

52:27D-25d

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 52:27D-25d

(Firefighter--
investigation of
injuries)

LAWS OF: 1991

CHAPTER: 186

Bill No: S996

Sponsor(s): Cowan

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Law, Public Safety and Defense

Amended during passage: No

Date of Passage: Assembly: May 23, 1991

Senate: May 17, 1991

Date of Approval: July 1, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clippings--attached:
KBG/SLJ

1 AN ACT concerning the safety of firefighters and amending
2 P.L.1983, c.382 and P.L.1983, c.516.

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

6 1. Section 4 of P.L.1983, c.382 (C.52:27D-25d) is amended to
7 read as follows:

8 4. In addition to any other powers and duties invested in it by
9 law or by the commissioner, the bureau shall:

10 a. Provide staff support for the work of the fire safety
11 commission and its advisory councils;

12 b. Administer and enforce the "Uniform Fire Safety Act,"
13 established by P.L.1983, c.383 (C.52:27D-192 et seq.);

14 c. Implement training and education programs for the fire
15 service and the public;

16 d. Administer a fire incident reporting system; [and]

17 e. Conduct research and master planning for fire safety; and

18 f. In conjunction with the Department of Labor and

19 Department of Health, conduct investigations of fire incidents in

20 which one or more firefighters suffer death or serious injury and

21 identify those measures which may be required to prevent the

22 future occurrence of deaths and serious injuries under similar

23 circumstances and, in furtherance of any such investigation, the

24 bureau may issue and enforce subpoenas to compel the testimony

25 of any person who might have knowledge of any relevant matters

26 and the production of any relevant documents. If any

27 investigation conducted under this subsection results in the

28 discovery of any violation of the provisions of the "Uniform Fire

29 Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.), the bureau,

30 as an enforcing agency, may issue a written notice or order

31 pursuant to that act. Any notice or order issued by the Bureau of

32 Fire Safety pursuant to this subsection may be enforced under

33 section 19 of P.L.1983, c.383 (C.52:27D-210) as a notice or order

34 of the commissioner.

35 (cf: P.L.1983, c.382, s.4)

36 2. Section 17 of P.L.1983, c.516 (C.34:6A-41) is amended to
37 read as follows:

38 17. a. If the commissioner determines that an employer has

39 violated a provision of this act, or a safety or health standard or

40 regulation promulgated under this act, or if he has received a

41 report from the Bureau of Fire Safety of the Department of

42 Community Affairs, the Department of Labor or the Department

43 of Health, prepared as a result of the investigation of the death

44 or serious injury of one or more firefighters, which indicates the

45 existence of a violation of this act or of a safety standard

46 promulgated under this act, he shall with reasonable promptness

47 issue to the employer a written order to comply which shall

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 underlined thus is new matter.

1 describe the nature of the violation, including a reference to the
2 provision of the section, standard, regulation or order alleged to
3 have been violated, the sanction therefor, where appropriate, and
4 shall fix a reasonable time for compliance. Determinations
5 regarding health standards, and written orders issued pursuant
6 thereto, shall be made in consultation with the Commissioner of
7 Health.

8 b. Where the commissioner issues to an employer an order to
9 comply, the employer shall post such order or a copy thereof at
10 or near each location of the violation cited in the order so that it
11 is clearly visible to affected employees. The commissioner shall
12 make such order available to employee representatives and
13 affected employees.

14 c. If the time for compliance with an order of the
15 commissioner issued pursuant to this section elapses, and the
16 employer has not made a good faith effort to comply, within its
17 powers and financial resources, the employer shall be liable to a
18 penalty of not more than \$1,000.00 per day to be collected in a
19 civil action commenced by the commissioner by a summary
20 proceeding under "the penalty enforcement law" (N.J.S.2A:58-1
21 et seq.) in the Superior Court [, county district court,] or a
22 municipal court, [all] either of which shall have jurisdiction to
23 enforce "the penalty enforcement law" in connection with this
24 act. If the violation is of a continuing nature, each day during
25 which it continues after the date given for compliance
26 in accordance with the order of the department shall constitute an
27 additional separate and distinct offense.

28 d. The commissioner is authorized to compromise and settle
29 any claim for a penalty under this section in such amount as, in
30 the discretion of the commissioner, may appear appropriate and
31 equitable under all of the circumstances, including a rebate of
32 any such penalty paid up to 90% thereof where such person
33 satisfies the commissioner within one year or such other period as
34 the commissioner may deem reasonable that such violation had
35 been eliminated or removed or that such order or injunction has
36 been met or satisfied, as the case may be. In any claim involving
37 investigations conducted by the Department of Health, the
38 commissioner shall make the determination as to the compromise
39 or settlement of the claim in consultation with the Commissioner
40 of Health.

41 (cf: P.L.1983, c.516, s.17)

42 3. This act shall take effect immediately.
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45 PUBLIC SAFETY
46

47 Requires Bureau of Fire Safety, in conjunction with the
48 Departments of Labor and Health, to investigate firefighter
49 deaths or injuries in line of duty.

1 of Health.
2 (cf: P.L.1983, c.516, s.17)
3 3. This act shall take effect immediately.

