a Medicaid  
8 managed care plan, including individuals who are not required or not  
9 eligible to participate in Medicaid managed care programs pursuant to  
10 section three hundred sixty-four-j of the social services law; are diag-  
11 nosed with chronic health problems as may be specified by the entity  
12 undertaking the demonstration program, including, but not limited to one  
13 or more of the following: congestive heart failure, chronic obstructive  
14 pulmonary disease, asthma, EMPHYSEMA, CHRONIC BRONCHITIS, OTHER RESPIR-  
15 ATORY DISEASES, diabetes or other chronic health conditions as may be  
16 specified by the department; or have experienced or are likely to expe-  
17 rience one or more hospitalizations or are otherwise expected to incur  
18 excessive costs and high utilization of health care services.

19 4. The demonstration program shall offer evidence-based services and  
20 interventions designed to ensure that the enrollees receive high quali-  
21 ty, preventative and cost-effective care, aimed at reducing the necessi-  
22 ty for hospitalization or emergency room care or at reducing lengths of  
23 stay when hospitalization is necessary. The demonstration program may  
24 include screening of eligible enrollees, developing an individualized  
25 care management plan for each enrollee and implementing that plan.  
26 Disease management demonstration programs that utilize information tech-  
27 nology systems that allow for continuous application of evidence-based  
28 guidelines to medical assistance claims data and other available data to  
29 identify specific instances in which clinical interventions are justi-  
30 fied and communicate indicated interventions to physicians, health care  
31 providers and/or patients, and monitor physician and health care provid-  
32 er response to such interventions, shall have the enrollees, or groups  
33 of enrollees, approved by the department for participation. The services  
34 provided by the demonstration program as part of the care management  
35 plan may include, but are not limited to, case management, social work,  
36 individualized health counselors, multi-behavioral goals plans, claims  
37 data management, health and self-care education, drug therapy management  
38 and oversight, personal emergency response systems and other monitoring  
39 technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONI-  
40 TORING, telehealth services and similar services designed to improve the  
41 quality and cost-effectiveness of health care services.

42 S 2. This act shall take effect immediately.

43

#### PART E

44 Section 1. Subdivision 1 of section 2599-b of the public health law,  
45 as amended by section 88 of part B of chapter 58 of the laws of 2005, is  
46 amended to read as follows:

47 1. The program shall be designed to prevent and reduce the incidence  
48 and prevalence of obesity in children and adolescents, especially among  
49 populations with high rates of obesity and obesity-related health  
50 complications including, but not limited to, diabetes, heart disease,  
51 cancer, osteoarthritis, asthma, EMPHYSEMA, CHRONIC BRONCHITIS, OTHER  
52 CHRONIC RESPIRATORY DISEASES and other conditions. The program shall use  
53 recommendations and goals of the United States departments of agricul-  
54 ture and health and human services, the surgeon general and centers for

disease control in developing and implementing guidelines for nutrition education and physical activity projects as part of obesity prevention efforts. The content and implementation of the program shall stress the benefits of choosing a balanced, healthful diet from the many options available to consumers, without specifically targeting the elimination of any particular food group, food product or food-related industry.

S 2. Paragraphs (f) and (g) of subdivision 2 of section 2599-b of the public health law, as amended by section 88 of part B of chapter 58 of the laws of 2005, are amended and a new paragraph (h) is added to read as follows:

(f) developing training programs for medical and other health professionals to teach practical skills in nutrition and exercise education to children and their parents and caregivers; [and]

(g) developing screening programs in coordination with health care providers and institutions including but not limited to day care centers and schools for overweight and obesity for children aged two through eighteen years, using body mass index (BMI) appropriate for age and gender, and notification, in a manner protecting the confidentiality of such children and their families, of parents of BMI status, and explanation of the consequences of such status, including recommended actions parents may need to take and information about resources and referrals available to families to enhance nutrition and physical activity to reduce and prevent obesity[.]; AND

(H) COORDINATING WITH THE EDUCATION DEPARTMENT, OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF CHILDREN AND FAMILY SERVICES AND OTHER FEDERAL, STATE AND LOCAL AGENCIES TO INCORPORATE STRATEGIES TO CURTAIL THE INCIDENCE OF ASTHMA, EMPHYSEMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIRATORY DISEASES TO ENABLE ADULTS AND CHILDREN TO SAFELY INCREASE PHYSICAL ACTIVITY TO HELP CURB THE INCIDENCE OF OBESITY.

