

52:27D-138

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27D-138 (Uniform Construction Code - amends - prohibits sale of)

LAWS OF: 1983 CHAPTER: 83

Bill No: A72

Sponsor(s): Hollenbeck

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: Sept. 30, 1982

Senate: Jan. 11, 1983

Date of Approval: March 2, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// No

Following were printed:

Reports: /// No

Hearings: /// No



APPROVED 3-2-83

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ASSEMBLY, No. 72

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblyman HOLLENBECK

AN ACT to amend the "State Uniform Construction Code Act,"
approved October 7, 1975 (P. L. 1975, c. 217).

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

1 1. Section 20 of P. L. 1975, c. 217 (C. 52:27D-138) is amended
2 to read as follows:

3 20. Penalties.

4 a. Any person or corporation, including an officer, director or
5 employee of a corporation, who:

6 (1) Violates any of the provisions of this act or rules promul-
7 gated hereunder;

8 (2) Constructs a structure or building in violation of a condi-
9 tion of a building permit;

10 (3) Fails to comply with any order issued by an enforcing agency
11 or the department;

12 (4) Makes a false or misleading written statement, or omits any
13 required information or statement in any application or request
14 for approval to an enforcing agency or the department;

15 (5) ****[Sells]**** *Knowingly sells* or offers for retail sale any
16 item, device or material the regular and intended use of which
17 would violate any provision of the State Uniform Construction
17A Code;

18 Shall be subject to a penalty of not more than \$500.00.

19 Subsection 5 above does not prohibit the retail sale or offering
20 for retail sale of any item, device or material which has more than

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendment adopted September 20, 1982.

**—Senate committee amendment adopted December 6, 1982.

21 *one regular and intended use if one of those uses does not violate*
22 *the code*, provided that the item, device or material is not*
22A *publicly advertised or otherwise promoted by the seller or manu-*
22B *facturer as suitable for a use that would violate any provisions of*
22C *the code*.*

23 b. Anyone who knowingly refuses entry or access to an inspector
24 lawfully authorized to inspect any premises, building or structure
25 pursuant to this act or who unreasonably interferes with such an
26 inspection, shall be subject to a fine of not more than \$250.00.

27 c. With respect to subsection a. (3) of this section, a person shall
28 be guilty of a separate offense for each day that he fails to comply
29 with a stop construction order validly issued by an enforcing agency
30 or the department and for each week that he fails to comply with
31 any other order validly issued by an enforcing agency or the de-
32 partment. With respect to subsections a. (1) and a. (4) of this
33 section, a person shall be guilty of a separate offense for each
34 violation of any provision of this act or rules promulgated here-
35 under and for each false or misleading written statement or omis-
36 sion of required information or statement made in any application
37 or request for approval to an enforcing agency or the department.
38 With respect to subsection a. (2) of the section, a person shall be
39 guilty of a separate offense for each violation of the conditions of
40 a construction permit.

41 d. The penalties pursuant to this section may be collected in a
42 summary proceeding pursuant to "the penalty enforcement law"
43 (N. J. S. 2A:58-1 et seq.). Jurisdiction to enforce such penalties
44 is hereby conferred upon judges of the municipal court in addition
45 to the courts specified by N. J. S. 2A:58-2. Suit may be brought
46 by a municipality or the State of New Jersey. Payment of a money
47 judgment pursuant hereto shall be remitted in the case of a suit
48 brought by a municipality to the municipal treasurer and in the
49 case of a suit brought by the State of New Jersey to the State
50 Treasurer.

1 2. This act shall take effect six months from the date of enact-
2 ment.

