

SENATE, No. 1741

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MARCH 7, 2016

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Regulates smoking in multiple dwellings; requires Commissioner of Community Affairs to promulgate construction standards for new multiple dwellings permitting smoking.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/14/2017)

1 AN ACT regulating smoking in multiple dwellings and
2 supplementing the "New Jersey Smoke-Free Air Act,"
3 P.L.2005, c.383 (C.26:3D-55 et seq.), and the "State Uniform
4 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. As used in P.L. , c. (C.) (pending before the
10 Legislature as this bill):

11 "Air pressure differential" means an air pressure that is lower
12 than surrounding areas, generally caused by exhausting air from a
13 sealed space.

14 "Dwelling unit" means dwelling unit as defined in section 3 of
15 the "Hotel and Multiple Dwelling Act," P.L.1967, c.76 (C.55:13A-
16 3) and includes private outdoor spaces associated with units,
17 including but not limited to balconies or patios.

18 "Multiple dwelling" means multiple dwelling as defined in
19 section 3 of the "Hotel and Multiple Dwelling Act," P.L.1967, c.76
20 (C.55:13A-3).

21 "Newly constructed" means any project for which a construction
22 permit is issued subsequent to the effective date of regulations
23 promulgated to effectuate P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25 "Owner" means the person who owns, purports to own, or
26 exercises control of any multiple dwelling.

27 "Smoking" means smoking as defined in section 3 of the "New
28 Jersey Smoke-Free Air Act," P.L.2005, c.383 (C.26:3D-57).

29 "Separate smoking room" means an enclosed room, the exclusive
30 purpose of which is for smoking.

31 "Water column" means a standard unit of measurement for air
32 pressure differential.
33

34 2. a. The owner of an existing multiple dwelling may prohibit
35 smoking in the multiple dwelling, including in individual dwelling
36 units.

37 b. On or before January 1, 2015, every owner of a multiple
38 dwelling shall designate any nonsmoking dwelling units in which
39 smoking is prohibited. Nonsmoking units must be contiguously
40 grouped together both horizontally and vertically, and physically
41 separated from units where smoking is permitted to the maximum
42 extent practicable.

43 c. Every landlord shall maintain a list of units in which
44 smoking is allowed and nonsmoking units, and also a floor plan
45 identifying the relative position of smoking and nonsmoking units.
46 The floor plan also shall identify the location of any separate
47 smoking areas. A copy of this list, floor plan, and a copy of any
48 procedures for addressing smoking-related complaints shall

1 accompany every new written lease or other agreement for the
2 occupancy of a unit in a multiple dwelling.

3 d. Every written lease or agreement involving new occupancy
4 of a unit in a multiple dwelling shall include language specifying
5 whether smoking is permitted in the unit. The lease or agreement
6 for occupancy shall contain a clause stating that it is a substantial
7 violation or breach of the lease or agreement to:

8 (1) violate any State law or local government resolution or
9 ordinance regulating smoking while on the premises;

10 (2) smoke in a nonsmoking unit; or

11 (3) smoke in any common area in which smoking is prohibited
12 by the landlord.

13

14 3. a. Smoking shall not be permitted in any portion of a newly
15 constructed multiple dwelling unless that newly constructed
16 multiple dwelling meets standards adopted by the Commissioner of
17 Community Affairs pursuant to section 4 of P.L. , c. (C.)
18 (pending before the Legislature as this bill).

19 b. A least one public entrance to a newly constructed multiple
20 dwelling shall be into an area of the multiple dwelling where
21 smoking is prohibited.

22 c. Smoking shall be prohibited in any common restroom, and
23 in any maintenance area of a newly constructed or existing multiple
24 dwelling.

25 d. (1) In any newly constructed or existing multiple dwelling
26 containing a separate smoking room, a person shall not conduct
27 business transactions, including, but not limited to, the sale by
28 vending machines of food, beverages, or any other product, in a
29 separate smoking room. Any doors to a separate smoking room
30 shall remain closed except to the extent necessary to permit ingress
31 and egress to and from that separate smoking room.

