

SENATE, No. 1073

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senator ADLER

1 AN ACT concerning smoking in shopping malls and amending
2 P.L.1985, c.318.

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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 2 of P.L.1985, c.318 (C.26:3D-39) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "Indoor public place" means a structurally enclosed area
11 generally accessible to the public in theatres, gymnasiums, libraries,
12 museums, concert halls, auditoriums, or other similar facilities which
13 are neither owned or leased by a governmental entity or qualify as a
14 health care facility or the waiting room of a person licensed to practice
15 the healing arts. Race track facilities, casinos licensed under the
16 "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) facilities
17 used for the holding of boxing and wrestling exhibitions or
18 performances, football, baseball, and other sporting event facilities,
19 bowling alleys, dance halls, ice and roller skating rinks and other
20 establishments providing ambulatory recreation are excluded from this
21 definition.

22 b. "Smoking" means the burning of a lighted cigar, cigarette, pipe
23 or any other matter or substance which contains tobacco.

24 c. "Shopping mall" means one or more enclosed indoor areas of a
25 privately owned or operated commercial development to which the
26 public is invited, which rents or leases space to retail stores, and offers
27 an adjacent parking area.

28 (cf: P.L.1985, c.318, s.2)

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30 2. Section 3 of P.L.1985, c.318 (C.26:3D-40) is amended to read
31 as follows:

32 3. a. The owner, manager, proprietor, or other person who has
33 control of an indoor public place shall establish nonsmoking areas in
34 those places for which he is responsible. In establishing nonsmoking

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 areas, the owner, manager, proprietor, or other person in charge shall
2 provide areas for nonsmokers to use to conduct business or participate
3 in activities free from the annoyance and health hazard of smoke.

4 b. Smoking is prohibited in pharmacies, drug stores, or areas
5 registered with the board of pharmacy of the State of New Jersey and
6 to which permits have been issued for the dispensing of prescription
7 drugs, and in any areas where hearing aids are sold at retail.

8 c. Smoking areas for employees may be permitted in any indoor
9 public place covered under this act as long as they are separate areas
10 and not generally accessible to the public except where smoking is
11 prohibited by municipal ordinance under authority of R.S.40:48-1 and
12 R.S.40:48-2 for the purposes of protecting life and property from fire.

13 d. Smoking is prohibited in shopping malls except, in the discretion
14 of the mall management, in areas of restaurants or food courts where
15 smoking is permitted, in tobacco businesses, and in smoking lounges
16 established or approved by mall management which are separate areas
17 that are either enclosed by walls or use other equally effective means
18 to reduce the effects of smoke on the public, including, but not limited
19 to, separately exhausted ventilation systems.

20 (cf: P.L.1985, c.318, s.3)

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22 3. This act shall take effect immediately.

23 STATEMENT

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26 This bill would prohibit smoking in shopping malls throughout the
27 State. However, smoking would be permitted in tobacco shops,
28 restaurants with smoking areas and in enclosed smoking lounges, at
29 the discretion of mall management.

30 Since the U.S. Environmental Protection Agency released findings
31 on the adverse health effects of passive smoking, shopping malls in
32 New Jersey and around the country have been banning smoking on
33 their premises. Vermont and New York have already enacted limits on
34 mall smoking, according to the International Council of Shopping
35 Centers.

36 Under the bill, mall smoking would be subject to the penalty now
37 in effect for smoking in indoor public places: a fine of up to \$25. A
38 smoker could only be fined if he refuses to comply once signs
39 announcing the ban have been posted.

40 The sponsor believes that this prohibition will provide a healthier
41 environment for all customers. It follows that the more pleasant the
42 mall's environment, the better business is going to be for its shops.

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46 Prohibits smoking in shopping malls with certain exceptions.