

SENATE, No. 334

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator MARTIN

1 AN ACT concerning the sale of tobacco products in vending machines
2 and supplementing Chapter 3B of 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. A person who owns a vending machine shall not use that
8 vending machine to sell, offer for sale, give away or deliver any
9 tobacco product at or on any public or private premises except as
10 provided in this act.

11 b. Tobacco vending machines shall be permitted in private social
12 clubs catering to adults; on premises or in areas within premises where
13 the principal use is for the retail sale of alcoholic beverages pursuant
14 to the "New Jersey Alcoholic Beverage Control Act," R.S.33:1-1 et
15 seq., or for the retail sale of tobacco; or where access by persons
16 under the age of 18 years is prohibited by law, including but not
17 limited to premises for casino gaming pursuant to the "Casino Control
18 Act," P.L.1977, c.110 (C.5:12-1 et seq.). Where permitted, tobacco
19 vending machines shall be placed inside and at least 20 feet from the
20 entrance to the premises.

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22 2. a. A tobacco vending machine used in violation of this act may
23 be sealed or seized and forfeited to the municipality in which such
24 violation occurred subject to the limitations of N.J.S.2C:64-5; except
25 that the forfeiture shall not become effective until the municipality
26 notifies in writing the owner of the vending machine and posts a notice
27 on the machine stating that, unless the machine is removed within 72
28 hours of the posting of the notice and any daily fines imposed are paid,
29 forfeiture shall occur. Ninety days after forfeiture, the municipality
30 may sell the vending machine at a public auction, after giving notice of
31 the sale by certified mail to the owner, if his name and address is
32 known, and by publication at least five days before the date of the sale
33 in one newspaper circulating in the municipality in which the machine
34 is to be sold.

35 b. At any time prior to the sale, a tobacco vending machine seized

1 by or forfeited to a municipality pursuant to this section, may be
2 redeemed by its owner, or other person entitled to it, upon payment to
3 the municipality of an amount equal to the actual expense incurred by
4 the municipality in removing the machine plus 6 percent interest.

5 c. The owner of a vending machine shall be fined not less than
6 \$100 or more than \$300 for a first offense and \$1,000 for each
7 subsequent offense for each day a machine is determined to be in
8 violation of this act or if the seal placed pursuant to subsection a. of
9 this section is destroyed or removed by the owner or his agent.

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11 3. a. The local board of health shall investigate all bona fide
12 complaints of violations it receives in its jurisdiction. Any penalty
13 recovered under this act shall be recovered by and in the name of the
14 local board of health. The penalty recovered shall be paid by the local
15 board into the treasury of the municipality wherein the violation
16 occurred.

17 b. The municipal court shall have jurisdiction over proceedings to
18 enforce and collect any penalty imposed because of a violation of any
19 provision of this act, if the violation has occurred within the territorial
20 jurisdiction of the court. The proceedings shall be summary and in
21 accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et
22 seq.). Process shall be in the nature of a summons or warrant and shall
23 issue by the local board of health or the municipal law enforcement
24 authority.

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26 4. This act shall take effect on the first day of the fifth month after
27 enactment.

28 29 30 STATEMENT

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32 Nicotine addiction typically begins during childhood. The average
33 age for the first use of cigarettes is 13 years old. National survey data
34 indicate that 57 percent of high school seniors who report daily
35 smoking began by the age of 14 years. Current New Jersey law
36 recognizes the dangers that cigarettes pose to children by barring sales
37 to those under the age of 18. However, this law is being evaded in
38 part through the availability of vending machines.

39 The bill is intended to address this problem by banning the sale of
40 tobacco products in vending machines, with only a few reasonable
41 exceptions. Any vending machine used to sell tobacco in violation of
42 the bill could be sealed or seized and forfeited. A violation of the bill's
43 provisions would also subject the owner of the machine to fines
44 ranging from \$100 to \$1,000 a day. Tobacco product vending
45 machines could continue to be placed inside private social clubs for
46 adults, tobacco shops, bars including bar areas of restaurants, casinos,

1 and liquor stores. These are locations where minors are not normally
2 present.

3 Local boards of health and law enforcement authorities are given
4 responsibility for enforcing any penalties imposed in the bill. As an
5 incentive for local enforcement, fines levied on violators would be paid
6 to the municipality.

7 Because nicotine is addictive, a minor who starts smoking is likely
8 to become a lifelong smoker. It is estimated that smoking is
9 responsible for more than 300,000 deaths annually in the United
10 States, representing about 15 percent of all mortality, according to the
11 United States Department of Health and Human Services. Many of
12 these deaths might be prevented if tobacco products were less readily
13 available to children in their formative years.

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18 Prohibits sale of tobacco products in vending machines with certain
19 exceptions.