

ASSEMBLY, No. 186

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Establishes air quality standards and certification requirements for indoor skating rinks.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning air quality at indoor skating rinks and
2 supplementing Title 26 of the Revised Statutes.

3

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

6

7 1. The Legislature finds and declares that the operation of ice
8 surfacing equipment with internal combustion engines has a
9 significant impact on the air quality at indoor skating rinks; that
10 carbon monoxide is of particular concern because of the indoor
11 aspect of the skating rinks, its impact on younger and older people
12 alike, asthma sufferers, and other people with compromised
13 immune systems, and its contribution to heart disease and other
14 ailments; that in 2008 and 2009, numerous incidents raised warning
15 flags about the dangers of carbon monoxide in indoor skating rinks
16 from ice resurfacing equipment; that, in one incident, more than 100
17 people became ill from carbon monoxide fumes at an ice skating
18 arena in Vermont due to malfunctioning of the ice resurfacing
19 equipment and ventilation systems; that in December 2008, ten
20 people were sent to the hospital with carbon monoxide poisoning at
21 a rink near Indianapolis; that firefighters evacuated a rink outside of
22 Denver in January 2009 because carbon monoxide levels had
23 reached high levels; that 100 people went to the hospital and four
24 teams withdrew from a college tournament outside of Cleveland,
25 Ohio in March 2009 when they became ill from fumes from the ice
26 surfacing equipment; that many smaller and less attentive rinks may
27 have inadequate monitoring of this serious health threat; and that
28 the establishment of air quality standards for ice rinks and the
29 institution of certification requirements for resurfacing equipment
30 would likely help to eliminate this problem.

31 The Legislature therefore determines that it is reasonable and in
32 the best interest of the public to develop air quality standards and
33 certification requirements for indoor skating rinks.

34

35 2. As used in this act:

36 “Action level” means a standard of air contamination that has
37 been established by the department pursuant to section 4 of this act,
38 which standard indicates the threshold amount of carbon monoxide
39 or other harmful air contaminant, at which or above which
40 corrective action must be taken in accordance with the provisions of
41 section 6 of this act.

42 “Department” means the Department of Health and Senior
43 Services.

44 “Commissioner” means the Commissioner of Health and Senior
45 Services, or the commissioner’s designee.

46 “Evacuatory standard” means a standard of air contamination
47 that has been established by the department pursuant to section 4 of

1 this act, which standard indicates a hazardous level of carbon
2 monoxide or other harmful air contaminant, at or above which
3 evacutory action must be taken in accordance with the provisions
4 of section 7 of this act.

5 “Follow-up air sample” means an air sample that is taken as part
6 of a corrective action, either pursuant to paragraph (1) of subsection
7 b. of section 6 of this act, or pursuant to paragraph (1) of subsection
8 b. of section 7 of this act, in order to determine whether levels of air
9 contaminants in an ice arena have been reduced to safe levels
10 following an event that caused action levels to be met or exceeded.

11 “Ice arena” means any building, which has a roof and partially or
12 fully enclosed sides, and which contains an ice rink.

13 “Operator” means a person designated by an owner, and who is
14 responsible for the day-to-day operation of an ice arena.

15 “Owner” means the person having legal title to the property or
16 building on which or in which an ice arena is located. For the
17 purposes of publicly-owned property, “owner” means the chief
18 executive officer of the State or municipal agency that owns, leases,
19 or controls the use of the property.

20 “Resurfacing machine” means a Zamboni or other internal
21 combustion engine-powered machine that is used to modify the
22 surface of an ice rink.

23

24 3. a. No person shall own or operate an ice arena in which a
25 resurfacing machine is used unless the department has issued the
26 person a certificate of acceptable air quality for the ice arena. The
27 certificate must be displayed in a conspicuous place in the ice arena.

28 b. The commissioner may suspend, modify, or revoke a
29 certificate of acceptable air quality for cause, or for a violation of
30 the provisions of this law or any rules or regulations adopted
31 pursuant thereto.

32 c. The department may assess a reasonable fee for the issuance
33 of a certificate of acceptable air quality pursuant to this section.

34 d. As part of the qualifications for a certificate under this
35 section, the department may require the owner or operator to
36 perform any preliminary tests of air quality that the commissioner
37 may determine to be necessary in order to characterize the exposure
38 of ice arena occupants to carbon monoxide and other harmful air
39 contaminants.

