

SENATE, No. 602

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1996

By Senator SINAGRA

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

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

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; (2) require
28 the board of education of each school district to prohibit smoking in
29 its buildings; and (3) prohibit the use of smokeless tobacco in public
30 and nonpublic elementary and secondary school buildings and on
31 school property, whether adjacent to school buildings or on school
32 athletic fields.

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

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.

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)

9

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 c. The appropriate governing body, board or individual responsible
32 for or who has control of the administration of a nonpublic elementary
33 or secondary school shall make and enforce regulations to prohibit the
34 use of smokeless tobacco anywhere in its buildings or on its property,
35 except as part of a classroom instruction or a theatrical production.

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

37

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

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

45 b. The provisions of this act shall supersede any other statute,
46 municipal ordinance, and rule or regulation adopted pursuant to law

1 concerning smoking or the use of smokeless tobacco on the premises
2 of schools, colleges, universities and professional training schools
3 except where smoking is prohibited by municipal ordinance under
4 authority of R.S.40:48-1 and 40:48-2 or by any other statute or
5 regulation adopted pursuant to law for purposes of protecting life and
6 property from fire.

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

8

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

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

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

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

45 d. Every municipal court shall have jurisdiction over proceedings
46 to enforce and collect any penalty imposed because of a violation of

1 any provision of this act, if the violation has occurred within the
2 territorial jurisdiction of the court. The proceedings shall be summary
3 and in accordance with [the Penalty Enforcement Law] "the penalty
4 enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be in the
5 nature of a summons or warrant and shall issue only at the suit of the
6 Commissioner of Health of the State of New Jersey, or the local board
7 of health, as the case may be, as plaintiff.

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

9

10 6. This act shall take effect on the 60th day after enactment, except
11 that the board of education of each school district and the appropriate
12 governing body, board or individual responsible for or who has control
13 of the administration of a nonpublic elementary or secondary school
14 shall take such actions prior to the effective date as are necessary to
15 effectuate the purposes of this act.

16

17

18 STATEMENT

19

20 This bill requires the board of education of each school district and
21 the appropriate governing body who has control of the administration
22 of a nonpublic elementary or secondary school, to make and enforce
23 regulations to prohibit the use of smokeless tobacco anywhere in its
24 buildings except as part of a classroom instruction or a theatrical
25 production. This prohibition on the use of smokeless tobacco would
26 also apply to school grounds, including school athletic fields. The bill
27 further provides that the State or any agency or political subdivision
28 thereof may suggest guidelines for rules governing the use of
29 smokeless tobacco on the premises of other schools, a college, a
30 university or a professional training school which may be adopted by
31 the persons who have control of the premises, but in no case shall they
32 be mandatory.

33 This bill is intended to counter the increased use among teenagers
34 and younger children of smokeless tobacco products, such as snuff and
35 chewing tobacco, which can have serious health consequences for their
36 users.

37 Current law prohibits the smoking of tobacco anywhere in the
38 buildings of a public elementary or secondary school and in
39 classrooms, lecture halls and auditoriums of any other school, college,
40 university or professional training school.

41

42

43

44

45 Prohibits use of smokeless tobacco in public and nonpublic schools.