

26:3D-17

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2001 **CHAPTER:** 226
NJSA: 26:3D-17 (Prohibits smoking on school grounds)
BILL NO: S412 (Substituted for A2960)

SPONSOR(S): Lynch and Sinagra

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Health
SENATE: Education

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2001
SENATE: June 29, 2000

DATE OF APPROVAL: August 27, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

S412

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

A2960

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT:

ASSEMBLY: Yes

Identical to Assembly Statement to S412

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government

Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"New law bans smoking on all school property," 8-28-2001 Home News, p.A3

School smoking ban expanded," 8-29-2001 Philadelphia Inquirer, p.B5

SENATE, No. 412

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JOHN A. LYNCH

District 17 (Middlesex, Somerset and Union)

Senator JACK SINAGRA

District 18 (Middlesex)

SYNOPSIS

Prohibits smoking on school grounds.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning smoking and amending P.L.1981, c.320.

2

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

5

6 1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read
7 as follows:

8 3. a. The appropriate governing body, board or individual
9 responsible for or who has control of the administration of a school,
10 college, university, or professional training school, either public or
11 private, except the board of education of a school district, shall make
12 and enforce suitable regulations controlling the smoking of tobacco on
13 their premises, except in those areas within the premises wherein
14 smoking is prohibited by municipal ordinance under authority of
15 R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted
16 pursuant to law for purposes of protecting life and property from fire.
17 The governing body, board or individual may, but need not, designate
18 certain areas within the premises as areas in which smoking is
19 permitted. Smoking in classrooms, lecture halls and auditoriums shall
20 be prohibited except as part of a classroom instruction or a theatrical
21 production.

22 b. The board of education of each school district shall make and
23 enforce regulations to prohibit the smoking of tobacco anywhere in its
24 buildings or on school grounds, except as part of a classroom
25 instruction or a theatrical production.

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

27

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

30 6. a. The person responsible for administration of the school,
31 college, university, or professional training school or any other person
32 having control of such premises or any agent thereof or a police officer
33 or other public servant engaged in executing or enforcing this act may
34 order any person smoking in violation of this act to comply with the
35 provisions of this act. Thereupon any such person who smokes on
36 such premises in violation of this act is subject to a fine not to exceed
37 \$100.00.

38 b. The State Department of Health and Senior Services or the local
39 board of health or such board, body or officers exercising the functions
40 of the local board of health according to law, upon written complaint
41 and having reason to suspect that any school, college, university or
42 professional training school is or may be in violation of the provisions
43 of this act shall, by written notification, advise the person responsible

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 for the administration of the school, college, university or professional
2 training school or other person having control of the premises
3 accordingly and order appropriate action to be taken. Thereupon, any
4 person receiving such notice who knowingly fails or refuses to comply
5 with the order is subject to a fine not to exceed \$25.00 for the first
6 offense and not to exceed \$100.00 for the second offense and not to
7 exceed \$200.00 for each offense thereafter. In addition to the penalty
8 provided herein, the court may order immediate compliance with the
9 provisions of this act.

10 c. Any penalty recovered under the provisions of this act shall be
11 recovered by and in the name of the Commissioner of Health and
12 Senior Services of the State of New Jersey or by and in the name of
13 the local board of health. When the plaintiff is the Commissioner of
14 Health and Senior Services, the penalty recovered shall be paid by the
15 commissioner into the treasury of the State. When the plaintiff is a
16 local board of health or the local board of education, the penalty
17 recovered shall be paid by the respective local board into the treasury
18 of the municipality where the violation occurred.

19 d. Every municipal court shall have jurisdiction over proceedings
20 to enforce and collect any penalty imposed because of a violation of
21 any provision of this act, if the violation has occurred within the
22 territorial jurisdiction of the court. The proceedings shall be summary
23 and in accordance with [the Penalty Enforcement Law] “the penalty
24 enforcement law” (N.J.S.2A:58-1 et seq.). Process shall be in the
25 nature of a summons or warrant and shall issue only at the suit of the
26 Commissioner of Health and Senior Services of the State of New
27 Jersey, [or] the local board of health or the local board of education,
28 as the case may be, as plaintiff.

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

30

31 3. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill amends P.L.1981, c.320 (C.26:3D-15 et seq.) by
37 prohibiting smoking on school grounds and by authorizing a local
38 board of education to enforce the smoking prohibition. The current
39 law applies to the school building but not to its grounds.

40 In order to serve as a “role model” environment for students and
41 staff, and as part of a preventative educational program, this expansion
42 of the smoking prohibition to include school grounds shall serve the
43 boards of education’s policy to deter smoking among students and
44 staff.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 412

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2000

The Senate Education Committee reports favorably and with committee amendments Senate Bill No. 412.

