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

450--B

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. DINOWITZ, ENGLEBRIGHT, ORTIZ, RIVERA, JAFFEE, ROBINSON, CAMARA, LIFTON -- Multi-Sponsored by -- M. of A. GOTTFRIED, THIELE -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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:

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

S 1399-O-2. SMOKING RESTRICTIONS; CERTAIN OUTDOOR AREAS. 1. SMOKING SHALL NOT BE PERMITTED AND NO PERSON SHALL SMOKE IN ANY PUBLIC PARK OR PEDESTRIAN PLAZA.

2. FOR THE PURPOSES OF THIS SECTION:

(A) "PARK" MEANS PUBLIC PARKS, BEACHES, WATERS AND LAND UNDER WATER, POOLS, BOARDWALKS, MARINAS, PLAYGROUNDS, RECREATION CENTERS AND ALL OTHER PROPERTY, EQUIPMENT, BUILDINGS AND FACILITIES NOW OR HEREAFTER UNDER THE JURISDICTION, CHARGE OR CONTROL OF ANY STATE OR LOCAL GOVERNMENT AGENCY OR DEPARTMENT; PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF THIS SECTION THE TERM PUBLIC PARK SHALL NOT INCLUDE THE ADIRONDACK PARK OR THE CATSKILL PARK AS THOSE TERMS ARE DEFINED IN SECTION 9-0101 OF THE ENVIRONMENTAL CONSERVATION LAW.

(B) "PEDESTRIAN PLAZA" MEANS AN AREA DESIGNATED BY THE DEPARTMENT OF TRANSPORTATION FOR USE AS A PLAZA LOCATED WITHIN THE BED OF A ROADWAY, WHICH MAY CONTAIN BENCHES, TABLES OR OTHER FACILITIES FOR PEDESTRIAN USE.

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

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3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO: (A) THE SIDEWALKS IMMEDIATELY ADJOINING PARKS, SQUARES AND PUBLIC PLACES; (B) ANY PEDESTRIAN ROUTE THROUGH ANY PARK STRIP, MEDIAN OR MALL THAT IS ADJACENT TO VEHICULAR TRAFFIC; (C) PARKING LOTS OR ROADWAYS; (D) THEATRICAL PRODUCTIONS; AND (E) ANY PORTION OF A PARK THAT IS NOT USED FOR PARK PURPOSES. THIS SUBDIVISION SHALL NOT LIMIT THE APPLICABILITY OF ANY OTHER LAWS TO SUCH PLACES.

S 2. Section 1399-v of the public health law, as added by chapter 244 of the laws of 1989, is amended to read as follows:

S 1399-v. Penalties. The commissioner may impose a civil penalty for a violation of this article in an amount not to exceed that set forth in subdivision one of section twelve of this chapter. Any other enforcement officer may impose a civil penalty for a violation of this article in an amount not to exceed that set forth in paragraph [f] (F) of subdivision one of section three hundred nine of this chapter. NOTWITHSTANDING THE FOREGOING PROVISIONS, A VIOLATION OF THE PROVISIONS OF SECTION THIRTEEN HUNDRED NINETY-NINE-O-TWO OF THIS ARTICLE SHALL BE PUNISHABLE BY A CIVIL PENALTY OF FIFTY DOLLARS FOR EACH VIOLATION.

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