40

41 4. a. The department, in consultation with the Department of
42 Environmental Protection, shall adopt, pursuant to the
43 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
44 seq.), any rules and regulations that may be necessary to implement
45 the provisions of this act. Such rules and regulations shall include,
46 but need not be limited to provisions establishing:

- 1 (1) air quality standards for carbon monoxide and other harmful
2 air contaminants in ice arenas;
- 3 (2) criteria for the certification of acceptable air quality in ice
4 arenas; and
- 5 (3) criteria for the sampling of carbon monoxide and other
6 harmful gases in ice arenas.
- 7 b. Any air quality standards adopted pursuant to paragraph (1)
8 of subsection a. of this section shall identify both an action level
9 and an evacutory standard for each harmful air contaminant
10 identified by the department, in consultation with the Department of
11 Environmental Protection, as being of concern in ice arenas. The
12 action level shall be measured in parts per million (ppm), shall
13 signify an amount of contamination that is likely to cause human
14 health problems, and shall be used to determine when corrective
15 action should be undertaken pursuant to section 6 of this act. The
16 evacutory standard shall be measured in parts per million (ppm),
17 shall indicate an amount of contamination that is known to be
18 hazardous to human health, and shall be used to determine when
19 evacutory measures should be undertaken pursuant to section 7 of
20 this act.
- 21 c. In adopting rules and regulations pursuant to this section, the
22 commissioner shall give due consideration to recommendations,
23 standards, and definitions of other states and the United States.
- 24 d. The department may grant a variance from the rules or
25 regulations adopted pursuant to this section, if determined thereby
26 to be appropriate or necessary; provided that the department also
27 determines that the granting of the variance would not result in a
28 reduction in the public health or safety.
- 29
- 30 5. a. The owner or operator of an ice arena shall maintain
31 acceptable air quality conditions within the ice arena at all times.
- 32 b. In order to determine and monitor air quality in accordance
33 with this act, the operator of each ice arena in the State shall
34 employ carbon monoxide detectors, either installable or hand-held,
35 on a daily basis in the ice arena. The results of carbon monoxide
36 testing shall be recorded in the Air Quality Record Log in
37 accordance with the provisions of section 8 of this act. If deemed
38 necessary or appropriate, the department may require ice arena
39 owners or operators to additionally install or utilize any other type
40 of air quality detector.
- 41 c. The commissioner or an authorized representative thereof
42 may conduct an on-site inspection of ice arena air quality in
43 response to a complaint of an elevated level of carbon monoxide or
44 other harmful air contaminant in an ice arena, or at any other
45 reasonable time, without providing notice of the inspection to the
46 owner or operator.

1 d. Any person who refuses entry to a person who is authorized
2 to conduct air quality inspections pursuant to this section, or who
3 obstructs an inspection ordered by the commissioner shall
4 immediately have the person's certificate of acceptable air quality
5 revoked by the commissioner. Following revocation of the
6 certificate, the ice arena shall remain closed until the commissioner
7 has determined that the facility is in compliance with the provisions
8 of this act and any rules or regulations adopted pursuant thereto.

9

10 6. a. If an air quality sample taken in accordance with the
11 requirements of this act reveals that the air quality level of carbon
12 monoxide or other harmful air contaminant meets or exceeds the
13 action levels established by the department in accordance with
14 section 4 of this act, the operator shall:

15 (1) immediately take steps to increase the ventilation in the
16 indoor skating rink through any appropriate and safe means, and
17 shall continue to ventilate the ice arena at above-normal rates or
18 through extraordinary means until such time as a follow-up air
19 sample taken by the operator reveals that air quality levels of
20 carbon monoxide or other harmful air contaminants have fallen
21 below the action levels established pursuant to section 4 of this act.
22 The operator shall take one or more follow-up air samples in
23 intervals of 20 minutes or less after the taking of any sample which
24 has revealed air quality in excess of an established action level until
25 such time as a follow-up air sample reveals that the air level of the
26 contaminant for which there was an excess has been reduced to a
27 safe level. The operator shall record the results of each follow-up
28 air sample in the Air Quality Record Log, in accordance with
29 section 8 of this act; and