As amended, this bill revises P.L.1981, c.320 (C.26:3D-15 et seq.), a statute controlling smoking on the premises of schools and institutions of higher education, by prohibiting smoking on school grounds. The current statute applies to the school building but not to its grounds.

The committee amended the bill to provide that a person who takes reasonable steps to enforce the prohibition on smoking would not be liable for a fine and to remove a local board of education as a plaintiff.

This bill was pre-filed for introduction in the 2000 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

[First Reprint]

SENATE, No. 412

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Senator JOHN A. LYNCH

District 17 (Middlesex, Somerset and Union)

Senator JACK SINAGRA

District 18 (Middlesex)

Co-Sponsored by:

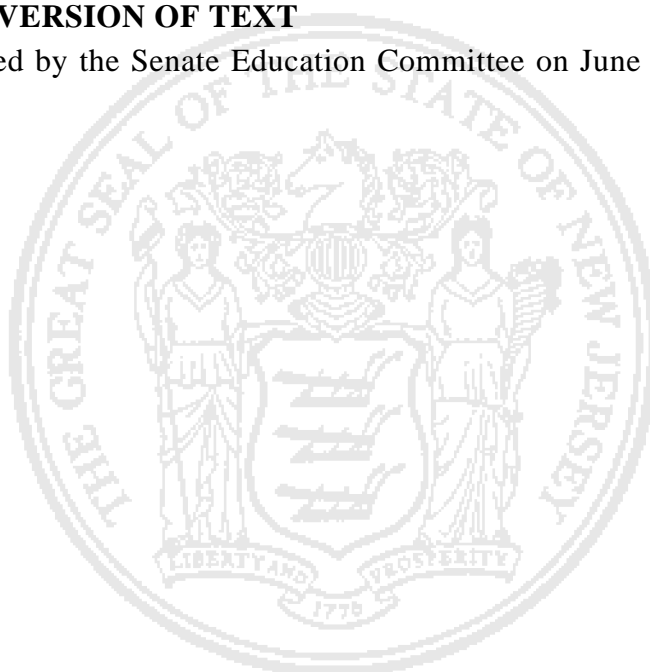
**Senators Singer, Inverso, Bucco, Allen, Kosco, Assemblywoman
Vandervalk, Assemblyman Russo and Assemblywoman Heck**

SYNOPSIS

Prohibits smoking on school grounds.

CURRENT VERSION OF TEXT

As reported by the Senate Education Committee on June 19, 2000, with amendments.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning smoking and amending P.L.1981, c.320.

2

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

5

6 1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read
7 as follows:

8 3. a. The appropriate governing body, board or individual
9 responsible for or who has control of the administration of a school,
10 college, university, or professional training school, either public or
11 private, except the board of education of a school district, shall make
12 and enforce suitable regulations controlling the smoking of tobacco on
13 their premises, except in those areas within the premises wherein
14 smoking is prohibited by municipal ordinance under authority of
15 R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted
16 pursuant to law for purposes of protecting life and property from fire.
17 The governing body, board or individual may, but need not, designate
18 certain areas within the premises as areas in which smoking is
19 permitted. Smoking in classrooms, lecture halls and auditoriums shall
20 be prohibited except as part of a classroom instruction or a theatrical
21 production.

22 b. The board of education of each school district shall make and
23 enforce regulations to prohibit the smoking of tobacco anywhere in its
24 buildings or on school grounds, except as part of a classroom
25 instruction or a theatrical production.

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

27

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

30 6. a. The person responsible for administration of the school,
31 college, university, or professional training school or any other person
32 having control of such premises or any agent thereof or a police officer
33 or other public servant engaged in executing or enforcing this act may
34 order any person smoking in violation of this act to comply with the
35 provisions of this act. Thereupon any such person who smokes on
36 such premises in violation of this act is subject to a fine not to exceed
37 ¹[\$100.00] \$100¹.

38 b. The State Department of Health and Senior Services or the local
39 board of health or such board, body or officers exercising the functions
40 of the local board of health according to law, upon written complaint
41 and having reason to suspect that any school, college, university or

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted June 19, 2000.

