

26:3D-1 to 26:3D-6

LEGISLATIVE HISTORY CHECKLIST

NJSA 26:3D-1 to 26:3D-6 (Smoking -- elevators -- prohibit)

LAWS 1981 CHAPTER 318

Bill No. A1724

Sponsor(s) Herman and Weidel

Date Introduced June 9, 1980

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Law, Public Safety and Defense

Amended during passage Yes

~~No~~ Amendments during passage denoted by asterisks. Substituted for S3115 (not attached since substantially similar to A1724)

Date of Passage: Assembly Feb. 19, 1981

Senate May 14, 1981

Date of approval Dec. 3, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes ~~No~~
XXXX

974.90 New Jersey. Legislature. Assembly. Committee on Judiciary, Law, Public
H434 Safety and Defense.

1980 Public hearing, held 7-24-80. Trenton, 1980

(over)

6/22/81

PP

1332

Public hearings held on regulations on smoking in public places, during previous Legislative session:

974.90 New Jersey. Public Health Council.
H434 In the matter of the public hearing on regulation of smoking in
1978q certain public places, held 12-11-78. Trenton, 1978.

Reports:

974.90 Goldmann, Sidney.
H434 In the matter of the public hearing on the regulation of smoking
1979b in certain places: hearer's report and recommendation. Public
Health Council, Trenton, 1979.

974.90 New Jersey. Legislature. Assembly. Legislative Oversight Committee.
H434 Review of NJAC 8:15-1.1 through 8:15-1.4. Public Health Council
1978d. Trenton, 1978

12-3-81 81

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1724

STATE OF NEW JERSEY

INTRODUCED JUNE 9, 1980

By Assemblymen HERMAN and WEIDEL

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT prohibiting smoking in elevators ***[and supplementing
chapter 33 of Title 2C of the New Jersey Statutes]***

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

1 1. The Legislature finds and declares that the resolution of the
2 conflict between the right of the smoker to smoke and the right
3 of the nonsmoker to breathe clear air involves a determination of
4 when and where, rather than whether, a smoker may legally smoke.
5 It is not the public policy of this State to deny anyone the right
6 to smoke. However, the Legislature finds that in those elevators
7 affected by this act the right of the nonsmoker to breathe clean air
8 should supersede the right of the smoker to smoke. In addition to
9 the deleterious effects upon smokers, tobacco smoke is (1) at least
10 an annoyance and a nuisance to a substantial percentage of the
11 nonsmoking public, and (2) a substantial health hazard to a smaller
12 segment of the nonsmoking public. The purpose of this act, there-
13 fore, is to prohibit smoking in passenger elevators in every
14 building other than a single family dwelling.

1 2. For purposes of this act, "smoking" means the burning of a
2 lighted cigar, cigarette, pipe or any other matter or substance
3 which contains tobacco.

1 3. Smoking is prohibited in every passenger elevator in every
2 building other than a single family dwelling. On every elevator
3 affected by this act and on the wall adjacent to the entrance to the
4 elevator on each floor, the owner or person in control of the building
5 shall post a sign with letters at least ***[3]* *2*** inches in height

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

6 contrasting **in color** with the sign stating "Smoking Prohibited:
7 Violators are Subject to ***[Arrest and]*** Fine."

1 ***[4. a.** Any person who smokes in an elevator in violation of this
2 act is a petty disorderly person. Notwithstanding the provisions of
3 N. J. S. 2C:43-3, the maximum fine which may be imposed for
4 smoking in an elevator in violation of this act is \$200.00.

