

52:27D-198.5

LEGISLATIVE HISTORY CHECKLIST
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(Fire safety violations)

NJSA: 52:27D-198.5

LAWS OF: 1991 CHAPTER: 489

BILL NO: A3554

SPONSOR(S): Cohen and Duch and others

DATE INTRODUCED: May 17, 1990

COMMITTEE: ASSEMBLY: Judiciary, Law, Public Safety

SENATE: _____

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
by asterisks

DATE OF PASSAGE: ASSEMBLY: December 2, 1991

SENATE: January 6, 1992

DATE OF APPROVAL: January 18, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG/pp

[SECOND REPRINT]
ASSEMBLY, No. 3554

STATE OF NEW JERSEY

INTRODUCED MAY 17, 1990

By Assemblymen COHEN, DUCH, Pascrell and Gill

1 AN ACT concerning penalties for certain fire safety violations
2 and amending ²and supplementing² P.L.1983, c.383.

3

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

6 1. Section 19 of P.L.1983, c.383 (C.52:27D-210) is amended to
7 read as follows:

8 19. a. No person shall:

9 (1) Obstruct, hinder, delay or interfere by force or otherwise
10 with the commissioner or any local enforcing agency in the
11 exercise of any power or the discharge of any function or duty
12 under the provisions of this act;

13 (2) Prepare, utter or render any false statement, report,
14 document, plans or specification permitted or required under the
15 provisions of this act;

16 (3) Render ineffective or inoperative, or fail to properly
17 maintain, any protective equipment or system installed, or
18 intended to be installed, in a building or structure;

19 (4) Refuse or fail to comply with a lawful ruling, action, order
20 or notice of the commissioner or a local enforcing agency; or

21 (5) Violate, or cause to be violated, any of the provisions of
22 this act.

23 b. ¹(1)¹ A person who violates or causes to be violated a
24 provision of subsection a. of this section shall be liable to a
25 penalty of not more than ¹[\$5,000.00] \$5,000¹ for each violation.
26 If a violation of subsection a. of this section is of a continuing
27 nature, each day during which the violation remains unabated
28 after the date fixed in an order or notice for the correction or
29 termination of the continuing violation shall constitute an
30 additional and separate violation, except while an appeal from
31 the order is pending.

32 ¹(2)¹ If an owner has been given notice of the existence of a
33 violation of the act and fails to abate the violation, he shall be
34 liable to an additional penalty [in the amount of] of not more than
35 \$50,000. ¹If a violation is of a continuing nature, each day during
36 which the violation remains unabated shall not constitute an
37 additional and separate violation for the purposes of the penalty
38 in this paragraph.¹

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJL committee amendments adopted August 22, 1991.

² Senate floor amendments adopted December 19, 1991.

1 ¹(3)¹ An additional \$150,000 or the actual cost, whichever is
2 greater, may be imposed as a penalty for the [actual cost]
3 expense to the municipality or fire district of suppressing any
4 fire, directly or indirectly, resulting from the unabated violation
5 and for any other actual expenses, including attorney fees,
6 incurred by the municipality ¹[with respect to] for the¹
7 enforcement ¹[for] of¹ the violation.

8 c. The commissioner or a local enforcing agency may levy and
9 collect penalties in the amounts set forth in this section, but not
10 in excess of the maximum amounts that the commissioner shall
11 establish by regulation for different types of violations. If the
12 administrative penalty order has not been satisfied by the 30th
13 day after its issuance, the penalty may be sued for, and recovered
14 by and in the name of the commissioner or the enforcing agency,
15 as the case may be, in a civil action by a summary proceeding
16 under "the penalty enforcement law," (N.J.S.2A:58-1 et seq.) in
17 the Superior Court ¹[, county district court]¹ or municipal court.
18 All moneys recovered in the form of penalties by a municipality
19 shall be paid into the treasury of the municipality and shall be
20 appropriated for the enforcement of the act ¹[. Additional
21 penalties] ; except that the additional penalty¹ paid by an owner
22 to a municipality ¹[for failure to abate a violation]¹ under
23 ¹paragraphs (2) or (3) of¹ subsection b. of this section ¹[when
24 expenses are incurred in enforcement and in suppressing a fire
25 resulting from the violation]¹ shall be placed in a special
26 municipal trust fund to be applied to the municipality's or fire
27 district's cost of firefighter training and new equipment. A
28 person who fails to pay immediately a money judgment rendered
29 against him pursuant to this subsection may be sentenced to
30 imprisonment by the court for a period not exceeding six months,
31 unless the judgment is sooner paid.

32 d. A person shall be deemed to have violated or caused to have
33 violated a provision of subsection a. of this section if an officer,
34 agent or employee under his control and with his knowledge has
35 violated or caused to have violated any of the provisions of
36 subsection a. of this section.

37 e. Upon request of the owner or purchaser of a building or
38 structure, the enforcing agency having jurisdiction over the
39 building or structure shall issue a certificate either enumerating
40 the violations indicated by its records to be unabated and the
41 penalties or fees indicated to be unpaid, or stating that its
42 records indicate that no violations remain unabated and no
43 penalties or fees remain unpaid.