1 professional training school is or may be in violation of the provisions
2 of this act shall, by written notification, advise the person responsible
3 for the administration of the school, college, university or professional
4 training school or other person having control of the premises
5 accordingly and order appropriate action to be taken. Thereupon, any
6 person receiving such notice who knowingly fails or refuses to comply
7 with the order is subject to a fine not to exceed ¹[\$25.00] \$25¹ for the
8 first offense and not to exceed ¹[\$100.00] \$100¹ for the second
9 offense and not to exceed ¹[\$200.00] \$200¹ for each offense
10 thereafter. In addition to the penalty provided herein, the court may
11 order immediate compliance with the provisions of this act.
12 ¹Notwithstanding the provisions of this subsection, no person shall be
13 liable for a fine if the person has taken reasonable steps to enforce the
14 prohibition on smoking in school buildings or on school grounds.¹

15 c. Any penalty recovered under the provisions of this act shall be
16 recovered by and in the name of the Commissioner of Health and
17 Senior Services of the State of New Jersey or by and in the name of
18 the local board of health. When the plaintiff is the Commissioner of
19 Health and Senior Services, the penalty recovered shall be paid by the
20 commissioner into the treasury of the State. When the plaintiff is a
21 local board of health ¹[or the local board of education]¹, the penalty
22 recovered shall be paid by the ¹[respective]¹ local board into the
23 treasury of the municipality where the violation occurred.

24 d. Every municipal court shall have jurisdiction over proceedings
25 to enforce and collect any penalty imposed because of a violation of
26 any provision of this act, if the violation has occurred within the
27 territorial jurisdiction of the court. The proceedings shall be summary
28 and in accordance with [the Penalty Enforcement Law] “the penalty
29 enforcement law” (N.J.S.2A:58-1 et seq.). Process shall be in the
30 nature of a summons or warrant and shall issue only at the suit of the
31 Commissioner of Health and Senior Services of the State of New
32 Jersey, [or] ¹or¹ the local board of health ¹[or the local board of
33 education]¹, as the case may be, as plaintiff.

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

35

36 3. This act shall take effect immediately.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 412

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2000

The Assembly Health Committee reports favorably Senate Bill No. 412 (1R).

This bill revises P.L.1981, c.320 (N.J.S.A.26:3D-15 et seq.), which is the statute that controls smoking on the premises of schools and institutions of higher education, to require that each local board of education prohibit smoking on school grounds, as well as in its buildings (except as part of a classroom instruction or a theatrical production). Currently, this statute applies to a school building but not to its grounds.

The bill provides that no person shall be liable for a fine if the person has taken reasonable steps to enforce the prohibition on smoking in school buildings or on school grounds.

The bill also revises the current statute to remove the local board of education as a plaintiff in the case of a violation of the prohibition on smoking, reserving this role for the Commissioner of Health and Senior Services or the local board of health and providing that when the plaintiff is the commissioner, the penalty recovered shall be paid by the commissioner into the treasury of the State and when the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

This bill is identical to Assembly Bill No. 2960 (Vandervalk/Russo), which the committee also reported on this date.

ASSEMBLY, No. 2960

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED NOVEMBER 9, 2000

Sponsored by:

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Assemblyman DAVID C. RUSSO

District 40 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Heck

SYNOPSIS

Prohibits smoking on school grounds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning smoking and amending P.L.1981, c.320.

2

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

5

6 1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read
7 as follows:

8 3. a. The appropriate governing body, board or individual
9 responsible for or who has control of the administration of a school,
10 college, university, or professional training school, either public or
11 private, except the board of education of a school district, shall make
12 and enforce suitable regulations controlling the smoking of tobacco on
13 their premises, except in those areas within the premises wherein
14 smoking is prohibited by municipal ordinance under authority of
15 R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted
16 pursuant to law for purposes of protecting life and property from fire.
17 The governing body, board or individual may, but need not, designate
18 certain areas within the premises as areas in which smoking is
19 permitted. Smoking in classrooms, lecture halls and auditoriums shall
20 be prohibited except as part of a classroom instruction or a theatrical
21 production.

22 b. The board of education of each school district shall make and
23 enforce regulations to prohibit the smoking of tobacco anywhere in its
24 buildings or on school grounds, except as part of a classroom
25 instruction or a theatrical production.

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

27

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

30 6. a. The person responsible for administration of the school,
31 college, university, or professional training school or any other person
32 having control of such premises or any agent thereof or a police officer
33 or other public servant engaged in executing or enforcing this act may
34 order any person smoking in violation of this act to comply with the
35 provisions of this act. Thereupon any such person who smokes on
36 such premises in violation of this act is subject to a fine not to exceed
37 **[\$100.00]** \$100.