32 (2) A separate smoking room shall not contain the sole means of
33 ingress and egress to any restrooms or other smoke-free area, and
34 shall not constitute the sole indoor waiting or lobby area of the
35 premises. Any doors in such room shall be self-closing. A separate
36 smoking room shall not exceed 10 percent of the aggregate square
37 footage of the premises, including non-smoking lounges, and shall
38 not in any event exceed 350 square feet.

39 e. The Commissioner of Health, in consultation with the
40 Commissioner of Community Affairs, shall promulgate rules and
41 regulations pursuant to the "Administrative Procedure Act,"
42 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate this section.

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44 4. The Commissioner of Community Affairs, in consultation
45 with the Commissioner of Health, as part of a building subcode
46 applying to residential multiple dwellings, and adopted pursuant to
47 the "State Uniform Construction Code Act," P.L.1975, c.217
48 (C.52:27D-119 et seq.), shall adopt standards for the purpose of

1 decreasing health risks in multiple dwellings that permit smoking.
2 The Commissioner of Community Affairs shall adopt construction
3 standards to protect the health of nonsmoking residents of a
4 multiple dwelling while allowing other residents to smoke in their
5 dwelling units. The standards may include construction and testing
6 requirements and shall provide, at a minimum, that:

7 a. Any interior portion of a multiple dwelling where smoking is
8 permitted, including, but not limited to, an individual dwelling or a
9 separate smoking room, shall be structurally separated from any
10 portion of the multiple dwelling in which smoking is prohibited and
11 shall be separately vented to prevent the recirculation of air from
12 such area to the areas of the multiple dwelling where smoking is
13 prohibited.

14 b. Ingress and egress to and from any interior portion of a
15 multiple dwelling where smoking is permitted shall be through a
16 door providing structural separation from any interior portion of a
17 multiple dwelling where smoking is prohibited.

18 c. Every multiple dwelling where smoking is permitted shall
19 have mechanical ventilation for units that reduces second hand
20 smoke or ensures that second hand smoke does not travel between
21 units.

22 d. Any interior portion of a newly constructed multiple
23 dwelling intended to be used as a separate smoking room shall have
24 a ventilation system in which the ventilation rate is at least 60 cubic
25 feet per minute per occupant based on a maximum occupancy of
26 seven individuals per 100 feet of floor space, and the exhaust
27 capacity for the separate smoking room shall be sufficient to
28 establish an air pressure differential of at least three hundredths of
29 an inch of water column relative to the air pressure in an adjacent
30 room in which smoking is not permitted. Such ventilation system
31 shall discharge air from the separate smoking room at least 25 feet
32 away from operable windows, doors, air conditioning, and any other
33 heating, ventilation, and air conditioning intakes.

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35 5. This act shall take effect immediately.

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STATEMENT

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40 This bill would regulate smoking in both new and existing
41 multiple dwellings. This legislation requires the Commissioner of
42 Health to promulgate standards delineating where smoking is
43 prohibited in multiple dwellings. The Commissioner of Community
44 Affairs would be required to promulgate standards for the
45 construction of new multiple dwellings to reduce the risks of
46 second-hand smoke for nonsmokers.

47 For new and existing multiple dwellings, this bill supplements
48 the "New Jersey Smoke-Free Air Act," P.L.2005, c.383

1 (C.26:3D:55 et seq.) to permit owners of multiple dwellings to
2 prohibit smoking in individual dwelling units. If enacted, the
3 legislation would require multiple dwelling owners to designate any
4 units in which smoking is prohibited, and to maintain a floor plan of
5 the smoking and nonsmoking units. That floor plan must
6 accompany every new written lease or agreement for occupancy of
7 a unit in a multiple dwelling.

8 This bill also would prohibit the conduct of business in spaces in
9 a multiple dwelling used exclusively for smoking. The bill would
10 limit the size of all separate smoking rooms and require that the
11 rooms have self-closing doors.

12 The bill also requires that newly constructed multiple dwellings
13 that permit smoking meet construction standards promulgated by
14 the Commissioner of Community Affairs. At a minimum, these
15 standards must include separate ventilation for smoking rooms and
16 areas where smoking is permitted, and structural separation between
17 interior spaces where smoking is prohibited and those where it is
18 permitted. Separate smoking areas would also be required to
19 maintain lower air pressure than surrounding areas to keep cigarette
20 smoke from drifting into adjoining spaces.