

SENATE, No. 2991

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senators Testa, Gopal, Cryan, Thompson, Cardinale and A.M.Bucco

SYNOPSIS

Concerns approval process for personal protective equipment and State stockpiles of personal protective equipment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning the approval process for personal protective
2 equipment and State stockpiles of personal protective equipment,
3 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).
4

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

8 1. a. The New Jersey Office of Emergency Management, in
9 consultation with the New Jersey Economic Development Authority
10 and the Department of Health, shall establish a process to evaluate,
11 provide feedback on, and approve personal protective equipment for
12 use during public health emergencies. The process shall help
13 businesses, not otherwise in the business of producing personal
14 protective equipment and not approved by federal agencies, safely
15 produce and supply personal protective equipment. The New Jersey
16 Economic Development Authority shall help the New Jersey Office
17 of Emergency Management review businesses, including to ensure
18 the businesses are legitimate and do not have health complaints or
19 unresolved safety or health citations. The New Jersey Office of
20 Emergency Management shall prioritize New Jersey-based
21 manufacturers of personal protective equipment when evaluating,
22 providing feedback on, and approving personal protective
23 equipment for use during public health emergencies.

24 b. The New Jersey Office of Emergency Management shall
25 employ a person or persons experienced with the federal agency
26 approval process of personal protective equipment. The person or
27 persons shall be allowed to work remotely as necessary and shall be
28 considered essential employees. The person or persons shall have
29 no personal interest or connection to any businesses submitting
30 personal protective equipment for approval.

31 c. No public or private entity or person shall be liable for
32 injury or death alleged to have been caused by the entity's or
33 person's use of personal protective equipment approved through the
34 process established pursuant to this section, in lieu of similar
35 equipment approved by federal agencies, as long as the public or
36 private entity or person used the personal protective equipment for
37 approved purposes. The liability protection granted pursuant to this
38 subsection shall not apply to acts or omissions constituting a crime,
39 actual fraud, actual malice, gross negligence, recklessness, or
40 willful misconduct.

41 d. The New Jersey Office of Emergency Management, in
42 consultation with the New Jersey Economic Development Authority
43 and the Department of Health, may adopt rules and regulations,
44 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
45 (C.52:14B-1 et seq.), as may be necessary to effectuate the purposes
46 of this section. The rules and regulations shall be guided by
47 standards established by, among other sources, the National

1 Institute for Occupational Safety and Health and other federal
2 agencies.

3
4 2. a. Six months following the end of the public health
5 emergency first declared in Executive Order No. 103 of 2020, or
6 one year following enactment of P.L. , c. (C.) (pending
7 before the Legislature as this bill), whichever is later, the Director
8 of the Division of Purchase and Property in the Department of the
9 Treasury, in consultation with the New Jersey Office of Emergency
10 Management, New Jersey Economic Development Authority, and
11 Department of Health, shall award a contract or contracts, in
12 accordance with the provisions of chapter 34 of Title 52 of the
13 Revised Statutes, for the procurement of personal protective
14 equipment for the creation of two stockpiles pursuant to this
15 section. The director may make awards to multiple bidders in
16 accordance with section 1 of P.L.1986, c.26 (C.52:34-12.1). To the
17 extent feasible, money to purchase personal protective equipment
18 for each stockpile shall come from federal public health emergency
19 relief funds.

20 b. One stockpile shall consist of personal protective equipment
21 approved by federal agencies and the other stockpile shall consist of
22 personal protective equipment approved by the New Jersey Office
23 of Emergency Management pursuant to section 1 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill). Each
25 stockpile shall be gradually filled to a capacity, as determined by
26 the New Jersey Office of Emergency Management, New Jersey
27 Economic Development Authority, and the Department of Health.
28 In filling the stockpiles to capacity, at least one third of the capacity
29 shall be filled each year until capacity is met. If personal protective
30 equipment from a stockpile is used, the stockpile shall be refilled in
31 a manner similar to how the initial stockpile was filled.

