

ASSEMBLY, No. 1258

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman RUSSO

1 AN ACT prohibiting the use of smokeless tobacco in public schools
2 and amending P.L.1981, c.320.

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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. Section 1 of P.L.1981, c.320 (C.26:3D-15) is amended to read
8 as follows:

9 1. The Legislature finds and declares that the resolution of the
10 conflict between the right of the smoker to smoke and the right of the
11 nonsmoker to breathe clean air involves a determination of when and
12 where, rather than whether, a smoker may legally smoke. It is not the
13 public policy of this State to deny anyone the right to smoke.
14 However, the Legislature finds that in those institutions providing
15 education or training affected by this act the right of the nonsmoker to
16 breathe clean air should supersede the right of the smoker to smoke.
17 In addition to the deleterious effects upon smokers, tobacco smoke is
18 (1) at least an annoyance and a nuisance to a substantial percentage of
19 the nonsmoking public, and (2) a substantial health hazard to a smaller
20 segment of the nonsmoking public. Moreover, the problem of youth
21 tobacco addiction is not confined to smoking, for the United States
22 Public Health Service reports that among tobacco users, teenagers and
23 younger children are particularly heavy users of smokeless tobacco
24 products, which pose a substantial health hazard to this group. The
25 [purpose] purposes of this act, therefore, [is] are to: (1) control
26 smoking on the premises of schools, colleges, universities and
27 professional training schools, except in designated areas; and (2)
28 require the board of education of each school district to prohibit
29 smoking in its buildings, and also to prohibit the use of smokeless
30 tobacco in its buildings and on school property, whether adjacent to
31 school buildings or on school athletic fields.

32 (cf: P.L.1981, c.320, s.1)

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

Matter underlined thus is new matter.

1 2. Section 2 of P.L.1981, c.320 (C.26:3D-16) is amended to read
2 as follows:

3 2. For purposes of this act, "smoking" means the burning of a
4 lighted cigar, cigarette, pipe or any other matter or substance which
5 contains tobacco; and "use of smokeless tobacco" means the inhalation
6 or chewing of snuff or chewing tobacco or any other matter or
7 substance which contains tobacco.

8 (cf: P.L.1981, c.320, s.2)

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10 3. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read
11 as follows:

12 3. a. The appropriate governing body, board or individual
13 responsible for or who has control of the administration of a school,
14 college, university, or professional training school, either public or
15 private, except the board of education of a school district, shall make
16 and enforce suitable regulations controlling the smoking of tobacco on
17 their premises, except in those areas within the premises wherein
18 smoking is prohibited by municipal ordinance under authority of
19 R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted
20 pursuant to law for purposes of protecting life and property from fire.
21 The governing body, board or individual may, but need not, designate
22 certain areas within the premises as areas in which smoking is
23 permitted. Smoking in classrooms, lecture halls and auditoriums shall
24 be prohibited except as part of a classroom instruction or a theatrical
25 production.

26 b. The board of education of each school district shall make and
27 enforce regulations to prohibit the smoking of tobacco anywhere in its
28 buildings, as well as the use of smokeless tobacco anywhere in its
29 buildings or on its property, except as part of a classroom instruction
30 or a theatrical production.

31 (cf: P.L.1989, c.96, s.1)

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33 4. Section 5 of P.L.1981, c.320 (C.26:3D-19) is amended to read
34 as follows:

35 5. a. The State or any agency or political subdivision thereof may
36 suggest guidelines for rules governing smoking or the use of smokeless
37 tobacco on the premises of a school, college, university or professional
38 training school which may be adopted by the persons who have control
39 of the premises but in no case shall they be mandatory.

40 b. The provisions of this act shall supersede any other statute,
41 municipal ordinance, and rule or regulation adopted pursuant to law
42 concerning smoking or the use of smokeless tobacco on the premises
43 of schools, colleges, universities and professional training schools
44 except where smoking is prohibited by municipal ordinance under
45 authority of R.S. 40:48-1 and 40:48-2 or by any other statute or

1 regulation adopted pursuant to law for purposes of protecting life and
2 property from fire.

3 (cf: P.L.1981, c.320, s.5)

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5 5. Section 6 of P.L.1981, c.320 (C.26:3D-20) is amended to read
6 as follows:

7 6. a. The person responsible for administration of the school,
8 college, university, or professional training school or any other person
9 having control of such premises or any agent thereof or a police officer
10 or other public servant engaged in executing or enforcing this act may
11 order any person smoking or, in the case of a public school, engaged
12 in the use of smokeless tobacco in violation of this act to comply with
13 the provisions of this act. Thereupon any such person who smokes or,
14 in the case of a public school, uses smokeless tobacco on such
15 premises in violation of this act is subject to a fine not to exceed
16 \$100.00.

17 b. The State Department of Health or the local board of health or
18 such board, body or officers exercising the functions of the local board
19 of health according to law, upon written complaint and having reason
20 to suspect that any school, college, university or professional training
21 school is or may be in violation of the provisions of this act shall, by
22 written notification, advise the person responsible for the
23 administration of the school, college, university or professional
24 training school or other person having control of the premises
25 accordingly and order appropriate action to be taken. Thereupon, any
26 person receiving such notice who knowingly fails or refuses to comply
27 with the order is subject to a fine not to exceed \$25.00 for the first
28 offense and not to exceed \$100.00 for the second offense and not to
29 exceed \$200.00 for each offense thereafter. In addition to the penalty
30 provided herein, the court may order immediate compliance with the
31 provisions of this act.

32 c. Any penalty recovered under the provisions of this act shall be
33 recovered by and in the name of the Commissioner of Health of the
34 State of New Jersey or by and in the name of the local board of health.
35 When the plaintiff is the Commissioner of Health, the penalty
36 recovered shall be paid by the commissioner into the treasury of the
37 State. When the plaintiff is a local board of health, the penalty
38 recovered shall be paid by the local board into the treasury of the
39 municipality where the violation occurred.

40 d. Every municipal court shall have jurisdiction over proceedings
41 to enforce and collect any penalty imposed because of a violation of
42 any provision of this act, if the violation has occurred within the
43 territorial jurisdiction of the court. The proceedings shall be summary
44 and in accordance with the Penalty Enforcement Law (N.J.S.2A:58-1
45 et seq.). Process shall be in the nature of a summons or warrant and
46 shall issue only at the suit of the Commissioner of Health of the State

1 of New Jersey, or the local board of health, as the case may be, as
2 plaintiff.

3 (cf: P.L.1981, c.320, s.6)

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5 6. This act shall take effect on the 60th day after enactment, except
6 that the board of education of each school district shall take such
7 actions prior to the effective date as are necessary to effectuate the
8 purposes of this act.

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13 Prohibits use of smokeless tobacco in public schools.