

SENATE, No. 537

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to
11 read as follows:

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

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

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

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

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

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

34 c. A nursing home, or a residential health care facility owned by
35 a licensed health care facility and licensed by the Department of
36 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), shall not
37 exceed the temperature limit established pursuant to this section,
38 unless permitted by applicable regulation of the Centers for Medicare
39 and Medicaid Services.

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

41

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

44 2. a. A nursing home or residential health care facility included
45 within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.)
46 which is constructed or expanded after the effective date of P.L.1989,
47 c.173 (C.26:2H-14.4 et al.), or a dementia care home included within
48 the provisions of P.L.1984, c.114 (C.26:2H-14.1 et seq.) which is

1 constructed or expanded after the effective date of P.L.2015, c.125
2 (C.55:13B-5.1 et al.), shall be equipped with air conditioning and
3 heating in all areas used by patients or residents, and the air
4 conditioning and heating shall be operated so that the temperature in
5 these areas does not exceed ~~82~~ 81 degrees Fahrenheit or fall under
6 65 degrees Fahrenheit. All areas used by patients or residents shall
7 be maintained within a temperature range from 65 to 81 degrees
8 Fahrenheit, except in rooms:

9 (1) designated for activities requiring physical exertion; or

10 (2) where residents can individually control the temperature in
11 their own living units, independent from other areas.

12 b. A nursing home, or a residential health care facility owned by
13 a licensed health care facility and licensed by the Department of
14 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), may maintain
15 a temperature in an area used by patients or residents that does not
16 fall within the range provided pursuant to subsection a. of this
17 section, provided that the temperature is within a range permitted
18 pursuant to applicable regulation of the Centers for Medicare and
19 Medicaid Services.

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

21
22 3. (New section) The Commissioner of Health may grant a
23 waiver to a nursing home or residential health care facility in the case
24 of any unusual event which results from natural or unnatural causes
25 beyond the control of the facility, including, but not limited to, the
26 declaration of a state of emergency or disaster by the State or by the
27 federal government, which results in the inability of the facility to
28 maintain the temperature guidelines detailed in section 3 of P.L.1984,
29 c.114 (C.26:2H-14.3), or section 2 of P.L.1989, c.173 (C.26:2H-
30 14.4).

31
32 4. Section 6 of P.L.1979, c.496 (C.55:13B-6) is amended to read
33 as follows:

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

40 a. Safety from fire;

41 b. Safety from structural, mechanical, plumbing and electrical
42 deficiencies;

43 c. Adequate light and ventilation;

44 d. Physical security;

45 e. Protection from harassment, fraud and eviction without due
46 cause;

47 f. Clean and reasonably comfortable surroundings;

- 1 g. Adequate personal and financial services rendered in
- 2 boarding houses;
- 3 h. Disclosure of owner identification information;
- 4 i. Maintenance of orderly and sufficient financial and
- 5 occupancy records;
- 6 j. Referral of residents, by the operator, to social service and
- 7 health agencies for needed services;
- 8 k. Assurance that no constitutional, civil or legal right will be
- 9 denied solely by reason of residence in a rooming or boarding house;
- 10 l. Reasonable access for employees of public and private
- 11 agencies, and reasonable access for other citizens upon receiving the
- 12 consent of the resident to be visited by them;
- 13 m. Opportunity for each resident to live with as much
- 14 independence, autonomy and interaction with the surrounding
- 15 community as he is capable of; **[and]**
- 16 n. Assurance that the needs of residents with special needs,
- 17 including, but not limited to, persons with Alzheimer's disease and
- 18 related disorders or other forms of dementia, will be met in
- 19 accordance with standards adopted by regulation of the
- 20 commissioner, which shall be promulgated no later than 90 days after
- 21 the effective date of this act, which shall include, at a minimum, the
- 22 following:
 - 23 (1) staffing levels;
 - 24 (2) staff qualifications and training;
 - 25 (3) special dietary needs of residents;
 - 26 (4) special supervision requirements relating to the individual
 - 27 needs of residents;
 - 28 (5) building safety requirements appropriate to the needs of
 - 29 residents;
 - 30 (6) special health monitoring of residents by qualified, licensed
 - 31 health care professionals, including a requirement that a medical
 - 32 assessment be performed on a resident with special needs as
 - 33 described in this subsection, as determined necessary by the
 - 34 commissioner, prior to admission and on a quarterly basis thereafter
 - 35 to ensure that the facility is appropriate to the needs of the resident;
 - 36 and
 - 37 (7) criteria for discharging residents which shall be set forth in
 - 38 the admission agreement which shall be provided to the resident or
 - 39 the resident's representative prior to or upon admission. The
 - 40 commissioner may revoke the license of any provider who violates
 - 41 the criteria for discharging residents; and
 - 42 o. An approved heating and cooling system capable of
 - 43 maintaining the temperature of the facility within the required range.
 - 44 In all areas used by residents, the operator shall maintain the rooming
 - 45 and boarding house at a temperature within the range of 65 through
 - 46 81 degrees Fahrenheit, except in rooms:

1 (1) designated for activities requiring physical exertion; or
2 (2) where residents can individually control the temperature in
3 their own living units, independent from other areas.
4 (cf: P.L.2015, c.125, s.13)

5
6 5. (New section) The operator of an emergency shelter for the
7 homeless shall maintain all areas used by persons admitted to such
8 shelter at a temperature no higher than 81 degrees Fahrenheit, and no
9 lower than 65 degrees Fahrenheit.

10
11 6. This act shall take effect on the first day of the sixth month
12 next following enactment.

13
14
15 STATEMENT

16
17 This bill requires that the temperature within emergency shelters,
18 rooming and boarding houses, nursing homes, and residential health
19 care facilities be maintained within a range of 65 through 81 degrees
20 Fahrenheit. This standard would not apply to nursing facilities, or to
21 residential health care facilities that are owned by a licensed health care
22 facility and licensed by the Department of Health, that are in compliance
23 with the federal regulatory requirements for nursing homes participating
24 in the Medicare and Medicaid programs, which currently requires
25 certain facilities to maintain a temperature range of 71 to 81 degrees
26 Fahrenheit.

27 The temperature requirements in this bill would apply to areas of the
28 facilities that are used by the residents or patients. The temperature
29 requirements would not apply to rooms designated for activities
30 requiring physical exertion, or rooms where residents can individually
31 control the temperature in their own living units, independent from other
32 areas.

33 In the case of nursing homes and residential health care facilities,
34 current law permits the Commissioner of Health to waive certain air
35 conditioning requirements if compliance with the requirements would
36 cause serious financial hardship, or if the nursing home or residential
37 health care facility has not been constructed or expanded since August
38 17, 1989. This bill does not remove these existing waivers of the
39 temperature control requirements. The bill permits the commissioner to
40 additionally grant a waiver to nursing homes or residential health care
41 facilities in the case of an unusual event resulting from causes outside
42 the control of the facility, including a government-declared state of
43 emergency or disaster, which results in the facility being unable to
44 maintain the temperature requirements provided in the bill.