30 (2) as soon as is reasonably practical, take one or more of the
31 following steps, in order to eliminate the problem which resulted in
32 the exceedance of the action levels established pursuant to section 4
33 of this act, and in order to prevent any future exceedances of these
34 levels:

35 (a) increase ventilation or air exchange at the ice arena;

36 (b) begin warming up the ice resurfacing machine outside the
37 ice arena;

38 (c) install a local exhaust system in the area where the
39 resurfacing machine is warmed up, in order to vent exhaust to the
40 outside;

41 (d) re-tune or repair the resurfacing machine, and continue to
42 regularly re-tune and repair the machine as recommended by the
43 manufacturer;

44 (e) reduce edging time;

45 (f) replace edging equipment with equipment having lower
46 emissions;

- 1 (g) install a vertical exhaust pipe, the top end of which protrudes
2 above the highest point of the resurfacing machine;
- 3 (h) install a catalytic converter on the resurfacing machine;
- 4 (i) install an oxygen sensor in the resurfacing machine to
5 regulate fuel leanness or richness;
- 6 (j) decrease the resurfacing schedule to reduce the amount of
7 exhaust gases emitted;
- 8 (k) convert the existing resurfacing machine to electric power or
9 acquire replacement electrically powered resurfacing equipment; or
- 10 (l) take any other action which has the effect of reducing or
11 helping reduce air levels of carbon monoxide and other harmful air
12 contaminants to required levels.
- 13 b. If five or more air quality samples, excluding any follow-up
14 air samples, each reveal that the air level of carbon monoxide or
15 other harmful air contaminant meets or exceeds the action levels
16 established pursuant to section 4 of this act, or, if evacutory action
17 is undertaken at any time in accordance with the provisions of
18 section 7 of this act, the operator shall convert any existing
19 resurfacing machine to electric power or shall replace the existing
20 resurfacing machine with resurfacing equipment that is electrically-
21 powered.
22
- 23 7. a. If an air quality sample taken in accordance with the
24 requirements of this act reveals that the air quality level of carbon
25 monoxide or other harmful air contaminant meets or exceeds the
26 evacutory standards established by the department in accordance
27 with section 4 of this act, the operator shall:
- 28 (1) immediately evacuate all people from the interior of the ice
29 arena;
- 30 (2) contact the local fire department as soon as possible to assist
31 in the evacuation of the facility and to assess the hazard;
- 32 (3) contact the local board of health upon completion of the
33 evacuation; and
- 34 (4) contact the department within two hours of the evacuation.
- 35 b. After evacuation of an ice arena has taken place pursuant to
36 subsection a. of this section, re-occupancy of the ice arena may only
37 occur if:
- 38 (1) three consecutive follow-up air samples are taken by the
39 operator within no greater than a three-hour period and in
40 accordance with the air sampling procedures set forth in this act and
41 any rule or regulation adopted pursuant thereto, and all three of the
42 samples indicate that the air levels of carbon monoxide and other
43 harmful air contaminants have been reduced below the action levels
44 established in accordance with section 4 of this act;
- 45 (2) appropriate long-term corrective measures have been taken
46 pursuant to paragraph (2) of subsection a. of section 6 of this act, in

1 order to prevent future exceedances of action levels established in
2 accordance with section 4 of this act;

3 (3) the air levels of carbon monoxide and other harmful air
4 contaminants are independently measured by the local fire
5 department, local health department, or the department, and are
6 found to be below the action levels established in accordance with
7 section 4 of this act.

8

9 8. a. The operator shall keep a record log, which shall have on
10 its cover, the name of the ice arena, the name of the owner of the
11 ice arena, the name of the operator of the ice arena, and, in large
12 print, the words "Air Quality Record Log." The record log shall be
13 used by the operator to record information, on a regular basis,
14 regarding the ice resurfacing equipment used in the ice arena, the
15 results of any air samples or follow-up air samples taken in
16 accordance with the provisions of this act, the implementation of
17 any corrective actions pursuant to section 6 of this act, and the
18 implementation of any evacuatory measures pursuant to section 7 of
19 this act.

20 b. The department shall:

21 (1) develop a form version of an "Air Quality Record Log,"
22 which may be used by operators in complying with this section, and
23 which shall be made available to operators through posting on the
24 department's Internet website;

25 (2) establish standards and guidelines for appropriate record-
26 keeping as required by this section, and identify the particular
27 information to be included in each "Air Quality Record Log;" and

28 (3) establish a procedure for the departmental review of record
29 logs that are maintained under this section.

