STATE OF NEW YORK

3628

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to excluding patios and other outdoor areas on the premises of any entity licensed to operate a video lottery gaming facility from restrictions of the Clean Indoor Air act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (i) and (j) of subdivision 1 of section 1399-q of the public health law, paragraph (i) as amended and paragraph (j) as added by chapter 92 of the laws of 2021, are amended and a new paragraph (k) is added to read as follows:

(i) Retail electronic cigarette stores, provided however, that such stores may only permit the use of electronic cigarettes; [~~and~~]

(j) Adult-use on-site consumption premises authorized pursuant to article four of the cannabis law, provided however, that such locations may only permit the smoking or vaping of cannabis[~~.~~]**; and**

(k) Patios and other outdoor areas on the premises of any entity licensed to operate a video lottery gaming facility pursuant to section one thousand six hundred seventeen-a of the tax law which are covered by a roof or other ceiling enclosure; provided that such covered patio or other outdoor area must be clearly designated as a smoking area, and must either (i) be completely open on at least one side, with no wall on one side, or (ii) be open on two or more sides, with partial walls on the two or more open sides to the height of not more than fifty percent of the distance between the floor and ceiling. Air permeable materials which function as a weather barrier and which do not provide a rigid partition shall be disregarded for purposes of determining whether a covered patio or other outdoor area is open on one, two or more sides. Jurisdiction in all matters pertaining to a smoking area on patios and other outdoor areas on the premises of any entity licensed to operate a

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

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video lottery gaming facility pursuant to section one thousand six hundred seventeen-a of the tax law in this state is vested exclusively in the state. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing or prohibiting a smoking area on patios and other outdoor areas on the premises of any entity licensed to operate a video lottery gaming facility pursuant to section one thousand six hundred seventeen-a of the tax law in the state shall, upon the effective date of the chapter of the laws of two thousand twenty-three which added this paragraph, be preempted.

§ 2. This act shall take effect immediately.