

26:3D-15 to 26:3D-22

LEGISLATIVE HISTORY CHECKLIST

NJSA 26:3D-15 to 26:3D-22 (Smoking -- educational institutions -- control)

LAWS 1981 CHAPTER 320

Bill No. A1726

Sponsor(s) Herman and Weidel

Date Introduced June 9, 1980

Committee: Assembly Judiciary, Law, Public Safety & Defense

Senate Law, Public Safety & Defense

Amended during passage Yes

~~NO~~ Substituted for S3111 (not attached since identical to A1726). Amendments during passage denoted by asterisks.

Date of Passage: Assembly Feb. 19, 1981

Senate May 4, 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 ~~XXX~~ No

Veto Message ~~XXX~~ No

Message on signing ~~XXX~~ No

Following were printed:

Reports ~~XXX~~ No

Hearings Yes ~~NO~~

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)

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ASSEMBLY, No. 1726

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 controlling smoking in institutions providing education or training ***[and supplementing chapter 33 of Title 2C of the Revised 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 of
3 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 to
6 smoke. However, the Legislature finds that in those institutions
7 providing education or training affected by this act the right of
8 the nonsmoker to breathe clean air should supersede the right of
9 the smoker to smoke. In addition to the deleterious effects upon
10 smokers, tobacco smoke is (1) at least an annoyance and a nuisance
11 to a substantial percentage of the nonsmoking public, and (2) a sub-
12 stantial health hazard to a smaller segment of the nonsmoking
13 public. The purpose of this act, therefore, is to control smoking on
14 the premises of schools, colleges, universities and professional train-
15 ing schools, except in designated areas.

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

1 3. The appropriate governing body, board or individual respon-
2 sible for or who has control of the administration of a school, college,
3 university, or professional training school, either public or private,
4 shall make and enforce suitable regulations prohibiting the smoking
5 of tobacco on their premises, except in designated areas wherein
6 smoking is not prohibited by municipal ordinance under authority

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

7 of R. S. 40:48-1 and 40:48-2 or by any *other* statute or regula-
 8 tion adopted pursuant to **[statute]** *law* for purposes of pro-
 9 tecting life and property from fire. Smoking in classrooms, lecture
 10 halls and auditoriums shall be prohibited except as part of a class-
 11 room instruction or a theatrical production.

1 4. Every entrance to a school, college, university or professional
 2 training school building shall be posted by the person who has
 3 control of the building with a sign stating "Smoking Prohibited
 4 Except in Designated Areas: Violators Subject to **[Arrest and]**
 5 Fine." Areas where smoking is permitted shall be so designated
 6 with a sign stating "Smoking Permitted." Every sign shall contain
 7 lettering not less than **[3]** *2* inches in height contrasting *in*
 8 *color* with the sign. Every sign shall be located so as to be clearly
 9 visible to the public.

1 5. a. The State or any agency or political subdivision thereof
 2 may suggest guidelines for rules governing smoking on the premises
 3 of a school, college, university or professional training school which
 4 may be adopted by the persons who have control of the premises
 5 but in no case shall they be mandatory.

6 b. The provisions of this act shall supersede any other statute,
 7 municipal ordinance, and rule or regulation adopted pursuant to law
 8 concerning smoking on the premises of schools, colleges, universities
 9 and professional training schools except where smoking is pro-
 10 hibited by municipal ordinance under authority of R. S. 40:48-1
 11 and 40:48-2 or by any *other* statute or regulation adopted pur-
 12 suant to **[statute]** *law* for purposes of protecting life and
 13 property from fire.

1 **[6. a.** Any person who smokes on the premises of a school, col-
 2 lege, university or professional training school in violation of sec-
 3 tion 3 of this act is a petty disorderly person. Notwithstanding the
 4 provisions of N. J. S. 2C:43-3, the maximum fine which can be im-
 5 posed for smoking on the premises of a school, college, university or
 6 professional training school in violation of this act is \$200.00.

7 b. A police officer or other public servant engaged in exectuing
 8 or enforcing the law may order the person in charge of a school,
 9 college, university or professional training school to comply with
 10 section 4. If the person knowingly fails or refuses to comply with
 11 an order, he is a petty disorderly person. Notwithstanding the pro-
 12 visions of N. J. S. 2C:43-3, the maximum fine which may be imposed
 13 for a violation of section 4 is \$100.00. In addition to the penalty
 14 provided herein, the court may order immediate compliance with
 15 section 4.]