S 3. This act shall take effect immediately.

## PART F

Section 1. Legislative intent. The legislature recognizes that exposure to second-hand smoke is known to cause cancer, pneumonia, asthma, bronchitis and heart disease in humans, and to trigger asthma attacks. The legislature finds that prohibiting smoking within a presumptively reasonable minimum distance of fifteen feet from entrances and exits that serve enclosed areas where smoking is prohibited is consistent with such prohibition. This legislation will apply to any individual occupying such area with the purpose of smoking, but provides exceptions for individuals passing through such area. Therefore, the legislature finds that smoking in such area shall be prohibited and owners and other individuals in control of such area are recommended to post signs indicating no smoking areas and providing for fines for violations.

S 2. The public health law is amended by adding a new section 1399-o-1 to read as follows:

S 1399-O-1. SMOKING RESTRICTIONS; CERTAIN OUTDOOR AREAS. 1. SMOKING IS PROHIBITED WITHIN A PRESUMPTIVELY REASONABLE MINIMUM DISTANCE OF FIFTEEN FEET FROM ENTRANCES OR EXITS OF PUBLIC BUILDINGS OR PRIVATE BUILDINGS THAT CONTAIN STATE OR MUNICIPAL OFFICES OR EDUCATIONAL FACILITIES FOR ELEMENTARY OR SECONDARY SCHOOL STUDENTS. SUCH DISTANCE SHALL BECOME A DESIGNATED NO SMOKING ZONE.

2. LOCAL HEALTH DEPARTMENTS ARE AUTHORIZED TO ADOPT REGULATIONS AS ARE REQUIRED TO IMPLEMENT THIS SECTION. ANY PENALTY ASSESSED AND RECOVERED

1 IN AN ACTION BROUGHT UNDER THIS SECTION SHALL BE PAID TO AND USED BY THE  
2 MUNICIPALITY BRINGING THE ACTION.

3 3. THIS SECTION SHALL NOT APPLY TO INDIVIDUALS WALKING THROUGH THE  
4 DESIGNATED NO SMOKING ZONE OF SUCH AREA FOR THE PURPOSE OF GETTING TO  
5 ANOTHER DESTINATION, BUT SHALL ONLY APPLY TO INDIVIDUALS OCCUPYING THE  
6 DESIGNATED NO SMOKING ZONE FOR THE PURPOSE OF SMOKING.

7 4. ANY PERSON VIOLATING THE PROVISIONS OF THIS SECTION SHALL BE GUILTY  
8 OF A VIOLATION, AND IS SUBJECT TO A FINE OF THIRTY-FIVE DOLLARS.

9 5. THE COMMISSIONER MAY RECOMMEND DESIGNS FOR SIGNS WHICH MAY BE USED  
10 BY THE OWNERS, OPERATORS, MANAGERS, EMPLOYERS OR OTHER PERSONS, AT THEIR  
11 OPTION, WHO CONTROL AREAS WHERE SMOKING IS PROHIBITED PURSUANT TO  
12 SECTION THIRTEEN HUNDRED NINETY-NINE-O OF THIS ARTICLE. SUCH SIGNS SHALL  
13 INCLUDE THE WARNING THAT "SMOKING IN THIS AREA IS PUNISHABLE BY LAW AND  
14 ALL VIOLATORS SHALL BE SUBJECT TO A FINE OF THIRTY-FIVE DOLLARS."