5 b. A police officer or other public servant engaged in executing or
6 enforcing the law may order the owner or person in control of the
7 building in which a passenger elevator is located, other than a
8 single family dwelling, to comply with section 3. If the person
9 knowingly fails or refuses to comply with the order, he is a petty
10 disorderly person. Notwithstanding the provisions of N. J. S.
11 2C:43-3, the maximum fine which may be imposed for a violation of
12 section 3 is \$100.00. In addition to the penalty provided herein, the
13 court may order immediate compliance with section 3.]*

1 **4. a. The owner, manager or any other person having control
2 of the building or any agent thereof, or a police officer or other
3 public servant engaged in executing or enforcing this act may order
4 any person smoking in violation of this act to comply with the pro-
5 visions of this act. Thereupon any such person who smokes in an
6 elevator in violation of this act is subject to a fine not to exceed
7 \$100.00.*

8 *b. The State Department of Health or the local board of health
9 or such board, body or officers exercising the functions of the local
10 board of health according to law, upon written complaint and hav-
11 ing reason to suspect that the elevator in any building is or may be
12 in violation of the provisions of this act shall, by written notifica-
13 tion, advise the owner, manager or other person having control of
14 the building accordingly and order appropriate action to be taken.
15 Thereupon, any person receiving such notice who knowingly fails
16 or refuses to comply with the order is subject to a fine not to ex-
17 ceed \$25.00 for the first offense and not to exceed \$100.00 for the
18 second offense and not to exceed \$200.00 for each offense thereafter.
19 In addition to the penalty provided herein, the court may order
20 immediate compliance with the provisions of this act.*

21 *c. Any penalty recovered under the provisions of this act shall
22 be recovered by and in the name of the Commissioner of Health of
22A the State of New Jersey or by and in the name of the local
23 board of health. When the plaintiff is the Commissioner of
24 Health, the penalty recovered shall be paid by the commissioner
25 into the treasury of the State. When the plaintiff is a local board
26 of health, the penalty recovered shall be paid by the local board into*

27 *the treasury of the municipality where the violation occurred.*

28 *d. Every municipal court shall have jurisdiction over proceed-*
 29 *ings to enforce and collect any penalty imposed because of a viola-*
 30 *tion of any provision of this act, if the violation has occurred within*
 31 *the territorial jurisdiction of the court. The proceedings shall be*
 32 *summary and in accordance with the Penalty Enforcement Law*
 33 *(N. J. S. 2A:58-1 et seq.). Process shall be in the nature of a sum-*
 34 *mons or warrant and shall issue only at the suit of the Commis-*
 35 *sioner of Health of the State of New Jersey, or the local board of*
 36 *health, as the case may be, as plaintiff.*

1 *5. No owner, manager or other person having control of the*
 2 *building or any agent thereof shall be subject to any action in any*
 3 *court by any party other than by the Commissioner of Health of*
 4 *the State of New Jersey or the local board of health for failure to*
 5 *meet the provisions of this act.*

1 *6. **[The Commissioner of Health of the State of New Jersey*
 2 *shall, 2 years from the effective date of this act, report to the*
 3 *Judiciary, Law, Public Safety and Defense Committee of the Gen-*
 4 *eral Assembly or its respective successor]** **The Judiciary, Law,*
 5 *Public Safety and Defense Committee of the General Assembly,*
 6 *and the Law, Public Safety and Defense Committee of the Senate,*
 6A *or their respective successors, are constituted a joint committee for*
 7 *the purposes of monitoring and evaluating the effectiveness of the*
 8 *implementation of this act. The Commissioner of Health of the*
 9 *State of New Jersey shall, 2 years from the effective date of this*
 10 *act, report to the joint committee**, an evaluation of the effective-*
 11 *ness of this act and the committee shall, upon receiving such report,*
 12 *issue as it may deem necessary and proper, recommendations for*
 13 *administrative or legislative changes affecting the implementation*
 14 *of this act.**

1 **[5.]* *7.* This act shall take effect 180 days after enactment.*

3 N. J. S. 2C:43-3, the maximum fine which may be imposed for
4 smoking in an elevator in violation of this act is \$200.00.

5 b. A police officer or other public servant engaged in executing or
6 enforcing the law may order the owner or person in control of the
7 building in which a passenger elevator is located, other than a
8 single family dwelling, to comply with section 3. If the person
9 knowingly fails or refuses to comply with the order, he is a petty
10 disorderly person. Notwithstanding the provisions of N. J. S.
11 2C:43-3, the maximum fine which may be imposed for a violation of
12 section 3 is \$100.00. In addition to the penalty provided herein, the
13 court may order immediate compliance with section 3.