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

974.90 New Jersey. Public Health Council.
H434 In the matter of the public hearing on regulation of smoking in
1979 q 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...hearer's
1979b report and recommendation. Public Health Council,
Trenton, 1979

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

1 *6. a. *The person responsible for administration of the school,*
2 *college, university, or professional training school or any other*
3 *person having control of such premises or any agent thereof or a*
4 *police officer or other public servant engaged in executing or en-*
5 *forcing this act may order any person smoking in violation of this*
6 *act to comply with the provisions of this act. Thereupon any such*
7 *person who smokes on such premises in violation of this act is sub-*
8 *ject to a fine not to exceed \$100.00.*

9 *b. The State Department of Health or the local board of health*
10 *or such board, body or officers exercising the functions of the local*
11 *board of health according to law, upon written complaint and hav-*
12 *ing reason to suspect that any school, college, university or pro-*
13 *fessional training school is or may be in violation of the provisions*
14 *of this act shall, by written notification, advise the person responsi-*
15 *ble for the administration of the school, college, university or*
16 *professional training school or other person having control of the*
17 *premises accordingly and order appropriate action to be taken.*
18 *Thereupon, any person receiving such notice who knowingly fails*
19 *or refuses to comply with the order is subject to a fine not to exceed*
20 *\$25.00 for the first offense and not to exceed \$100.00 for the second*
21 *offense and not to exceed \$200.00 for each offense thereafter. In*
22 *addition to the penalty provided herein, the court may order im-*
23 *mediate compliance with the provisions of this act.*

24 *c. Any penalty recovered under the provisions of this act shall*
25 *be recovered by and in the name of the Commissioner of Health of*
26 *the State of New Jersey or by and in the name of the local board*
27 *of health. When the plaintiff is the Commissioner of Health, the*
28 *penalty recovered shall be paid by the commissioner into the*
28A *treasury of the State. When the plaintiff is a local board*
29 *of health, the penalty recovered shall be paid by the local board*
30 *into the treasury of the municipality where the violation occurred.*

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

1 7. *No person responsible for the administration of the school,*
2 *college, university or professional training school or other person*
3 *having control of such premises or any agent thereof shall be*

4 *subject to any action in any court by any party other than by the*
5 *Commissioner of Health of the State of New Jersey or the local*
6 *board of health for failure to meet the provisions of this act.*

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

1 ***[7.]* *9.*** 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 restricts smoking on the premises of both private and State schools, colleges, universities and professional training schools as determined by the controlling authorities. Many students are nonsmokers who find tobacco smoke to be both annoying and hazardous to their health. They should be protected from such interferences with their ability to learn.

Any person who smokes on the premises of a school, college, university or professional training school 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.

This bill also clarifies the intent of N. J. S. 2C:33-13 and is necessary in view of the Attorney General's opinion that the regulations of the Public Health Council concerning smoking are superseded by N. J. S. 2C:33-13. Institutions providing education or training were covered by the regulations. The provisions of this bill supersede any other statute, municipal ordinance, or rule or regulation adopted pursuant to law concerning smoking on the premises of a school, college, university or professional training school except where smoking is prohibited therein by municipal ordinance under authority of R. S. 40:48-1 and 40:48-2 or by any statute or regulation adopted pursuant to statute for purposes of protecting life and property from fire.

A1726 (1980)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY
AND DEFENSE COMMITTEESTATEMENT TO
ASSEMBLY, No. 1726
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 regulates smoking in public and private schools, colleges, universities and professional training schools. In addition to the health hazards of smoking to children and students, smoking also interferes with the learning process. Smoking would be prohibited in classrooms and lecture halls.

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 amend-

ments 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. 1726

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 1981

This bill regulates smoking in public and private schools, colleges, universities and professional training schools. In addition to the health hazards of smoking to children and students smoking also interferes with the learning process. Smoking would be prohibited in classrooms and lecture halls.

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.

The bill would provide that 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 non-compliance 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 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 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.