

P.L. 2001, CHAPTER 226, *approved August 27, 2001*

Senate, No. 412 (*First Reprint*)

1 AN ACT concerning smoking and amending P.L.1981, c.320.

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3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

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6 1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read
7 as follows:

8 3. a. The appropriate governing body, board or individual
9 responsible for or who has control of the administration of a school,
10 college, university, or professional training school, either public or
11 private, except the board of education of a school district, shall make
12 and enforce suitable regulations controlling the smoking of tobacco on
13 their premises, except in those areas within the premises wherein
14 smoking is prohibited by municipal ordinance under authority of
15 R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted
16 pursuant to law for purposes of protecting life and property from fire.
17 The governing body, board or individual may, but need not, designate
18 certain areas within the premises as areas in which smoking is
19 permitted. Smoking in classrooms, lecture halls and auditoriums shall
20 be prohibited except as part of a classroom instruction or a theatrical
21 production.

22 b. The board of education of each school district shall make and
23 enforce regulations to prohibit the smoking of tobacco anywhere in its
24 buildings or on school grounds, except as part of a classroom
25 instruction or a theatrical production.
26 (cf: P.L.1989, c.96, s.1).

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28 2. Section 6 of P.L.1981, c.320 (C.26:3D-20) is amended to read
29 as follows:

30 6. a. The person responsible for administration of the school,
31 college, university, or professional training school or any other person
32 having control of such premises or any agent thereof or a police officer
33 or other public servant engaged in executing or enforcing this act may
34 order any person smoking in violation of this act to comply with the
35 provisions of this act. Thereupon any such person who smokes on
36 such premises in violation of this act is subject to a fine not to exceed
37 ¹[\$100.00] \$100¹.

38 b. The State Department of Health and Senior Services or the local
39 board of health or such board, body or officers exercising the functions
40 of the local board of health according to law, upon written complaint

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted June 19, 2000.

1 and having reason to suspect that any school, college, university or
2 professional training school is or may be in violation of the provisions
3 of this act shall, by written notification, advise the person responsible
4 for the administration of the school, college, university or professional
5 training school or other person having control of the premises
6 accordingly and order appropriate action to be taken. Thereupon, any
7 person receiving such notice who knowingly fails or refuses to comply
8 with the order is subject to a fine not to exceed ¹[\$25.00] \$25¹ for the
9 first offense and not to exceed ¹[\$100.00] \$100¹ for the second
10 offense and not to exceed ¹[\$200.00] \$200¹ for each offense
11 thereafter. In addition to the penalty provided herein, the court may
12 order immediate compliance with the provisions of this act.
13 ¹Notwithstanding the provisions of this subsection, no person shall be
14 liable for a fine if the person has taken reasonable steps to enforce the
15 prohibition on smoking in school buildings or on school grounds.¹

16 c. Any penalty recovered under the provisions of this act shall be
17 recovered by and in the name of the Commissioner of Health and
18 Senior Services of the State of New Jersey or by and in the name of
19 the local board of health. When the plaintiff is the Commissioner of
20 Health and Senior Services, the penalty recovered shall be paid by the
21 commissioner into the treasury of the State. When the plaintiff is a
22 local board of health ¹[or the local board of education]¹, the penalty
23 recovered shall be paid by the ¹[respective]¹ local board into the
24 treasury of the municipality where the violation occurred.

25 d. Every municipal court shall have jurisdiction over proceedings
26 to enforce and collect any penalty imposed because of a violation of
27 any provision of this act, if the violation has occurred within the
28 territorial jurisdiction of the court. The proceedings shall be summary
29 and in accordance with [the Penalty Enforcement Law] “the penalty
30 enforcement law” (N.J.S.2A:58-1 et seq.). Process shall be in the
31 nature of a summons or warrant and shall issue only at the suit of the
32 Commissioner of Health and Senior Services of the State of New
33 Jersey, [or] ¹or¹ the local board of health ¹[or the local board of
34 education]¹, as the case may be, as plaintiff.

35 (cf: P.L.1981, c.320, s.6)

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37 3. This act shall take effect immediately.

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42 Prohibits smoking on school grounds.