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6 (1) Violates any of the provisions of this act or rules promul-
7 gated hereunder;

8 (2) Constructs a structure or building in violation of a condi-
9 tion of a building permit;

10 (3) Fails to comply with any order issued by an enforcing agency
11 or the department;

12 (4) Makes a false or misleading written statement, or omits any
13 required information or statement in any application or request
14 for approval to an enforcing agency or the department;

15 (5) *Sells or offers for retail sale any item, device or material the*
16 *regular and intended use of which would violate any provision of*
17 *the State Uniform Construction Code;*

18 Shall be subject to a penalty of not more than \$500.00.

19 *Subsection 5 above does not prohibit the retail sale or offering*
20 *for retail sale of any item, device or material which has more than*
21 *one regular and intended use if one of those uses does not violate*
22 *the code.*

23 b. Anyone who knowingly refuses entry or access to an inspector
24 lawfully authorized to inspect any premises, building or structure
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 33 section, a person shall be guilty of a separate offense for each
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 35 under and for each false or misleading written statement or omis-
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 37 or request for approval to an enforcing agency or the department.
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 39 guilty of a separate offense for each violation of the conditions of
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 42 summary proceeding pursuant to "the penalty enforcement law"
 43 (N. J. S. 2A:58-1 et seq.). Jurisdiction to enforce such penalties
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 45 to the courts specified by N. J. S. 2A:58-2. Suit may be brought
 46 by a municipality or the State of New Jersey. Payment of a money
 47 judgment pursuant hereto shall be remitted in the case of a suit
 48 brought by a municipality to the municipal treasurer and in the
 49 case of a suit brought by the State of New Jersey to the State
 50 Treasurer.

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STATEMENT

This bill would amend the State Uniform Construction Code Act to prohibit the sale of items that if used as intended would violate the code. An exception is made for those items with multiple uses, where some uses would be in compliance with the code and others would not.

The bill is primarily designed to prevent the retail sale of home improvement items to consumers which when installed would violate the Uniform Construction Code. Most home improvements undertaken by a homeowner, including remodeling, paneling, and plumbing repairs are presently governed by the State Uniform Construction Code. The homeowner must obtain a permit and have the repair or improvement approved by the local code inspector to assure that the work and materials meet code requirements. However, no law prohibits the sale in retail establishments of items like paneling and plumbing fixtures which when installed would

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violate the code. Thus, the consumer may not find out until the item has been purchased, installed and the inspector appears that the item violates the code. In addition, many homeowners do not bother to obtain a permit and have an inspection, either because they are unaware of the requirement or they want to avoid red tape. These consumers might never find out that the materials used violated the code.

This bill would help assure that materials used in home repairs and improvements meet code standards by imposing code standards at the time of sale. This would require buyers for stores to purchase stock that meets code standards. The law would be enforced by having local code officials inspect the stores to assure that the merchandise offered for sale meets code requirements.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 72

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 8, 1982

Assembly Bill No. 72 amends section 20 of the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-138) to prohibit the sale of any item which, if used as intended, would violate the "State Uniform Construction Code." Any person found guilty of selling, or offering to sell, any such item would be subject to a \$500.00 fine.

The provisions of this bill do not apply to those items which have more than one regular and intended use if one of those uses does not violate the code.

The committee, at the sponsor's request, amended the bill to clarify the exemption accorded to items which have multiple uses. Under the provisions of the amendment, the exemption would be void if the item, device or material was advertised or promoted for a use which violates the code.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 72
with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1982

Assembly Bill No. 72 amends section 20 of the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D-138) to prohibit the sale of any item which, if used as intended, would violate the "State Uniform Construction Code." Any person found guilty of selling, or offering to sell, any such item would be subject to a \$500.00 fine.

The provisions of this bill do not apply to those items which have more than one regular and intended use if one of those uses does not violate the code.

The Assembly committee, at the sponsor's request, amended the bill to clarify the exemption accorded to items which have multiple uses. Under the provisions of the amendment, the exemption would be void if the item, device or material was advertised or promoted for a use which violates the code.

The Senate committee amendment was suggested by the New Jersey Lumber and Building Material Dealers Association. It adds the word "knowingly" to the new paragraph (5) of the bill. The amendment would, thus, require that a violation be a deliberate attempt to mislead or misinform customers, rather than an error made as a result of factors beyond the seller's control. The lumber dealers association pointed out to the committee that construction code standards are subject to change, and that publication of changes by enforcing agencies often falls several months behind.