15 6. NOTHING CONTAINED IN THIS SECTION IS INTENDED TO REGULATE SMOKING  
16 IN A PRIVATE RESIDENCE OR IN THE GENERAL PUBLIC OUTDOORS, EXCEPTING  
17 PLACES IN WHICH SMOKING IS PROHIBITED THROUGH THE LOCAL FIRE DEPARTMENT,  
18 OR BY OTHER LAW, ORDINANCE, OR REGULATION.

19 S 3. This act shall take effect on the one hundred twentieth day after  
20 it shall have become a law.

21 PART G

22 Section 1. The education law is amended by adding a new section 3001-e  
23 to read as follows:

24 S 3001-E. ASTHMA EMERGENCIES; TRAINING IN IDENTIFICATION AND RESPONSE.  
25 THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, SHALL  
26 ESTABLISH STANDARDS FOR THE TRAINING OF TEACHERS AND OTHER APPROPRIATE  
27 PERSONNEL IN IDENTIFYING AND RESPONDING TO ASTHMA EMERGENCIES IN PUPILS  
28 AND OTHER PERSONS. SUCH STANDARDS SHALL SPECIFY MINIMUM LEVELS OF KNOW-  
29 LEDGE AND PROCEDURES TO BE FOLLOWED. SUCH STANDARDS SHALL PERMIT TRAIN-  
30 ING TO BE GIVEN BY PERSONS OR ORGANIZATIONS DEEMED QUALIFIED TO DO SO BY  
31 THE COMMISSIONER.

32 S 2. This act shall take effect one year after it shall have become a  
33 law.

34 PART H

35 Section 1. The real property law is amended by adding a new section  
36 235-h to read as follows:

37 S 235-H. RESIDENTIAL RENTAL PROPERTY SMOKING POLICIES. EVERY RENTAL  
38 AGREEMENT FOR A DWELLING UNIT, IN A MULTIPLE DWELLING BUILDING WITH FOUR  
39 OR MORE UNITS, SHALL INCLUDE A DISCLOSURE OF THE SMOKING POLICY FOR THE  
40 PREMISES ON WHICH THE DWELLING UNIT IS LOCATED. THE DISCLOSURE MUST  
41 STATE WHETHER SMOKING IS PROHIBITED ON THE PREMISES, ALLOWED ON THE  
42 ENTIRE PREMISES OR ALLOWED IN LIMITED AREAS ON THE PREMISES. IF THE  
43 SMOKING POLICY ALLOWS SMOKING IN LIMITED AREAS ON THE PREMISES, THE  
44 DISCLOSURE MUST IDENTIFY THE AREAS ON THE PREMISES WHERE SMOKING IS  
45 ALLOWED.

46 S 2. This act shall take effect on the first of January next succeed-  
47 ing the date on which it shall have become a law.

48 PART I

49 Section 1. The education law is amended by adding a new section 1527-a  
50 to read as follows:



1 S 1527-A. IDLING MOTOR VEHICLES ON SCHOOL GROUNDS. 1. ON OR BEFORE  
2 SEPTEMBER FIRST, TWO THOUSAND FIFTEEN AND CONSISTENT WITH THE COMMIS-  
3 SIONER'S REGULATIONS, ADOPTED PURSUANT TO SECTION THIRTY-SIX HUNDRED  
4 THIRTY-SEVEN OF THIS CHAPTER, THE BOARD OF EDUCATION OR BOARD OF TRUS-  
5 TEES OF EVERY SCHOOL DISTRICT AND THE GOVERNING BODY OF EVERY PRIVATE  
6 ELEMENTARY OR SECONDARY SCHOOL IN THE STATE SHALL PROMULGATE AND IMPLE-  
7 MENT RULES PROHIBITING THE ENGINE OF ANY MOTOR VEHICLE, AS DEFINED IN  
8 SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, TO  
9 REMAIN IDLING FOR MORE THAN ONE MINUTE WHILE SUCH VEHICLE IS PARKED OR  
10 STANDING ON SCHOOL GROUNDS, ADJACENT TO SCHOOL GROUNDS, OR IN FRONT OF  
11 ANY SCHOOL WHILE LOADING OR OFF LOADING PASSENGERS.

