

450--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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 -- recommended 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:

1     Section 1. The public health law is amended by adding a new section  
2     1399-o-2 to read as follows:  
3     S 1399-O-2. 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; PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF  
12    THIS SECTION THE TERM PUBLIC PARK SHALL NOT INCLUDE THE ADIRONDACK PARK  
13    OR THE CATSKILL PARK AS THOSE TERMS ARE DEFINED IN SECTION 9-0101 OF THE  
14    ENVIRONMENTAL CONSERVATION LAW.  
15    (B) "PEDESTRIAN PLAZA" MEANS AN AREA DESIGNATED BY THE DEPARTMENT OF  
16    TRANSPORTATION FOR USE AS A PLAZA LOCATED WITHIN THE BED OF A ROADWAY,  
17    WHICH MAY CONTAIN BENCHES, TABLES OR OTHER FACILITIES FOR PEDESTRIAN  
18    USE.

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

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

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

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

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