

ASSEMBLY TOURISM, GAMING AND THE ARTS
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3798, 1703, and 4021

STATE OF NEW JERSEY

DATED: JUNE 4, 2018

The Assembly Tourism, Gaming and the Arts Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3798, 1703, and 4021.

This bill revises the “New Jersey Smoke Free Air Act,” P.L.2005, c.383 (C.26:3D-55 et seq.), which generally prohibits smoking in indoor public places and workplaces, to prohibit smoking at public parks and beaches throughout the State.

The smoking prohibition provided for under this bill would apply to any State park or forest, county or municipal park, or State, county, or municipal beach, but would not apply to any parking lot that is adjacent to, but outside of, the public park or beach; any golf course; or any area of a municipal or county beach, not exceeding 15 percent of the total area, which is designated by the municipality or county by ordinance or resolution as a smoking area.

The bill defines “State park or forest” to mean any State owned or leased land, water or facility administered by the Department of Environmental Protection, including, but not limited to, a park, forest, recreational area, marina, historic site, burial site, or natural area, but not including a wildlife management area or reservoir land.

The bill permits the Department of Environmental Protection, a municipality, or a county in this State having jurisdiction over a public park or beach on which smoking is prohibited under the bill to take measures to educate the public about the prohibitions and penalties established, to support smoke-free parks and beaches. The Department of Environmental Protection is directed to provide information and assistance to counties and municipalities, as determined to be appropriate by the Commissioner of Environmental Protection and within the limits of resources available to the department for this purpose, to support smoke-free public parks and beaches.

The penalties under current law applicable to a person who smokes in an indoor public place or workplace, or to a person having control of the place who fails to comply with an order to enforce the smoking prohibition, are permitted to apply to a comparable violation of this bill. These would include a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent

offense. Under the bill, if a penalty is so imposed and recovered, it would be done in accordance with current law, and would involve the person having control of a public park or beach, the Department of Health or the local board of health or the board, body, or officers exercising the functions of the local board of health according to law, and the courts, as provided under current law. However, under the bill, any penalty recovered for a violation at a public park or beach that is recovered by and in the name of the Commissioner of Health or by and in the name of the local board of health would be required to be paid 50% to the Treasury of the State and be dedicated to smoking cessation programs administered by the State Department of Health, and 50% would be required to be paid to the treasury of the municipality where the violation occurred.

The bill provides that process for any violation may only be served by summons, and not by a summons or warrant as provided under current law. The bill requires that the Superior Court will have exclusive jurisdiction over violations that may be issued against a State or local government entity.

The Commissioners of Health and Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in consultation with each other, are directed to adopt rules and regulations to effectuate the purposes of this bill.

The bill takes effect on the 180th day after enactment, but it authorizes the Commissioners of Health and Environmental Protection to take anticipatory administrative action in advance of the effective date, as necessary for the bill's implementation.