

CHAPTER 226

AN ACT concerning smoking and amending P.L.1981, c.320.

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

1. Section 3 of P.L.1981, c.320 (C.26:3D-17) is amended to read as follows:

C.26:3D-17 Smoking prohibited in educational institutions.

3. a. The appropriate governing body, board or individual responsible for or who has control of the administration of a school, college, university, or professional training school, either public or private, except the board of education of a school district, shall make and enforce suitable regulations controlling the smoking of tobacco on their premises, except in those areas within the premises wherein smoking is prohibited by municipal ordinance under authority of R.S.40:48-1 and 40:48-2 or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire. The governing body, board or individual may, but need not, designate certain areas within the premises as areas in which smoking is permitted. Smoking in classrooms, lecture halls and auditoriums shall be prohibited except as part of a classroom instruction or a theatrical production.

b. The board of education of each school district shall make and enforce regulations to prohibit the smoking of tobacco anywhere in its buildings or on school grounds, except as part of a classroom instruction or a theatrical production.

2. Section 6 of P.L.1981, c.320 (C.26:3D-20) is amended to read as follows:

C.26:3D-20 Violations, fines, penalties.

6. a. The person responsible for administration of the school, college, university, or professional training school or any other person having control of such premises or any agent thereof or a police officer or other public servant engaged in executing or enforcing this act may order any person smoking in violation of this act to comply with the provisions of this act. Thereupon any such person who smokes on such premises in violation of this act is subject to a fine not to exceed \$100.

b. The State Department of Health and Senior Services or the local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect that any school, college, university or professional training school is or may be in violation of the provisions of this act shall, by written notification, advise the person responsible for the administration of the school, college, university or professional training school or other person having control of the premises accordingly and order appropriate action to be taken. Thereupon, any person receiving such notice who knowingly fails or refuses to comply with the order is subject to a fine not to exceed \$25 for the first offense and not to exceed \$100 for the second offense and not to exceed \$200 for each offense thereafter. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act. Notwithstanding the provisions of this subsection, no person shall be liable for a fine if the person has taken reasonable steps to enforce the prohibition on smoking in school buildings or on school grounds.

c. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health and Senior Services of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health and Senior Services, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

d. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health and Senior Services of the State of New Jersey, or the local board of health, as the case may be, as plaintiff.

3. This act shall take effect immediately.

Approved August 27, 2001.