12 2. EACH SCHOOL DISTRICT AND PRIVATE ELEMENTARY AND SECONDARY SCHOOL  
13 SHALL CONSPICUOUSLY POST SIGNS UPON, ADJACENT AND IN FRONT OF SCHOOL  
14 GROUNDS ADVISING OPERATORS OF MOTOR VEHICLES OF THE PROVISIONS OF THE  
15 RULES ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

16 S 2. This act shall take effect immediately.

17 PART J

18 Section 1. Section 916 of the education law, as amended by chapter 524  
19 of the laws of 2006, is amended to read as follows:

20 S 916. Pupils afflicted with asthma OR OTHER POTENTIALLY LIFE-THREAT-  
21 ENING RESPIRATORY ILLNESSES. The board of education or trustees of each  
22 school district and board of cooperative educational services shall  
23 allow pupils who have been diagnosed by a physician or other duly  
24 authorized health care provider with a severe OR MODERATELY SEVERE asth-  
25 matic condition OR OTHER POTENTIALLY LIFE-THREATENING RESPIRATORY  
26 ILLNESS to carry and use a prescribed inhaler during the school day,  
27 with the written permission of a physician or other duly authorized  
28 health care provider, and parental consent, based on such physician's or  
29 provider's determination that such pupil is subject to sudden asthmatic  
30 attacks [severe enough to] THAT CAN debilitate such pupil. A record of  
31 such permission shall be maintained in the school office. In addition,  
32 upon the written request of a parent or person in parental relation, the  
33 board of education or trustees of a school district and board of cooper-  
34 ative educational services shall allow such pupils to maintain an extra  
35 such inhaler in the care and custody of a registered professional nurse  
36 OR OTHER DESIGNATED RESPONSIBLE PERSON employed by such district or  
37 board of cooperative educational services. Nothing in this section  
38 shall require a school district or board of cooperative educational  
39 services to retain a school nurse solely for the purpose of taking  
40 custody of a spare inhaler, or require that a school nurse be available  
41 at all times in a school building for such purpose.

42 S 2. The education law is amended by adding a new section 921 to read  
43 as follows:

44 S 921. USE OF NEBULIZER. 1. EVERY SCHOOL DISTRICT AND BOARD OF COOPER-  
45 ATIVE EDUCATIONAL SERVICES IN THIS STATE MAY MAINTAIN ONE OR MORE NEBU-  
46 LIZERS IN THE OFFICE OF THE SCHOOL NURSE OR IN A SIMILAR ACCESSIBLE  
47 LOCATION.

48 2. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,  
49 MAY PROMULGATE REGULATIONS FOR THE ADMINISTRATION OF ASTHMA MEDICATION  
50 THROUGH THE USE OF A NEBULIZER BY THE SCHOOL NURSE OR PERSON AUTHORIZED  
51 BY REGULATION. THE REGULATIONS MAY INCLUDE:

52 A. A REQUIREMENT THAT EACH CERTIFIED NURSE OR OTHER PERSON AUTHORIZED  
53 TO ADMINISTER ASTHMA MEDICATION IN SCHOOLS RECEIVE TRAINING IN AIRWAY

MANAGEMENT AND IN THE USE OF NEBULIZERS AND INHALERS CONSISTENT WITH  
NATIONALLY RECOGNIZED STANDARDS; AND

B. A REQUIREMENT THAT EACH PUPIL AUTHORIZED TO USE ASTHMA MEDICATION  
PURSUANT TO SUBDIVISION ONE OF SECTION NINE HUNDRED SIXTEEN OF THIS  
ARTICLE OR A NEBULIZER HAVE AN ASTHMA TREATMENT PLAN PREPARED BY THE  
PHYSICIAN OF THE PUPIL, WHICH IDENTIFY, AT A MINIMUM, ASTHMA TRIGGERS,  
THE TREATMENT PLAN, AND SUCH OTHER ELEMENTS AS SHALL BE DETERMINED BY  
THE REGENTS.