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6 STATEMENT

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8 This bill requires the Bureau of Fire Safety, in conjunction with
9 the Department of Labor and the Department of Health, to
10 conduct administrative investigations of fire incidents involving
11 the death or serious injury of one or more firefighters. The bill
12 further provides that the Commissioner of Labor must act upon
13 receipt of reports, issued by the Bureau of Fire Safety, the
14 Department of Labor or the Department of Health, that would
15 serve as the basis for enforcement action under the "New Jersey
16 Public Employees' Occupational Safety and Health Act"
17 (PEOSHA) for the purpose of protecting the safety of firefighters.

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20 PUBLIC SAFETY

21
22 Requires Bureau of Fire Safety, in conjunction with the
23 Departments of Labor and Health, to investigate firefighter
24 deaths or injuries in line of duty.

S 996 (1991)

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

SENATE, No. 996

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1990

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 996.

This bill requires the Bureau of Fire Safety in the Department of Community Affairs, in conjunction with the Departments of Health and Labor, to conduct administrative investigations of fires which result in the death or serious injury of a firefighter. The bureau is given the power to subpoena witnesses and documents in the course of these investigations and to issue notices or orders pursuant to the "Uniform Fire Safety Act," N.J.S.A.52:27D-192 et seq.

The bill further provides that the Commissioner of Labor must act upon the receipt of such a report which indicates the existence of a violation under the "New Jersey Public Employees' Occupational Safety and Health Act" (PEOSHA) in order to ensure the future safety of firefighters.

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 996

STATE OF NEW JERSEY

DATED: JANUARY 18, 1990

The Senate Law, Public Safety and Defense Committee reports favorably Senate Bill No. 996.

This bill makes it clear that the Bureau of Fire Safety in the Department of Community Affairs has the power to conduct administrative investigations of fires which result in the death or serious injury of a firefighter and the power to subpoena witnesses and documents in the course of such investigations.

This bill requires the bureau, in conjunction with the Departments of Health and Labor, to conduct administrative investigations of fire incidents involving the death or serious injury of one or more firefighters.

The bill further provides that the Commissioner of Labor must act upon the receipt of such a report which indicates the existence of a violation under the "New Jersey Public Employees' Occupational Safety and Health Act" (PEOSHA) in order to ensure the future safety of firefighters.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

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Release: MONDAY
JULY 1, 1991

GOVERNOR FLORIO SIGNS FIRE SAFETY BILL

PRINCETON -- Governor Jim Florio today signed a bill which would require the state to investigate all fires which result in the death of one or more firemen.

"Firefighting is one of the most dangerous jobs anyone can have. Too often, it's a thankless job, and people don't pay any attention until they need a fireman," said Governor Florio.

"This bill focuses on firefighters and puts the state on their side," he said.

The bill requires the State Bureau of Fire Safety to conduct investigations of all fire incidents involving the death or serious injury of one or more firemen in order to help prevent future occurrences of similar events. The Bureau would have the power to subpoena witnesses and documents and issue written notices of violations. It also allows the Commissioner of Labor to impose penalties on employers who have not made a good faith effort to correct violations of the Public Employees' Occupational Safety and Health Act (PEOSHA). And, finally, the bill authorizes the Labor Commissioner to order employers to conform to PEOSHA violations which have been identified as a result of an investigation into the death or injury of a firefighter.

The Governor signed the bill into law at a ceremony at Drumthwacket, the Governor's home. Those attending included the bill's sponsor, Senator Thomas Cowan (D-Hudson), as well as some 30 representatives of firefighting organizations from around the state.

Tomorrow, the Governor is expected to sign a second bill sponsored by Senator Paul Contillo (D-Bergen) which would require building owners to place identifying emblems on buildings that have truss construction in order to warn firemen of the particular dangers of that type of structure. If alerted, firefighters could then follow appropriate safety procedures. The Department of Community Affairs will draft regulations requiring that a brightly colored and reflective isosceles triangle be placed by the building's owner to the left of the main entrance door. The emblem will contain letters signifying where the truss construction exists, either on a particular floor, on the roof, or both.

-more-

The provisions do not apply to individual structures in planned real estate developments if such an emblem is placed at the entrance to the development nor do they apply to one and two family detached homes. However, the bill does contain a "home rule" option that would allow municipalities to pass local ordinances requiring emblem identification for private homes.

The bill is the result of a fire last year at a Hackensack car dealership in which a firefighter was killed.

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Governor tries to strike a balance by letting 'smoker bill' become law

By DAN WEISSMAN
and ROBERT SCHWANEBERG

Gov. Jim Florio announced yesterday he will allow a watered-down "smokers' rights" bill to become law without his signature.

The bill (A-4699), a compromise version of an earlier measure that Florio vetoed, would prohibit employers from discriminating against persons who smoke off the job.

Employers could continue to enforce all rules or policies banning smoking in the workplace. They also could charge smokers more for health insurance and could refuse to hire a smoker if they can show "a rational basis" related to the demands of the job.

During a press conference yesterday at Drumthwacket, his official residence in Princeton, Florio announced he would allow the revised version to become law, "but it will not be signed by Jim Florio." He said he did not want to give his endorsement to smoking.

