

# STATE OF NEW YORK

2655

2019-2020 Regular Sessions

## IN SENATE

January 28, 2019

Introduced by Sen. STAVISKY -- 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 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 § 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.

19 3. The provisions of this section shall not apply to: (a) the side-  
20 walks immediately adjoining parks, squares and public places; (b) any  
21 pedestrian route through any park strip, median or mall that is adjacent  
22 to vehicular traffic; (c) parking lots or roadways; (d) theatrical  
23 productions; and (e) any portion of a park that is not used for park  
24 purposes. This subdivision shall not limit the applicability of any  
25 other laws to such places.

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

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

3     § 1399-v. Penalties. The commissioner may impose a civil penalty for  
4 a violation of this article in an amount not to exceed that set forth in  
5 subdivision one of section twelve of this chapter. Any other enforcement  
6 officer may impose a civil penalty for a violation of this article in an  
7 amount not to exceed that set forth in paragraph [~~£~~] (f) of subdivision  
8 one of section three hundred nine of this chapter. Notwithstanding the  
9 foregoing provisions, a violation of the provisions of section thirteen  
10 hundred ninety-nine-o-two of this article shall be punishable by a civil  
11 penalty of fifty dollars for each violation.

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