44 f. A person who purchases a property without having obtained
45 a certificate stating that there are no unabated violations of
46 record and no unpaid fees or penalties shall be deemed to have
47 notice of all violations of record and shall be liable for the
48 payment of all unpaid fees or penalties.

49 (cf: P.L.1991, c.91, s.501)

1 expense to the municipality or fire district of suppressing any
2 fire, directly or indirectly, resulting from the unabated violation
3 and for any other actual expenses, including attorney fees,
4 incurred by the municipality for the enforcement of the violation.

5 c. The commissioner or a local enforcing agency may levy and
6 collect penalties in the amounts set forth in this section, but not
7 in excess of the maximum amounts that the commissioner shall
8 establish by regulation for different types of violations. If the
9 administrative penalty order has not been satisfied by the 30th
10 day after its issuance, the penalty may be sued for, and recovered
11 by and in the name of the commissioner or the enforcing agency,
12 as the case may be, in a civil action by a summary proceeding
13 under "the penalty enforcement law," (N.J.S.2A:58-1 et seq.) in
14 the Superior Court[, county district court] or municipal court.
15 All moneys recovered in the form of penalties by a municipality
16 shall be paid into the treasury of the municipality and shall be
17 appropriated for the enforcement of the act; except that the
18 additional penalty paid by an owner to a municipality under
19 paragraphs (2) or (3) of subsection b. of this section shall be
20 placed in a special municipal trust fund to be applied to the
21 municipality's or fire district's cost of firefighter training and
22 new equipment. A person who fails to pay immediately a money
23 judgment rendered against him pursuant to this subsection may be
24 sentenced to imprisonment by the court for a period not
25 exceeding six months, unless the judgment is sooner paid.

26 d. A person shall be deemed to have violated or caused to have
27 violated a provision of subsection a. of this section if an officer,
28 agent or employee under his control and with his knowledge has
29 violated or caused to have violated any of the provisions of
30 subsection a. of this section.

31 e. Upon request of the owner or purchaser of a building or
32 structure, the enforcing agency having jurisdiction over the
33 building or structure shall issue a certificate either enumerating
34 the violations indicated by its records to be unabated and the
35 penalties or fees indicated to be unpaid, or stating that its
36 records indicate that no violations remain unabated and no
37 penalties or fees remain unpaid.

38 f. A person who purchases a property without having obtained
39 a certificate stating that there are no unabated violations of
40 record and no unpaid fees or penalties shall be deemed to have
41 notice of all violations of record and shall be liable for the
42 payment of all unpaid fees or penalties.

43 (cf: P.L.1983, c.383, s.19)

44 2. This act shall take effect immediately.

45 STATEMENT

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47
48 This bill establishes three levels of monetary penalties for
49 violations of the Uniform Fire Safety Act (P.L.1983, c.383;
50 C.52:27D-192 et seq.).

1 A violator who has been given notice of a violation and fails to
2 correct it would be liable for a penalty of not more than \$50,000,
3 in addition to the standard penalty of \$5,000 for each violation.

4 In addition, the cost of suppressing a fire resulting from an
5 unabated violation and the actual expenses incurred, including
6 attorney fees, by a municipality for the enforcement of the
7 violation could be passed along to the violator as a penalty of
8 \$150,000 or the actual cost thereof, whichever is greater. The
9 additional penalties of \$50,000 for an unabated violation and of
10 \$150,000 or the actual cost of suppressing a fire and enforcing
11 the fire safety laws, when collected, are to be placed in a special
12 municipal fund to be used for firefighter training and new
13 equipment.

14 These stricter monetary penalties should act as a financial
15 deterrent to the improper maintenance of property. It is hoped
16 that they will help to avoid loss of life, costly property damage,
17 interruption of business activity and higher fire insurance rates.
18 The higher fines should also have a stabilizing effect on municipal
19 budgets by providing sufficient funds for fire code enforcement
20 and firefighter training and equipment.

21 This bill is intended to help offset the burden of fire code
22 funding now assumed by taxpayers who properly maintain their
23 property.

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26

PUBLIC SAFETY

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28

Upgrades penalties for certain fire safety violations.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3554

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 5, 1991

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3554.

This bill establishes three levels of monetary penalties for violations of the "Uniform Fire Safety Act," (P.L.1983, c.383; C.52:27D-192 et seq.).

A violator who has been given notice of a violation and fails to correct it would be liable for a penalty of not more than \$50,000, in addition to the standard penalty of \$5,000 for each violation.

In addition, the cost of suppressing a fire resulting from an unabated violation and the actual expenses incurred, including attorney fees, by a municipality for the enforcement of the violation could be passed along to the violator as a penalty of \$150,000 or the actual cost thereof, whichever is greater. The additional penalties of \$50,000 for an unabated violation and of \$150,000 or the actual cost of suppressing a fire and enforcing the fire safety laws, when collected, are to be placed in a special municipal fund to be used for firefighter training and new equipment.

The committee amended the bill to clarify its wording and intent, which is to establish three levels of monetary penalties for violations of the fire safety laws.

As amended, this bill is identical to Senate Bill No. 1934 (1R).