

SENATE, No. 293

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Prohibits use of smokeless tobacco in public schools.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

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

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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,
11 chewing tobacco, or any other matter or substance which contains
12 tobacco.

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

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

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

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

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

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

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

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

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

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37 STATEMENT

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39 This bill prohibits the use of smokeless tobacco in any area of
40 any building of, or on the grounds of, any public school. The bill
41 requires the board of education of each school district to ensure the
42 placement, in every public entrance to a public school building in
43 its district, of a sign indicating that the use of smokeless tobacco is
44 prohibited in the school. The penalties for using smokeless tobacco
45 in violation of this bill would be a fine of not less than \$250 for the
46 first offense, \$500 for the second offense, and \$1,000 for each
47 subsequent offense. However, these fines would not be applicable
48 to a student who violates the bill's provisions. In the case of such a

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1 student, he or she will be prohibited by the board of education of
2 the district from participation in all extracurricular activities,
3 including interscholastic athletics, and the revocation of any student
4 parking permit that the student may possess. A board of education
5 is required to adopt a policy that establishes the length of the
6 suspension or revocation imposed on a student for an initial or
7 subsequent violation.

8 Under the bill, in the event that the local board of health, or a
9 similar entity, receives a written complaint, or has reason to
10 suspect, that a public school is in violation of the bill's provisions,
11 then the board of health will provide written notification to the
12 board of education and order that appropriate action be taken. The
13 board of education would be subject to a fine in the event that it
14 fails to comply with the order. The fine would be not less than
15 \$250 for the first offense, \$500 for the second offense, and \$1,000
16 for each subsequent offense.