

[First Reprint]

ASSEMBLY, No. 3110

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

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District 27 (Essex and Morris)

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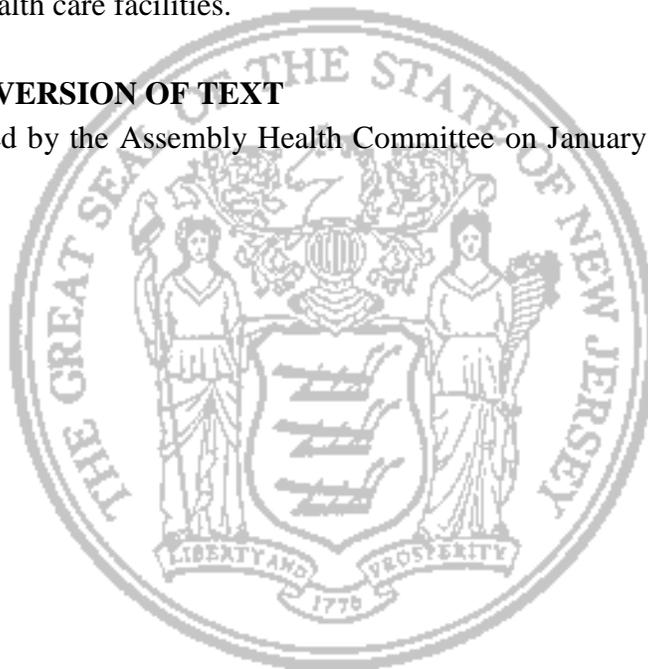
Assemblyman Mejia, Assemblywomen Jasey and Swain

SYNOPSIS

Establishes certain minimum and maximum temperatures in rooming and boarding houses, dementia care homes, and certain nursing homes and residential health care facilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Health Committee on January 13, 2021, with amendments.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT concerning temperature standards in ¹[emergency
2 shelters,]¹ rooming and boarding houses, dementia care homes,
3 nursing homes, and residential health care facilities,
4 supplementing P.L.1984, c.114 (C.26:2H-14.1 et seq.) and
5 P.L.1985, c.48 (C.55:13C-1 et seq.), and amending various parts
6 of the statutory law.

7

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

10

11 1. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to
12 read as follows:

13 3. The Commissioner of Health shall, pursuant to the
14 provisions of the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), adopt rules and regulations necessary to
16 effectuate the purposes of this act. The regulations shall require
17 that:

18 a. Each health care facility included within the provisions of
19 this act and which is not equipped with air conditioning on the
20 effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), shall
21 provide for and operate adequate ventilation in all areas used by
22 patients or residents, including, but not limited to, the use of ceiling
23 fans, wall fans or portable fans, where appropriate, so that the
24 temperature in these areas does not exceed **[82]** 81 degrees
25 Fahrenheit, but the health care facility shall not directly assess
26 patients or residents for the purchase or installation of the fans or
27 other ventilating equipment.

28 (1) The regulations shall also provide that within two years after
29 the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), every
30 nursing home included within the provisions of this act, and every
31 residential health care facility as specified in this paragraph, shall
32 be equipped with air conditioning, except that the commissioner
33 may grant a nursing home or residential health care facility a waiver
34 from the air conditioning requirement to give the nursing home or
35 residential health care facility one additional year to comply with
36 the air conditioning requirement, for which waiver the nursing
37 home or residential health care facility shall apply on a form and in
38 a manner prescribed by the commissioner, if the nursing home or
39 residential health care facility can demonstrate to the satisfaction of
40 the commissioner that the failure to grant such a waiver would pose
41 a serious financial hardship to the nursing home or residential
42 health care facility. The air conditioning shall be operated so that
43 the temperature in all areas used by patients or residents does not
44 exceed **[82]** 81 degrees Fahrenheit. The air conditioning

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 AHE committee amendments adopted January 13, 2021.

1 requirement established in this subsection shall apply to a
2 ~~1~~ residential¹ health care facility only: (1) upon enactment
3 into law of legislation that increases the rate of reimbursement
4 provided by the State under the Supplemental Security Income
5 program, P.L.1973, c.256 (C.44:7-85 et seq.), which rate is certified
6 by the Commissioner of Health to be sufficient to enable the facility
7 to meet the costs of complying with the requirement; and (2) if the
8 facility qualifies for funds for energy efficiency rehabilitation
9 through the "Petroleum Overcharge Reimbursement Fund,"
10 established pursuant to P.L.1987, c.231 (C.52:18A-209 et seq.),
11 which funds can be applied towards equipping the facility with air
12 conditioning. A nursing home or residential health care facility
13 shall not directly assess patients or residents for the purchase or
14 installation of the air conditioning equipment.

15 (2) The regulations shall also provide that within two years after
16 the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), every
17 dementia care home shall be equipped with air conditioning, except
18 that the commissioner may grant a dementia care home a waiver
19 from the air conditioning requirement to give the dementia care
20 home one additional year to comply with the air conditioning
21 requirement, for which waiver the dementia care home shall apply
22 on a form and in a manner prescribed by the commissioner, if the
23 dementia care home can demonstrate to the satisfaction of the
24 commissioner that the failure to grant such a waiver would pose a
25 serious financial hardship to that facility. The air conditioning shall
26 be operated so that the temperature in all areas used by residents
27 does not exceed ~~82~~ 81 degrees Fahrenheit. A dementia care
28 home shall not directly assess residents for the purchase or
29 installation of the air conditioning equipment; and

30 b. Patients or residents are identified by predisposition, due to
31 illness, medication or otherwise, to heat-related illness and that
32 during a heat emergency, their body temperature, dehydration status
33 and other symptoms of heat-related illness are monitored frequently
34 and regularly, any anomalies are promptly reported to the attending
35 physician, and any necessary therapeutic or palliative measures are
36 instituted, including the provision of liquids, where required.

