SUPPORTS

A.4926 (Rosenthal)

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 clarify the definition of indoor vs. outdoor areas under the state's Clean Indoor Air Act.

Compliance with the state's Clean Indoor Air Act (CIAA) is generally excellent, but localities have run into questions regarding the definition of indoor vs. outdoor spaces. Local health departments report instances of facilities designing and constructing public areas self-defined as outdoor spaces, but which are enclosed to an extent that patrons and employees are exposed to second-hand smoke and vapor. Existing statute does not define indoor vs. outdoor space, leading to conflicting determinations regarding whether the 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 indoor vs. outdoor space protects 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 deemed out of compliance. It also prevents the application of inconsistent standards statewide, with clear parameters for both regulators and regulated parties which allows 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 employees and other patrons 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. Removing this prohibition will allow technical issues such as design safety requirements to be addressed through rules and regulations without requiring legislative action where they clearly support the legislative intent of the statute, to reduce exposure to secondhand smoke and vapor. The proposed amendment and existing statute will be sufficiently specific to prevent regulatory overreach in relation to enforcement of the law while

still allowing administrative support to the industry regarding additional technical details necessary for effective and consistent implementation.

Further clarifying the definition of indoor area will provide the clear, consistent standard needed to prevent undermining the public health protections and benefits intended by the law. NYSACHO strongly supports this legislation and recommends its immediate adoption into law.

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