Later in the day, he issued an official statement explaining, "The action I am taking today reflects an attempt to

strike a balance between the privacy rights of smokers and the legitimate health risks that smoking presents.

"While legislation that in any way encourages smoking is not desirable, it is clear that an outright veto of this bill could in some ways restrict or abridge an employee's right of privacy," Florio said.

"I will continue to make every effort

to discourage smoking and raise public awareness of the dangers associated with it," the Governor continued. "New Jersey's resources should be directed toward helping people quit smoking and working to make sure our children never start."

The bill, sponsored by Assemblyman Willie Brown (D-Essex), will become law when the Assembly reconvenes. Kathryn Forsyth, a spokeswoman for the Assembly Democrats, said the next session is scheduled for Aug. 1.

Unlike the original version, the compromise bill does not elevate smoking to a protected civil right. Instead, it amends state labor law.

The original version also lacked any exception allowing employers to refuse to hire smokers because of the nature of the job being filled. New Jersey's health products companies, concerned that the breath of smokers could contaminate certain sterile products manufactured in clean rooms, had lobbied for such an exemption.

A smokers' rights coalition and the state chapter of the American Civil Liberties Union (ACLU) hailed Florio's decision to allow the bill to become law, while the Group Against Smoking Pollution (GASP) and American Heart

Association were pleased he refused to "dignify" it with his signature.

"I'm very happy," said Bill Lear, co-chairman of the New Jersey Coalition for Smokers Rights. "It's been a long battle."

Regina Carlson of GASP, noting it is extremely rare for any governor to allow a bill to become law without his signature, said, "It's the strongest statement a governor can make short of a veto."

"I wish he had vetoed it, but we're pretty pleased with this," Carlson said. By distancing himself from the bill, the Governor has effectively said, "I'm not going to have anything to do with this bad law," she added.

Noting that the compromise bill was introduced after the Senate voted to override Florio's veto of the original measure, Carlson added, "I think he (Florio) did as much as he realistically could, politically."

Sen. Francis McManimon (D-Mercer), the cigar-chomping sponsor of the bill in the upper house, said, "The important thing is that smokers are now protected from being discriminated against in the workplace or as they apply for jobs."

"Basic rights and privacy are the issue here, not health," McManimon continued. "An employer has no right to tell one of its employees what to do off the job."

Brown said he is "grateful" that Florio decided to let the bill become law because "it is important that discrimination be addressed."

Fortunoff, the retailer whose policy of hiring only non-smokers in order to reduce the risk of fire, became a centerpiece of the debate over the bill, is still studying it, according to Thomas O'Neil, a lobbyist for the company.

"It's a tricky law; you've got to look at it and make a judgment as to whether you have a rational basis" for refusing to hire smokers, O'Neil said.

The bill bans employers from hiring, firing or promoting on the basis of whether or not a person smokes at home, unless the employer has a "rational basis" related to the job. Persons who are the victims of such discrimination may sue for reinstatement with back pay or other relief.

But Ed Martone, executive director of the ACLU of New Jersey, said it will be "almost impossible" for an individual to bring a test case to enforce the law because it allows damages or lawyers' fees, but not both. Asked about the tobacco industry becoming involved in such a case, Martone said, "I would hope that would happen, frankly."

Brennan Dawson, a spokeswoman for The Tobacco Institute in Washington, D.C., said 13 other states have laws banning discrimination against persons who smoke at home. Some of those laws are aimed specifically at smoking while others cover a wide range of

legal activities pursued off the job, she added.

Martone said New Jersey should follow Colorado and North Dakota in enacting a wide-ranging privacy bill that would ban discrimination on the basis of legal activities pursued off the job. He said employers—absent a job-related reason—should not be free to discriminate on the basis of whether people are overweight, gay, skiers or Republicans.

Martone called the final version of the bill "a good compromise;" Carlson called it "a lot less bad than it was when we started."

Law aims at deaths of firemen

By DAN WEISSMAN

Gov. Jim Florio yesterday signed legislation requiring the state to investigate all fires which result in the death of one or more firemen.

At a public ceremony at Drumthwacket, his Princeton residence, Florio said the purpose of the legislation (S-996) is to find the causes of fires that result in the death of firemen "to help prevent occurrences of similar events."

Under the bill, the State Bureau of Fire Safety will be given subpoena power to call witnesses in investigations and to issue written notices of violations.

And the measure sponsored by Sen. Thomas Cowan (D-Hudson) empowers the commissioner of labor to impose fines of up to \$1,000 a day on employers who "have not made a good faith effort to correct violations of the Public Employee's Occupational Safety and Health Act.

"Firefighting is one of the most dangerous jobs anyone can have," said Florio. "Too often, it is a thankless job and people don't pay any attention until they need a fireman."

Peter F. Smith, president of the Fire Fighters Association of New Jersey, hailed the bill-signing, saying the law will "help reduce deaths and serious injuries."

"If it is determined that understaffing was the problem, let's do something to correct it. If it is determined there was a problem with communication, let's do something about it. If it was is determined that lack of training was the problem, let's make training mandatory."