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I N   S E N A T E

January 22, 2016

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Introduced by Sen. SANDERS -- 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 the advertisement of tobacco products and herbal cigarettes near schools

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 article  
2     13-I to read as follows:

3     ARTICLE 13-I

4                                     ADVERTISING TOBACCO PRODUCTS AND

5                                     HERBAL CIGARETTES PROHIBITED NEAR SCHOOLS

6     SECTION 1399-AAA. DEFINITIONS.

7                     1399-BBB. ADVERTISING PROHIBITED NEAR SCHOOLS.

8                     1399-CCC. HEARINGS; PENALTIES.

9     S 1399-AAA. DEFINITIONS. AS USED IN THIS ARTICLE:

10    1. "PERSON" MEANS A PERSON, FIRM, COMPANY, CORPORATION, PARTNERSHIP,  
11    SOLE PROPRIETOR, LIMITED PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY  
12    COMPANY OR LIMITED LIABILITY PARTNERSHIP.

13    2. "TOBACCO PRODUCTS" MEANS ONE OR MORE CIGARETTES, CIGARS, BIDIS,  
14    CHEWING TOBACCO, POWDERED TOBACCO, NICOTINE WATER OR ANY OTHER TOBACCO  
15    PRODUCTS.

16    3. "HERBAL CIGARETTE" MEANS ANY PRODUCT MADE PRIMARILY OF AN HERB OR  
17    COMBINATION OF HERBS, AND INTENDED TO BE SMOKED IN ANY OF THE METHODS  
18    THAT TOBACCO IS SMOKED, INCLUDING BUT NOT LIMITED TO, AS A CIGARETTE,  
19    CIGAR OR PIPE FILTER.

20    4. "SCHOOL GROUNDS" MEANS (A) IN, ON OR WITHIN ANY BUILDING, STRUC-  
21    TURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE  
22    REAL PROPERTY BOUNDARY LINE OF A PUBLIC OR PRIVATE ELEMENTARY, PAROCHI-  
23    AL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH SCHOOL, OR (B) ANY  
24    AREA ACCESSIBLE TO THE PUBLIC LOCATED WITHIN ONE THOUSAND FEET OF THE  
25    REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL OR ANY PARKED  
26    AUTOMOBILE OR OTHER PARKED VEHICLE LOCATED WITHIN ONE THOUSAND FEET OF  
27    THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL. FOR THE  
28    PURPOSES OF THIS SECTION AN "AREA ACCESSIBLE TO THE PUBLIC" SHALL MEAN

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

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1 SIDEWALKS, STREETS, PARKING LOTS, PARKS, PLAYGROUNDS, STORES AND RESTAU-  
2 RANTS.

3 S 1399-BBB. ADVERTISING PROHIBITED NEAR SCHOOLS. NO PERSON ENGAGED IN  
4 THE BUSINESS OF MANUFACTURING, SELLING, ADVERTISING, MARKETING OR OTHER-  
5 WISE DISTRIBUTING TOBACCO PRODUCTS OR HERBAL CIGARETTES, OR ANY AGENT OR  
6 EMPLOYEE OF SUCH PERSON, SHALL ADVERTISE, MARKET OR PROMOTE TOBACCO  
7 PRODUCTS OR HERBAL CIGARETTES OR THE PURCHASE OR USE THEREOF UPON SCHOOL  
8 GROUNDS.

9 S 1399-CCC. HEARINGS; PENALTIES. 1. HEARINGS WITH RESPECT TO VIOLATION  
10 OF THIS ARTICLE SHALL BE CONDUCTED IN THE SAME MANNER AS HEARINGS  
11 CONDUCTED UNDER ARTICLE THIRTEEN-E OF THIS CHAPTER.

12 2. IF THE ENFORCEMENT OFFICER DETERMINES AFTER A HEARING THAT A  
13 VIOLATION OF THIS ARTICLE HAS OCCURRED, HE OR SHE SHALL IMPOSE A CIVIL  
14 PENALTY OF A MINIMUM OF TWO HUNDRED FIFTY DOLLARS, BUT NOT TO EXCEED ONE  
15 THOUSAND DOLLARS FOR A FIRST VIOLATION, A MINIMUM OF FIVE HUNDRED  
16 DOLLARS, BUT NOT TO EXCEED TWO THOUSAND DOLLARS FOR A SECOND VIOLATION,  
17 AND A MINIMUM OF ONE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

18 S 2. This act shall take effect on the first of September next  
19 succeeding the date on which it shall have become a law.