

CHAPTER 284

AN ACT concerning the use of smokeless tobacco in public schools and supplementing Title 26 of the Revised Statutes.

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

C.26:3D-66 Use of smokeless tobacco prohibited in public schools.

1. a. The use of smokeless tobacco is prohibited in any area of any building of, or on the grounds of, any public school.

As used in this section, "use of smokeless tobacco" means the inhalation, chewing, or placement in the oral cavity of snuff, chewing tobacco, or any other matter or substance which contains tobacco.

b. The board of education of each school district shall ensure the placement, in every public entrance to a public school building in its district, of a sign which shall be located so as to be clearly visible to the public and shall contain letters which contrast in color with the sign, indicating that the use of smokeless tobacco is prohibited therein.

c. (1) The board of education of each school district shall order any person using smokeless tobacco in violation of this section to comply with the provisions of this section. Except as otherwise provided pursuant to subsection d. of this section, a person, after being so ordered, who uses smokeless tobacco in violation of this section is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense, and \$1,000 for each subsequent offense. A penalty shall be recovered in accordance with the provisions of paragraphs (3) and (4) of this subsection.

(2) The department, the local board of health, or the board, body, or officers exercising the functions of the local board of health according to law, upon written complaint or having reason to suspect that a public school is or may be in violation of the provisions of this section, shall, by written notification, advise the board of education of the school district accordingly and order appropriate action to be taken. A board of education that receives that notice and fails or refuses to comply with the order is subject to a fine of not less than \$250 for the first offense, \$500 for the second offense, and \$1,000 for each subsequent offense. In addition to the penalty provided herein, a court may order immediate compliance with the provisions of this section.

(3) A penalty recovered under the provisions of this section shall be recovered by, and in the name of, the Commissioner of Health or by, and in the name of, the local board of health. When the plaintiff is the commissioner, 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.

(4) A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this section 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 or the local board of health, as the case may be, as plaintiff.

(5) The penalties provided in paragraphs (1) and (2) of this subsection shall be the only civil remedy for a violation of this section. There shall be no private right of action against a party for failure to comply with the provisions of this section.

d. A student who violates the provisions of this section after being ordered by the board of education of the district to comply with the provisions of this section, shall not be subject to the fines established pursuant to paragraph (1) of subsection c. of this section, but rather

shall be prohibited by the board of education of the district from participation in all extracurricular activities, including interscholastic athletics, and the revocation of any student parking permit that the student may possess. The board of education shall adopt a policy that establishes the length of a suspension or revocation to be imposed on a student for an initial or subsequent violation of the provisions of this section.

2. This act shall take effect on the first day of the third month next following the date of enactment, but the board of education of each school district may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 16, 2018.