

6562--B

Cal. No. 561

I N S E N A T E

February 6, 2014

Introduced by Sens. HANNON, CARLUCCI, TKACZYK, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to including electronic cigarettes within provisions regulating smoking in certain public areas

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

1 Section 1. Subdivision 8 of section 1399-n of the public health law,
2 as amended by chapter 13 of the laws of 2003, is amended and a new
3 subdivision 9 is added to read as follows:
4 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
5 any other matter or substance which contains tobacco, INCLUDING USING
6 ELECTRONIC CIGARETTES OR ANY DEVICE THAT VAPORIZES NICOTINE OR ANY OTHER
7 SUBSTANCE.
8 9. "RETAIL ELECTRONIC CIGARETTE STORE" MEANS A RETAIL STORE DEVOTED
9 PRIMARILY TO THE SALE OF ELECTRONIC CIGARETTES, AND IN WHICH THE SALE OF
10 OTHER PRODUCTS IS MERELY INCIDENTAL. THE SALE OF SUCH OTHER PRODUCTS
11 SHALL BE CONSIDERED INCIDENTAL IF SUCH SALES GENERATE LESS THAN FIFTY
12 PERCENT OF THE TOTAL ANNUAL GROSS SALES.
13 S 2. Subdivisions 6 and 7 of section 1399-q of the public health law,
14 as added by chapter 13 of the laws of 2003, are amended and a new subdi-
15 vision 8 is added to read as follows:
16 6. Outdoor dining areas of food service establishments with no roof or
17 other ceiling enclosure; provided, however, that smoking may be permit-
18 ted in a contiguous area designated for smoking so long as such area:
19 (a) constitutes no more than twenty-five percent of the outdoor seating
20 capacity of such food service establishment, (b) is at least three feet
21 away from the outdoor area of such food service establishment not desig-

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

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1 nated for smoking, and (c) is clearly designated with written signage as
2 a smoking area; [and]

3 7. Enclosed rooms in food service establishments, bars, catering
4 halls, convention halls, hotel and motel conference rooms, and other
5 such similar facilities during the time such enclosed areas or rooms are
6 being used exclusively for functions where the public is invited for the
7 primary purpose of promoting and sampling tobacco products OR ELECTRONIC
8 CIGARETTES, and the service of food and drink is incidental to such
9 purpose, provided that the sponsor or organizer gives notice in any
10 promotional material or advertisements that smoking will not be
11 restricted, and prominently posts notice at the entrance of the facility
12 and has provided notice of such function to the appropriate enforcement
13 officer, as defined in subdivision one of section thirteen hundred nine-
14 ty-nine-t of this article, at least two weeks prior to such function.
15 The enforcement officer shall keep a record of all tobacco sampling
16 events, and such record shall be made available for public inspection.
17 No such facility shall permit smoking OR USING ELECTRONIC CIGARETTES
18 under this subdivision for more than two days in any calendar year[.];
19 AND

20 8. RETAIL ELECTRONIC CIGARETTE STORES; PROVIDED, HOWEVER, THAT SUCH
21 STORES MAY ONLY PERMIT THE USE OF ELECTRONIC CIGARETTES.

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