1 5. This act shall take effect 180 days after enactment.

STATEMENT

Tobacco smoke can be an annoyance and a nuisance to a substantial percentage of the nonsmoking public, which now approximates 75% of the population of the United States. There is also substantial scientific evidence that tobacco smoke is also detrimental to nonsmokers' health, welfare, and comfort, especially to those who have allergies or cardiovascular or respiratory diseases. The regulation of smoking in certain confined places, i.e., determining when and where, rather than whether, a smoker may legally smoke is, therefore, necessary for the public health. It is the purpose of this legislation, as well as companion legislation, to protect and preserve in a reasonable manner the health and comfort of the people in this State by creating in certain indoor places that are visited by the general public; government buildings; schools; health care facilities; the waiting rooms of persons licensed to practice the healing arts; polling places; places of employment; elevators and restaurants, areas that are free from the toxic and nuisance effects of tobacco smoke.

This bill prohibits smoking in passenger elevators in buildings other than a single family dwelling. Many buildings contain only elevators, and many people use elevators because they cannot easily use a staircase. The health and comfort of nonsmokers should be protected while in an elevator. Anyone who smokes in an elevator in violation of this act is a petty disorderly person, subject to a maximum fine of \$200.00. Any person required to post signs under this act who knowingly fails or refuses to comply is a petty disorderly person, subject to a maximum fine of \$100.00. The court may also order immediate compliance with the posting provision.

A1724 (1980)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1724
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 1980

The purpose of this bill, as amended, as well as its companion legislation, is to protect and preserve in a reasonable manner the health and comfort of the people in this State by establishing areas that are free from the toxic and annoying effects of tobacco smoke. The committee amendments follow the intent of this legislation in signifying a social policy without providing complex or onerous administrative or enforcement procedures.

As a result of the committee's hearings held on smoking, it is clear that there is overwhelming scientific evidence that tobacco smoke is detrimental to nonsmokers' health, welfare, and comfort, especially to those who have allergies or cardiovascular or respiratory diseases. The regulation of smoking in certain confined places, i.e., determining when and where, rather than whether, a smoker may legally smoke is, therefore, necessary for the public health. This legislation is even more important in our industrial State where tobacco smoke acts to exacerbate the effects of our existing air quality.

Specifically, this bill prohibits smoking in elevators and requires posting of the prohibition on and near the elevator.

The committee amendments would provide that a person smoking in violation of this act would be subject to a fine not to exceed \$100.00. Failure to establish nonsmoking areas and to post such areas after being notified of noncompliance by the Department of Health or local board of health may result in a fine not to exceed \$25.00 for the first offense, not to exceed \$100.00 for the second, and not to exceed \$200.00 for each additional offense.

The committee amendments also provide for collection of any penalties by the Department of Health or local board of health. The amendments contain a provision that no suit may be brought to enforce this act except by the Department of Health or local boards of health. Finally, the amendments add a section requiring that the Commissioner of Health shall report back to the committee in 2 years as to the effectiveness of this act.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1724

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 1981

This bill prohibits smoking in elevators and requires posting of the prohibition on and near the elevator.

This bill is part of a package of bills intended to protect the health and comfort of the people of this State. It establishes specific areas free of smoke without establishing onerous or complex administrative or enforcement procedures. Strong scientific evidence has established the detrimental health effects of tobacco smoke to nonsmokers.

A person smoking in violation of the act would be subject to a fine not to exceed \$100.00. Failure to establish nonsmoking areas and to post such areas after being notified of noncompliance by the Department of Health or local board of health may result in a fine not to exceed \$25.00 for the first offense, not to exceed \$100.00 for the second, and not to exceed \$200.00 for each additional offense.

The bill also provides for collection of any penalties by the Department of Health or local board of health and contains a provision that no suit may be brought to enforce this act except by the Department of Health or local boards of health. Finally, the Commissioner of Health shall report back to the joint committee created by this bill in 2 years as to the effectiveness of the act.

The Senate Law, Public Safety and Defense Committee was included by amendment as one of two committees forming a joint committee.