38 b. The State Department of Health and Senior Services or the local
39 board of health or such board, body or officers exercising the functions
40 of the local board of health according to law, upon written complaint
41 and having reason to suspect that any school, college, university or
42 professional training school is or may be in violation of the provisions
43 of this act shall, by written notification, advise the person responsible

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 for the administration of the school, college, university or professional
2 training school or other person having control of the premises
3 accordingly and order appropriate action to be taken. Thereupon, any
4 person receiving such notice who knowingly fails or refuses to comply
5 with the order is subject to a fine not to exceed ~~[\$25.00]~~ \$25 for the
6 first offense and not to exceed ~~[\$100.00]~~ \$100 for the second offense
7 and not to exceed ~~[\$200.00]~~ \$200 for each offense thereafter. In
8 addition to the penalty provided herein, the court may order immediate
9 compliance with the provisions of this act. Notwithstanding the
10 provisions of this subsection, no person shall be liable for a fine if the
11 person has taken reasonable steps to enforce the prohibition on
12 smoking in school buildings or on school grounds.

13 c. Any penalty recovered under the provisions of this act shall be
14 recovered by and in the name of the Commissioner of Health and
15 Senior Services of the State of New Jersey or by and in the name of
16 the local board of health. When the plaintiff is the Commissioner of
17 Health and Senior Services, the penalty recovered shall be paid by the
18 commissioner into the treasury of the State. When the plaintiff is a
19 local board of health, the penalty recovered shall be paid by the local
20 board into the treasury of the municipality where the violation
21 occurred.

22 d. Every municipal court shall have jurisdiction over proceedings
23 to enforce and collect any penalty imposed because of a violation of
24 any provision of this act, if the violation has occurred within the
25 territorial jurisdiction of the court. The proceedings shall be summary
26 and in accordance with ~~[the Penalty Enforcement Law]~~ “the penalty
27 enforcement law” (N.J.S.2A:58-1 et seq.). Process shall be in the
28 nature of a summons or warrant and shall issue only at the suit of the
29 Commissioner of Health and Senior Services of the State of New
30 Jersey, or the local board of health, as the case may be, as plaintiff.
31 (cf: P.L.1981, c.320, s.6)

32

33 3. This act shall take effect immediately.

34

35

36

STATEMENT

37

38 This bill revises P.L.1981, c.320 (C.26:3D-15 et seq.), a statute
39 controlling smoking on the premises of schools and institutions of
40 higher education, by prohibiting smoking on school grounds. The
41 current statute applies to the school building but not to its grounds.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2960

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2000

The Assembly Health Committee reports favorably Assembly Bill No. 2960.

This bill revises P.L.1981, c.320 (N.J.S.A.26:3D-15 et seq.), which is the statute that controls smoking on the premises of schools and institutions of higher education, to require that each local board of education prohibit smoking on school grounds, as well as in its buildings (except as part of a classroom instruction or a theatrical production). Currently, this statute applies to a school building but not to its grounds.

The bill provides that no person shall be liable for a fine if the person has taken reasonable steps to enforce the prohibition on smoking in school buildings or on school grounds.

The bill also revises the current statute to remove the local board of education as a plaintiff in the case of a violation of the prohibition on smoking, reserving this role for the Commissioner of Health and Senior Services or the local board of health and providing that when the plaintiff is the commissioner, the penalty recovered shall be paid by the commissioner into the treasury of the State and when the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

This bill is identical to Senate Bill No. 412 (1R) (Lynch/Sinagra), which the committee also reported on this date.

P.L. 2001, CHAPTER 226, *approved August 27, 2001*

Senate, No. 412 (*First Reprint*)

1 AN ACT concerning smoking and amending P.L.1981, c.320.

2

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

5

6 1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read
7 as follows:

8 3. a. The appropriate governing body, board or individual
9 responsible for or who has control of the administration of a school,
10 college, university, or professional training school, either public or
11 private, except the board of education of a school district, shall make
12 and enforce suitable regulations controlling the smoking of tobacco on
13 their premises, except in those areas within the premises wherein
14 smoking is prohibited by municipal ordinance under authority of
15 R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted
16 pursuant to law for purposes of protecting life and property from fire.
17 The governing body, board or individual may, but need not, designate
18 certain areas within the premises as areas in which smoking is
19 permitted. Smoking in classrooms, lecture halls and auditoriums shall
20 be prohibited except as part of a classroom instruction or a theatrical
21 production.

22 b. The board of education of each school district shall make and
23 enforce regulations to prohibit the smoking of tobacco anywhere in its
24 buildings or on school grounds, except as part of a classroom
25 instruction or a theatrical production.
26 (cf: P.L.1989, c.96, s.1).

27

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

30 6. a. The person responsible for administration of the school,
31 college, university, or professional training school or any other person
32 having control of such premises or any agent thereof or a police officer
33 or other public servant engaged in executing or enforcing this act may
34 order any person smoking in violation of this act to comply with the
35 provisions of this act. Thereupon any such person who smokes on
36 such premises in violation of this act is subject to a fine not to exceed
37 ¹[\$100.00] \$100¹.

