

[First Reprint]

ASSEMBLY, No. 493

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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District 40 (Bergen, Essex, Morris and Passaic)

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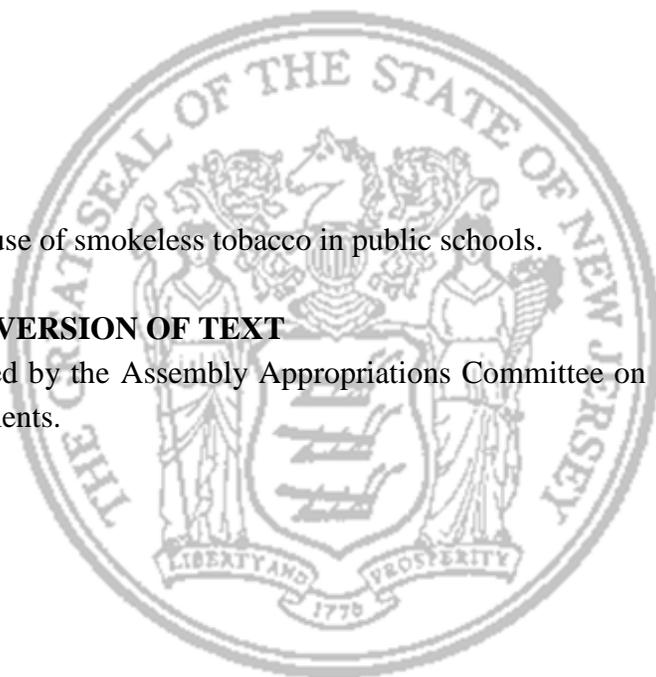
Assemblymen Wimberly, Coughlin, Assemblywomen Jasey, McKnight and Jimenez

SYNOPSIS

Prohibits use of smokeless tobacco in public schools.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 19, 2017, with amendments.



(Sponsorship Updated As Of: 1/6/2018)

1 AN ACT concerning the use of smokeless tobacco in public schools
2 and supplementing Title 26 of the Revised Statutes.

3

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

6

7 1. a. The use of smokeless tobacco is prohibited in any area of
8 any building of, or on the grounds of, any public school.

9 As used in this section, "use of smokeless tobacco" means the
10 inhalation, chewing, or placement in the oral cavity of snuff, chewing
11 tobacco, or any other matter or substance which contains tobacco.

12 b. The board of education of each school district shall ensure the
13 placement, in every public entrance to a public school building in its
14 district, of a sign which shall be located so as to be clearly visible to
15 the public and shall contain letters which contrast in color with the
16 sign, indicating that the use of smokeless tobacco is prohibited therein.

17 c. (1) The board of education of each school district shall order
18 any person using smokeless tobacco in violation of this section to
19 comply with the provisions of this section. Except as otherwise
20 provided pursuant to subsection d. of this section, a person, after being
21 so ordered, who uses smokeless tobacco in violation of this section is
22 subject to a fine of not less than \$250 for the first offense, \$500 for the
23 second offense, and \$1,000 for each subsequent offense. A penalty
24 shall be recovered in accordance with the provisions of paragraphs (3)
25 and (4) of this subsection.

26 (2) The department, the local board of health, or the board, body,
27 or officers exercising the functions of the local board of health
28 according to law, upon written complaint or having reason to suspect
29 that a public school is or may be in violation of the provisions of this
30 section, shall, by written notification, advise the board of education of
31 the school district accordingly and order appropriate action to be
32 taken. A board of education that receives that notice and fails or
33 refuses to comply with the order is subject to a fine of not less than
34 \$250 for the first offense, \$500 for the second offense, and \$1,000 for
35 each subsequent offense. In addition to the penalty provided herein, a
36 court may order immediate compliance with the provisions of this
37 section.

38 (3) A penalty recovered under the provisions of this section shall
39 be recovered by, and in the name of, the Commissioner of Health or
40 by, and in the name of, the local board of health. When the plaintiff is
41 the commissioner, the penalty recovered shall be paid by the
42 commissioner into the treasury of the State. When the plaintiff is a
43 local board of health, the penalty recovered shall be paid by the local
44 board into the treasury of the municipality where the violation
45 occurred.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 19, 2017.

1 (4) A municipal court shall have jurisdiction over proceedings to
2 enforce and collect any penalty imposed because of a violation of this
3 section if the violation has occurred within the territorial jurisdiction of
4 the court. The proceedings shall be summary and in accordance with
5 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
6 et seq.). Process shall be in the nature of a summons or warrant and
7 shall issue only at the suit of the commissioner or the local board of
8 health, as the case may be, as plaintiff.

9 (5) The penalties provided in paragraphs (1) and (2) of this
10 subsection shall be the only civil remedy for a violation of this section.
11 There shall be no private right of action against a party for failure to
12 comply with the provisions of this section.

13 d. A student who violates the provisions of this section after being
14 ordered by the board of education of the district to comply with the
15 provisions of this section, shall not be subject to the fines established
16 pursuant to paragraph (1) of subsection c. of this section, but rather
17 shall be prohibited by the board of education of the district from
18 participation in all extracurricular activities, including interscholastic
19 athletics, and the revocation of any student parking permit that the
20 student may possess. The board of education shall adopt a policy that
21 establishes the length of a suspension or revocation to be imposed on a
22 student for an initial or subsequent violation of the provisions of this
23 section.

24 ¹[e. The provisions of this section shall supersede any other
25 statute, municipal ordinance, and rule or regulation adopted pursuant
26 to law concerning the use of smokeless tobacco in public schools.]¹

27
28 2. This act shall take effect on the first day of the third month
29 next following the date of enactment, but the board of education of
30 each school district may take such anticipatory administrative
31 action in advance thereof as shall be necessary for the
32 implementation of this act.