

Text

Title 9 NYCRR Sections 397.7, 399.7, 401.5, 402.5, 416.6, 417.6 are repealed; Section 398.6 is repealed and Sections 398.7 and 398.8 are renumbered 398.6 and 398.7; Section 400.5 is repealed and Section 400.6 is renumbered 400.5; Section 415.2 is repealed and Sections 415.3 to 415.7 are renumbered 415.2 to 415.6; Section 418.2 is repealed and Sections 418.3 and 418.4 are renumbered 418.2 and 418.3; and a new Part 385 is added to Subchapter A as follows:

Subchapter A - Part 385. Alcoholic beverages.

(a) *Prohibition.* It is prohibited for any person to consume, possess with intent to consume, transport in an open container or sell any alcoholic beverage on property under the jurisdiction of the office.

(b) *Exceptions.* The prohibition in subdivision (a) shall not apply to an alcoholic beverage:

(1) sold by or purchased from a concessionaire or a lessee under the terms and conditions of a concession license, lease, or permit issued by the office, provided that the alcoholic beverage is consumed in the area delineated in the agreement;

(2) consumed or possessed by an individual or member of a group pursuant to terms and conditions of a standard permit issued by the office after receipt of an application; or

(3) consumed or possessed within an area of a state park, historic site, or other property that the commissioner has designated as exempt from the requirement for a standard permit under paragraph 2 of this subdivision. The designations may be limited to specific temporary periods of time. The exception in this paragraph does not extend to an alcoholic beverage in a container that holds more than one gallon. The commissioner shall approve a statewide list of the designated areas and update it at least annually. The list shall be published on the office's public website. Notice of the designated areas shall be posted in the appropriate regional, park and historic site offices and entrances.

(4) Upon recommendation of the director of law enforcement or a regional director and when necessary to protect public health, safety and welfare during any special event or incident on property under the office's jurisdiction, the commissioner may temporarily suspend any of the exceptions listed in this subdivision and shall provide public notice of the suspension by appropriate signage.

(c) *Minimum age.* It is prohibited for any person under the age of twenty one years to possess, possess with intent to consume, consume, or transport in an open container any alcoholic beverage on property under the jurisdiction of the office. No person shall provide, sell to, give, or otherwise transfer an alcoholic beverage to a person under the age of twenty one.

(d) *Enforcement.* (1) On property under the office's jurisdiction a police officer, or peace officer acting pursuant to his or her special duties, as defined in section 1.20 of the criminal procedure law, or park ranger delegated authority by the commissioner may confiscate an alcoholic beverage from any person if the alcoholic beverage is not authorized under this part to be possessed, possessed with intent to consume, consumed, transported in an open container or sold. Any alcoholic beverage confiscated shall be deemed a nuisance and shall be disposed of in accordance with the established procedures of the law enforcement agency that confiscates it.

(2) Failure to comply with this Part may result in revocation of any standard permit issued under paragraph 2 of subdivision b of this section.

(3) Failure to comply with this Part is also a violation under Section 27.11 of the parks, recreation and historic preservation law and Sections 10.00(3) and 80.05(4) of the penal law, and a petty offense under Section 1.20(39) of the criminal procedure law. The uniform ticket issued to a violator is adjudicated in the local court that has jurisdiction over the geographic area where the state park, historic site or other OPRHP property is located. Upon conviction the local court may impose a sentence of up to 15 days in jail or a fine of up to \$250 and payment of any additional local surcharge required by Section 27.12 of the parks, recreation and historic preservation law.

(e) *Severability.* If a court of competent jurisdiction determines that any provision of this Part or its application to any person or circumstance is contrary to law that determination shall not affect or impair the validity of the other provisions of this Part or the application to other persons and circumstances.