S 3. This act shall take effect on the one hundred eightieth day after  
it shall have become a law; provided, however, that effective immediate-  
ly the commissioner of education is authorized to promulgate rules and  
regulations for the implementation of this act on such effective date.

#### PART K

Section 1. Subdivision 7 of section 33-0303 of the environmental  
conservation law, as added by chapter 85 of the laws of 2010, is amended  
to read as follows:

7. The commissioner, in consultation with the commissioner of educa-  
tion and the commissioner of health, shall develop guidance AND REGU-  
LATIONS on pesticide alternatives to facilitate compliance with section  
four hundred nine-k of the education law and three hundred ninety-g of  
the social services law. PROVIDED, FURTHER, THAT SUCH PESTICIDE ALTERNA-  
TIVES SHALL HELP TO MINIMIZE THE INCIDENCE OF ASTHMA ATTACKS IN PUBLIC  
AND PRIVATE BUILDINGS AND RESIDENCES, WHILE STILL EFFECTIVELY CONTROL-  
LING THE TARGETED PEST OR ORGANISM. SUCH REGULATIONS SHALL PROVIDE FOR  
THE USE OF THE LEAST TOXIC PESTICIDE OR PESTICIDES, WHICH EFFECTIVELY  
ERADICATES THE TARGETED PEST OR ORGANISM.

S 2. This act shall take effect immediately.

#### PART L

Section 1. The public buildings law is amended by adding a new  
section 143 to read as follows:

S 143. CURTAIL USE OF CHEMICALS THAT INDUCE OR TRIGGER ASTHMA ATTACKS.  
1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE  
SUPERINTENDENT OF EVERY STATE PUBLIC BUILDING, AND OF EVERY TRANSPORTA-  
TION FACILITY OPERATED BY A PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION  
OR MUNICIPALITY SHALL TO THE BEST OF HIS OR HER ABILITY CURTAIL THE USE  
OF CLEANING MATERIALS OR CHEMICALS, EXPOSURE TO WHICH MAY CAUSE EITHER  
THE BUILDING CLEANING STAFF OR OTHER PERSONS WHO ENTER SUCH BUILDING TO  
DEVELOP THE DISEASE OF ASTHMA, OR WHICH MAY EXACERBATE OR TRIGGER AN  
ASTHMA ATTACK.

2. A DETERMINATION OF WHICH OR THE QUANTITY OR CONCENTRATION OF SUCH  
CLEANING MATERIALS OR CHEMICALS EXPOSURE TO WHICH MAY CAUSE PERSONS TO  
DEVELOP THE DISEASE OF ASTHMA, OR WHICH MAY EXACERBATE OR TRIGGER AN  
ASTHMA ATTACK, SHALL BE MADE BY THE COMMISSIONER OF HEALTH WHO SHALL  
PROMULGATE A LIST OF SUCH CLEANING MATERIALS OR CHEMICALS.

S 2. This act shall take effect on the one hundred eightieth day after  
it shall have become a law.

S 3. Severability clause. If any clause, sentence, paragraph, subdi-  
vision, section or part of this act shall be adjudged by any court of  
competent jurisdiction to be invalid, such judgment shall not affect,  
impair, or invalidate the remainder thereof, but shall be confined in  
its operation to the clause, sentence, paragraph, subdivision, section  
or part thereof directly involved in the controversy in which such judg-

1 ment shall have been rendered. It is hereby declared to be the intent of  
2 the legislature that this act would have been enacted even if such  
3 invalid provisions had not been included herein.  
4 S 4. This act shall take effect immediately provided, however, that  
5 the applicable effective date of Parts A through L of this act shall be  
6 as specifically set forth in the last section of such Parts.