# STATE OF NEW YORK

4582

2023-2024 Regular Sessions

# IN SENATE

February 10, 2023

Introduced by Sen. SKOUFIS -- 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 requiring owners of multiple dwelling properties to develop, implement and distribute smoking policies

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

Section 1. Legislative findings. Secondhand smoke is produced from the lighted end of tobacco products and from smoke exhaled from a smoker. Secondhand smoke is a known carcinogen and exposure to it is linked to increased risk of cancer, respiratory complications and heart disease. Any level of exposure to secondhand smoke is harmful to children and adults; it is estimated that 3,400 nonsmoking adults die of lung cancer and up to one million asthmatic children have worsened asthma and asthma-related problems each year in the United States as a result of inhaling secondhand smoke. Private owners and public housing authorities may restrict smoking in or on their properties. In buildings with multifamily units, smoke can spread between units through air ducts, cracks and elevator shafts and involuntarily expose nonsmoking tenants. Secondhand smoke often cannot be controlled using ventilation systems, air cleaning, or separating non-smokers from smokers. The intent of this legislation is to require owners of multiple dwelling properties to develop, incorporate into leases and condominium bylaws, and to distribute smoking policies to current and prospective tenants. The bill acts to help nonsmokers protect themselves and their families from secondhand smoke by providing information they can weigh in selecting a new residence in a multiple dwelling building and to reduce the number of conflicts between nonsmokers and smokers.

§ 2. The public health law is amended by adding a new section 1399-y to read as follows:

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

LBD02091-01-3

§ 1399-y. Multiple dwelling smoking policy. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "Multiple dwelling" means: (i) a multiple dwelling that is occupied for permanent residence purposes of three or more families living independently of each other.

(ii) For purposes of this paragraph, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more.

(b) "Dwelling unit" means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

(c) "Owner" means: (i) in the case of a building with rental dwelling units, other than a condominium or a cooperative apartment corporation, the owner of record; or (ii) in the case of a condominium, the board of managers; or (iii) in the case of a cooperative apartment corporation, the board of directors.

(d) "Unit owner" means: (i) in the case of a condominium, any person, including a sponsor, who, alone, jointly or severally with another or others has legal title to any dwelling unit in the building, with or without accompanying actual possession thereof; or (ii) in the case of a cooperative apartment corporation, any person, including a sponsor, who, alone, jointly or severally with another or others has the legal right to occupy any dwelling unit through ownership interests in a cooperative apartment corporation, with or without accompanying actual possession thereof.

(e) When referring to a dwelling unit in a multiple dwelling, "tenant" means a tenant, tenant-stockholder of a cooperative apartment corporation, condominium unit owner, subtenant, lessee, sublessee or other person entitled to the possession or to the use or occupancy of a dwelling unit.

2. An owner of a multiple dwelling property is hereby required to:

(a) develop and implement a written smoking policy that details where and when smoking is permitted or prohibited, addressing all indoor locations of the property in question, including common areas and dwelling units, and all outdoor areas, including common courtyards, rooftops and balconies, patios and other outdoor areas connected to dwelling units, and that applies to all tenants and any other person on the premises;

(b) distribute the smoking policy to all current tenants of the multiple dwelling within thirty days of the effective date of this section or of development of a new or amended smoking policy;

(c) post a copy of the smoking policy in the following common areas of the multiple dwelling, if applicable: all entrances, walls adjacent to elevators and mailboxes, laundry rooms and any other common rooms;

(d) in the case of a rental building, incorporate the smoking policy into the lease for any dwelling unit, and in the case of a condominium, incorporate the smoking policy into the condominium bylaws;

(e) in the case of a building with rental dwelling units, other than a condominium or a cooperative apartment corporation, provide a copy of the smoking policy to all current and prospective tenants before they enter into oral leases or agreements to rent;

(f) on an annual basis, provide a copy of the smoking policy to all tenants;

(g) provide a copy of the smoking policy upon request to any person; and

(h) make available for inspection by the enforcement officer copies of the following: (i) the annual disclosure required by paragraph (f) of this subdivision for the current year; and (ii) each notification of an amendment made within the past year pursuant to paragraph (b) of this subdivision.

3. Nothing in this section shall authorize an owner to adopt a policy that the owner is not otherwise authorized to adopt. The smoking policy and any amendments thereto shall be binding on a tenant renting or leasing a dwelling unit only to the extent provided in such tenant's existing lease or sublease agreement, provided that the smoking policy and any amendments thereto shall not be binding on any tenant in occupancy of a rent controlled or rent stabilized dwelling unit prior to the adoption of the initial smoking policy as required in this section.

4. (a) An owner who violates the provisions of this section shall be subject to the imposition by the enforcement officer, as defined by subdivision one of section thirteen hundred ninety-nine-t of this article of a civil penalty. Before imposing such a civil penalty, the enforcement officer shall notify the owner in writing of the reasons for such imposition of a civil penalty and afford the owner an opportunity to be heard in person or by counsel. Prior to the imposition of the first civil penalty for an alleged violation of the provisions of this section, the enforcement officer shall issue a warning to the owner, provide information to the owner about the provisions of this section and provide the owner thirty days to comply with the provisions of this section. Failure to comply within such thirty day time period will result in imposition of a civil penalty of not less than five hundred dollars.

(b) Any person who desires to register a complaint under this article may do so with the appropriate enforcement officer.

5. The provisions of this section shall not be construed to restrict local jurisdictions from enacting more stringent laws, rules or regulations regarding the subject matter referenced herein.

§ 3. This act shall take effect one year after it shall have become a law.