

LOCAL LAW NO. "A" FOR 2017

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK PROHIBITING THE USE OF CIGARETTES, TOBACCO PRODUCTS, LIQUID NICOTINE OR ELECTRONIC CIGARETTES IN PARKS OR RECREATIONAL AREAS OWNED AND OPERATED BY ALBANY COUNTY

Introduced: 2/13/17

By Messrs. Miller, A. Joyce, Mss. McLean Lane and Cunningham

BE IT ENACTED, by the Legislature of the County of Albany as follows:

SECTION 1. TITLE

This Local Law shall be known as "The Albany County Clean Air Act".

SECTION 2. LEGISLATIVE FINDINGS

This Legislature finds that cigarettes, tobacco products, liquid nicotine and electronic cigarettes contain nicotine and various carcinogens and toxic chemicals which present a public health risk to residents of Albany County.

This Legislature also finds that due to the health risks associated with such products, the sale and use of such products has previously been restricted throughout the County due to public health and public policy concerns.

Therefore, consistent with the intent of the previous restrictions placed upon the sale and use of such products, it is the purpose of this Local Law to prohibit the use of such products in all County-owned parks and recreation areas.

SECTION 3. PROHIBITION OF TOBACCO PRODUCTS

Smoking of cigarettes, tobacco products, liquid nicotine or electronic cigarettes shall be prohibited within all County-owned parks and outdoor recreation areas. For purposes of this section, "County-owned" shall mean all parks or outdoor recreation areas owned and operated solely by the County of Albany.

SECTION 4. SIGNAGE

Signage shall be posted in a conspicuous manner, in accordance with applicable rules and regulations, advising persons about the prohibition on the use of such products and the associated fines for violations.

SECTION 5. PENALTIES

Any person who violates any provision of this article shall be subject to the imposition of a civil penalty by the Commissioner of the Albany County Department

of Health of \$50.00 for the first violation, and a minimum of \$200.00, but not to exceed \$500.00 for each subsequent violation.

For purposes of enforcing the ban on the use of such products in County-owned areas, the Albany County Department of Health and all law enforcement agencies having jurisdiction shall be empowered to issue citations in relation to this Local Law.

SECTION 6. SEVERABILITY

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as limited by such order or judgment.

SECTION 7. PREEMPTION

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal Administrative Agency issues and promulgates regulations preempting such action by the County of Albany. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions in this section.

SECTION 8. SEQRA COMPLIANCE

This County Legislature determines that the adoption of this Local Law constitutes a "Type II action" as said term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

SECTION 9. EFFECTIVE DATE

This Local Law shall be effective 90 days after filing with the Office of the Secretary of State.

Referred to Law and Health Committees. 2/13/17