32 c. To the extent feasible, at least 50 percent of each stockpile
33 shall consist of personal protective equipment made in New Jersey,
34 but in no case shall less than 25 percent of the New Jersey Office of
35 Emergency Management-approved stockpile be made in New
36 Jersey. At least 66 percent of each stockpile shall consist of
37 personal protective equipment made in the United States, including
38 personal protective equipment made in New Jersey.

39 d. During public health emergencies, the New Jersey Office of
40 Emergency Management shall make the personal protective
41 equipment in the stockpiles available to the State and its political
42 subdivisions, to public New Jersey schools, State hospitals, and
43 State nursing homes without charging a fee. During public health
44 emergencies, the Director of the Division of Purchase and Property
45 in the Department of the Treasury, in consultation with the New
46 Jersey Office of Emergency Management, New Jersey Economic
47 Development Authority, and Department of Health, shall make the
48 remainder of the stockpiles available for purchase by other or

1 private entities at market price. New Jersey-based non-profits shall
2 be allowed to purchase personal protective equipment in the
3 stockpiles at 75 percent of market price during public health
4 emergencies. The New Jersey Office of Emergency Management,
5 New Jersey Economic Development Authority, and the Department
6 of Health, shall have discretion to establish orders of priority for
7 which entities may gain first access to the stockpiles.

8 e. When personal protective equipment in the stockpiles is
9 within one year of expiration, the personal protective equipment
10 shall be made available for sale to the following entities, in order of
11 priority: 1) New Jersey-based Federally Qualified Health Centers;
12 2) State hospitals; 3) non-profit hospitals within the State; 4) New
13 Jersey public school districts; 5) for-profit New Jersey-based
14 hospitals; and 6) New Jersey based private schools and non-public
15 charter schools. To the extent feasible, any personal protective
16 equipment in the stockpiles that expire shall be disposed in an
17 environmentally sound manner.

18 f. The New Jersey Office of Emergency Management, in
19 consultation with the New Jersey Economic Development Authority
20 and the Department of Health, may adopt rules and regulations,
21 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
22 (C.52:14B-1 et seq.), as may be necessary to effectuate the purposes
23 of this section.
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25 3. The New Jersey Office of Emergency Management shall
26 annually submit a report, compiled in consultation with the New
27 Jersey Economic Development Authority and the Department of
28 Health, to the Governor and to the Legislature, in accordance with
29 section 2 of P.L.1991, c.164 (C.52:14-19.1), on the status of the
30 stockpiles required pursuant to section 2 of P.L. , c. (C.)
31 (pending before the Legislature as this bill). The report shall include
32 data on the price paid by the State for personal protective
33 equipment and data on any personal protective equipment sold by
34 the State. The reports shall be made available to the public on the
35 Office of Emergency Management’s website.
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37 4. This act shall take effect immediately.
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40 STATEMENT 41

42 This bill requires the New Jersey Office of Emergency
43 Management to establish a process to evaluate, provide feedback
44 on, and approve personal protective equipment (PPE) for use during
45 public health emergencies. The bill also requires the State to create
46 PPE stockpiles for the State.

47 The approval process of personal protective equipment will
48 allow businesses that are not in the business of creating PPE, to

1 create PPE during an emergency if those businesses are approved
2 by the New Jersey Office of Emergency Management. During the
3 COVID-19 pandemic, many businesses were not able to transition
4 to creating PPE because the businesses were not approved by
5 federal agencies, which exacerbated the shortage of PPE in the
6 State.

7 The bill creates a liability exemption for anyone using PPE
8 approved by the New Jersey Office of Emergency Management if
9 they used the personal protective equipment for approved purposes.

10 Following the public health emergency caused by the COVID-19
11 pandemic, the State will be required to create two stockpiles of
12 PPE. One stockpile will consist of federally approved PPE and the
13 other will consist of New Jersey Office of Emergency Management-
14 approved PPE. To the extent feasible, 50 percent of each stockpile
15 will consist of PPE made in New Jersey, and at least 66 percent of
16 each stockpile will consist of PPE made in the United States.

17 During public health emergencies, the PPE in the stockpiles will
18 be made available to the State and its political subdivisions. The
19 remainder of the stockpiles will be made available for purchase by
20 private entities at market price, except that non-profits will be
21 allowed to pay 75% of market price.