



A3648/S8069 (Rosenthal/Addabo)

AN ACT to amend the public health law, in relation to the definition of an indoor area; and to repeal certain provisions of such law relating thereto

The New York State Association of County Health Officials (NYSACHO) strongly supports the above-referenced legislation which would clearly define the definition of indoor vs. outdoor areas in the state's Clean Indoor Air Act.

Compliance with the state's Clean Indoor Air Act (CIAA) is generally excellent, but recently some localities have run into issues related to the definition of indoor vs. outdoor spaces, with facilities designing public areas that they define as outdoor spaces, but which are enclosed to an extent that they expose patrons and employees to second-hand smoke and vapor from vaping products. Because the current statute does not specifically define indoor vs. outdoor space, this has led to conflicting determinations regarding whether or not these areas fall under the requirements of the CIAA. A 2006 U.S. Surgeon General Report concluded that:

- There is no risk-free level of secondhand smoke. Separation of nonsmokers and smokers, cleaning the air, and ventilating buildings cannot eliminate exposure to secondhand smoke.
- Ventilation systems cannot eliminate exposure to secondhand smoke
- 100% smoke free policies are the only means to eliminate secondhand smoke exposure in the workplace.

A clear definition of what constitutes indoor vs. outdoor space will protect employees and patrons of these facilities from unwanted exposure to tobacco and vaping products, while also protecting facilities from investing in building plans that may ultimately be found to be out of compliance with the current statute. It will also prevent inconsistent standards being applied in different areas of the state and different facilities, thus assuring that all patrons and employees are protected from exposure to second-hand smoke. The proposed definition provides clear parameters for both the regulators and the regulated parties, and allows the state the flexibility to respond to and work with facilities in developing appropriate outdoor spaces where patrons who choose to use tobacco or vaping products may do so without placing others at risk.

The proposed amendment would also repeal 1399-x, which currently prohibits the commissioner from promulgating regulations related to enforcement of the state's Clean Indoor Air Act. Issues such as what constitutes indoor vs. outdoor areas could have been addressed through rules and regulations without requiring legislative action where they clearly support the legislative intent of the statute. With this amendment, the statute will be sufficiently specific to prevent regulatory overreach in relation to enforcement of the law.

New York State has long been a leader on tobacco control and New York's Clean Indoor Air Act is one of the key tools in reducing the burden of tobacco-related morbidity and mortality. Further clarifying the definition of indoor area will provide the clear, consistent standard needed to prevent businesses from skirting the intent of the law and will ensure workers and patrons are protected from exposure to second-hand smoke. NYSACHO strongly supports this legislation and recommends its immediate adoption into law.

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