38 b. The State Department of Health and Senior Services or the local
39 board of health or such board, body or officers exercising the functions
40 of the local board of health according to law, upon written complaint

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted June 19, 2000.

1 and having reason to suspect that any school, college, university or
2 professional training school is or may be in violation of the provisions
3 of this act shall, by written notification, advise the person responsible
4 for the administration of the school, college, university or professional
5 training school or other person having control of the premises
6 accordingly and order appropriate action to be taken. Thereupon, any
7 person receiving such notice who knowingly fails or refuses to comply
8 with the order is subject to a fine not to exceed ¹[\$25.00] \$25¹ for the
9 first offense and not to exceed ¹[\$100.00] \$100¹ for the second
10 offense and not to exceed ¹[\$200.00] \$200¹ for each offense
11 thereafter. In addition to the penalty provided herein, the court may
12 order immediate compliance with the provisions of this act.
13 ¹Notwithstanding the provisions of this subsection, no person shall be
14 liable for a fine if the person has taken reasonable steps to enforce the
15 prohibition on smoking in school buildings or on school grounds.¹

16 c. Any penalty recovered under the provisions of this act shall be
17 recovered by and in the name of the Commissioner of Health and
18 Senior Services of the State of New Jersey or by and in the name of
19 the local board of health. When the plaintiff is the Commissioner of
20 Health and Senior Services, the penalty recovered shall be paid by the
21 commissioner into the treasury of the State. When the plaintiff is a
22 local board of health ¹[or the local board of education]¹, the penalty
23 recovered shall be paid by the ¹[respective]¹ local board into the
24 treasury of the municipality where the violation occurred.

25 d. Every municipal court shall have jurisdiction over proceedings
26 to enforce and collect any penalty imposed because of a violation of
27 any provision of this act, if the violation has occurred within the
28 territorial jurisdiction of the court. The proceedings shall be summary
29 and in accordance with [the Penalty Enforcement Law] “the penalty
30 enforcement law” (N.J.S.2A:58-1 et seq.). Process shall be in the
31 nature of a summons or warrant and shall issue only at the suit of the
32 Commissioner of Health and Senior Services of the State of New
33 Jersey, [or] ¹or¹ the local board of health ¹[or the local board of
34 education]¹, as the case may be, as plaintiff.

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

36

37 3. This act shall take effect immediately.

38

39

40

41

42 Prohibits smoking on school grounds.

CHAPTER 226

AN ACT concerning smoking and amending P.L.1981, c.320.

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

1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read as follows:

C.26:3D-17 Smoking prohibited in educational institutions.

3. a. The appropriate governing body, board or individual responsible for or who has control of the administration of a school, college, university, or professional training school, either public or private, except the board of education of a school district, shall make and enforce suitable regulations controlling the smoking of tobacco on their premises, except in those areas within the premises wherein smoking is prohibited by municipal ordinance under authority of R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire. The governing body, board or individual may, but need not, designate certain areas within the premises as areas in which smoking is permitted. Smoking in classrooms, lecture halls and auditoriums shall be prohibited except as part of a classroom instruction or a theatrical production.

b. The board of education of each school district shall make and enforce regulations to prohibit the smoking of tobacco anywhere in its buildings or on school grounds, except as part of a classroom instruction or a theatrical production.

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

C.26:3D-20 Violations, fines, penalties.

6. a. The person responsible for administration of the school, college, university, or professional training school or any other person having control of such premises or any agent thereof or a police officer or other public servant engaged in executing or enforcing this act may order any person smoking in violation of this act to comply with the provisions of this act. Thereupon any such person who smokes on such premises in violation of this act is subject to a fine not to exceed \$100.

b. The State Department of Health and Senior Services or the local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect that any school, college, university or professional training school is or may be in violation of the provisions of this act shall, by written notification, advise the person responsible for the administration of the school, college, university or professional training school or other person having control of the premises accordingly and order appropriate action to be taken. Thereupon, any person receiving such notice who knowingly fails or refuses to comply with the order is subject to a fine not to exceed \$25 for the first offense and not to exceed \$100 for the second offense and not to exceed \$200 for each offense thereafter. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act. Notwithstanding the provisions of this subsection, no person shall be liable for a fine if the person has taken reasonable steps to enforce the prohibition on smoking in school buildings or on school grounds.

c. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health and Senior Services of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health and Senior Services, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

d. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health and Senior Services of the State of New Jersey, or the local board of health, as the case may be, as plaintiff.

3. This act shall take effect immediately.

Approved August 27, 2001.