37 c. A nursing home, or a residential health care facility owned
38 by a licensed health care facility and licensed by the Department of
39 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), ¹~~may~~
40 shall not¹ exceed the temperature limit established pursuant to this
41 section, ¹~~provided that it is in compliance with the temperature~~
42 standards established pursuant to 42 C.F.R.483.15(h)(6)] unless
43 permitted by applicable regulation of the Centers for Medicare and
44 Medicaid Services¹.

45 (cf: P.L.2015, c.125, s.5)

1 2. Section 2 of P.L.1989, c.173 (C.26:2H-14.4) is amended to
2 read as follows:

3 2. a. A nursing home or residential health care facility
4 included within the provisions of P.L.1984, c.114 (C.26:2H-
5 14.1 et seq.) which is constructed or expanded after the effective
6 date of P.L.1989, c.173 (C.26:2H-14.4 et al.), or a dementia care
7 home included within the provisions of P.L.1984, c.114 (C.26:2H-
8 14.1 et seq.) which is constructed or expanded after the effective
9 date of P.L.2015, c.125 (C.55:13B-5.1 et al.), shall be equipped
10 with air conditioning and heating in all areas used by patients or
11 residents, and the air conditioning and heating shall be operated so
12 that the temperature in these areas does not exceed ~~82~~ 81 degrees
13 Fahrenheit or fall under 65 degrees Fahrenheit. All areas used by
14 patients or residents shall be maintained within a temperature range
15 from 65 to 81 degrees Fahrenheit, except in rooms:

16 (1) designated for activities requiring physical exertion; or
17 (2) where residents can individually control the temperature in
18 their own living units, independent from other areas.

19 b. A nursing home, or a residential health care facility owned
20 by a licensed health care facility and licensed by the Department of
21 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), may
22 maintain a temperature in an area used by patients or residents that
23 does not fall within the range provided pursuant to subsection a.
24 'of' this section, provided that ¹[it is in compliance with the
25 temperature standards established pursuant to 42
26 C.F.R.483.15(h)(6)] the temperature is within a range permitted
27 pursuant to applicable regulation of the Centers for Medicare and
28 Medicaid Services¹.

29 (cf: P.L.2015, c.125, s.6)

30

31 3. (New section) The Commissioner of Health may grant a
32 waiver to a nursing home or residential health care facility in the
33 case of any unusual event which results from natural or unnatural
34 causes beyond the control of the facility, including, but not limited
35 to, the declaration of a state of emergency or disaster by the State or
36 by the federal government, which results in the inability of the
37 facility to maintain the temperature guidelines detailed in section 3
38 of P.L.1984, c.114 (C.26:2H-14.3), or section 2 of P.L.1989, c.173
39 (C.26:2H-14.4).

40

41 4. Section 6 of P.L.1979, c.496 (C.55:13B-6) is amended to
42 read as follows:

43 6. The commissioner shall establish standards to ensure that
44 every rooming and boarding house in this State is constructed and
45 operated in such a manner as will protect the health, safety, and
46 welfare of its residents and at the same time preserve and promote a
47 homelike atmosphere appropriate to such facilities, including, but
48 not limited to, standards to provide for the following:

- 1 a. Safety from fire;
- 2 b. Safety from structural, mechanical, plumbing, and electrical
- 3 deficiencies;
- 4 c. Adequate light and ventilation;
- 5 d. Physical security;
- 6 e. Protection from harassment, fraud, and eviction without due
- 7 cause;
- 8 f. Clean and reasonably comfortable surroundings;
- 9 g. Adequate personal and financial services rendered in
- 10 boarding houses;
- 11 h. Disclosure of owner identification information;
- 12 i. Maintenance of orderly and sufficient financial and
- 13 occupancy records;
- 14 j. Referral of residents, by the operator, to social service and
- 15 health agencies for needed services;
- 16 k. Assurance that no constitutional, civil, or legal right will be
- 17 denied solely by reason of residence in a rooming or boarding
- 18 house;
- 19 l. Reasonable access for employees of public and private
- 20 agencies, and reasonable access for other citizens upon receiving
- 21 the consent of the resident to be visited by them;
- 22 m. Opportunity for each resident to live with as much
- 23 independence, autonomy, and interaction with the surrounding
- 24 community as the resident is capable of doing **[.]** ; and
- 25 n. (Deleted by amendment, P.L.2015, c.125)
- 26 o. An approved heating and cooling system capable of
- 27 maintaining the temperature of the facility within the required
- 28 range. In all areas used by residents, the operator shall maintain the
- 29 rooming and boarding house at a temperature within the range of 65
- 30 through 81 degrees Fahrenheit, except in rooms:
- 31 (1) designated for activities requiring physical exertion; or
- 32 (2) where residents can individually control the temperature in
- 33 their own living units, independent from other areas.

34 (cf: P.L.2015, c.125, s.13)

35

36 ¹**[5.** (New section) The operator of an emergency shelter for
37 the homeless shall maintain all areas used by persons admitted to
38 such shelter at a temperature no higher than 81 degrees Fahrenheit,
39 and no lower than 65 degrees Fahrenheit.**]**¹

40

41 ¹**[6.]** 5.¹ This act shall take effect on the first day of the sixth
42 month next following enactment.