30

31 9. a. Any person who knowingly, willfully, or purposefully
32 violates any provision of this act or any rule or regulation adopted
33 pursuant thereto shall be liable to a fine of not less than \$1,000 nor
34 more than \$2,500 per day of violation.

35 b. Any person who falsifies information required to be kept as
36 a record pursuant to this act shall be liable to a fine of not less than
37 \$1,500 nor more than \$3,000. Each instance of falsification of
38 information shall constitute a separate and distinct offense.

39 c. Penalties authorized pursuant to this section shall be
40 collected by and in the name of the commissioner through a
41 summary proceeding instituted in accordance with the "Penalty
42 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
43 The Superior Court and municipal courts shall have jurisdiction to
44 enforce the "Penalty Enforcement Law of 1999" in association with
45 this act.

1 10. The department shall institute a public information program
2 to inform the public about the health effects of carbon monoxide
3 and other harmful air contaminants in ice arenas, the necessity for
4 air quality testing in ice arenas, the recommended practices for
5 reducing elevated levels of carbon monoxide and other harmful air
6 contaminants in ice arenas, and related issues.

7
8 11. a. The department is authorized to receive and administer
9 funds appropriated or allocated thereto, for purposes consistent with
10 this act, by the State, by agencies of the federal government, or by
11 any other appropriate funding sources.

12 b. Any appropriated funds or fee moneys collected by the
13 department in accordance with this act or any rule or regulation
14 adopted pursuant thereto shall be placed into a restricted receipt
15 account to support the personnel costs, operating costs, and capital
16 expenditure necessary to carry out the provisions of this act;
17 provided, however, that any fees charged shall be in addition to and
18 not substituted for funds appropriated to the department by the State
19 or federal government.

20
21 12. a. The requirements of this act are in addition to any other
22 requirements mandated by any other provision of law.

23 b. The provisions of this act shall be severable, and if any of its
24 provisions shall be held to be unconstitutional, the decision of the
25 court shall not affect the validity of the remaining provisions of this
26 act.

27
28 13. This act shall take effect immediately but shall be
29 inoperative until the first day of the sixth month following the date
30 of enactment.

31
32
33 STATEMENT

34
35 This bill would establish an air quality testing and certification
36 program for indoor skating rinks, which would be overseen by the
37 Department of Health and Senior Services (DHSS).

38 Pursuant to the bill's provisions, DHSS would be required, in
39 consultation with the Department of Environmental Protection, to
40 establish rules and regulations establishing (1) air quality standards
41 for carbon monoxide and other harmful air contaminants in indoor
42 skating rink facilities, (2) criteria for the certification of acceptable
43 air quality in such facilities, and (3) criteria for the sampling of air
44 quality in such facilities. The department would be required, in
45 particular, to identify both an action level and an evacutory
46 standard for each harmful air contaminant found thereby to be a
47 matter of concern in ice arenas. The action level would signify an

1 amount of contamination that is likely to cause human health
2 problems, and would be used to determine when corrective action is
3 required. The evacuatory standard would signify an amount of
4 contamination that is known to be hazardous to human health, and
5 would be used to determine when the facility should be evacuated
6 in order to protect the public welfare.

7 Following the bill's operative date, any person would be
8 prohibited from owning or operating an indoor skating rink in
9 which a Zamboni or other internal combustion engine-powered
10 machine is used to modify the surface of the ice, unless that person
11 has first obtained a certificate of acceptable air quality from the
12 department.

13 The bill would additionally require the operator of each indoor
14 skating rink in the State to utilize carbon monoxide detectors on a
15 daily basis in the indoor skating rink, and to record the results of
16 any and all carbon monoxide testing performed therein. The DHSS
17 could require additional testing, if deemed necessary. The
18 commissioner of DHSS or his or her authorized representatives
19 would additionally have the authority to enter onto the property of
20 an indoor skating rink to test the air quality therein, either in
21 response to an air quality complaint, or at any other reasonable
22 time, without providing notice of the inspection to the owner or
23 operator of the skating rink.

24 If, at any time, an air quality sample indicates that the air level of
25 carbon monoxide or other harmful air contaminant meets or exceeds
26 the action levels established by DHSS, the operator of the skating
27 rink would be required to undertake both immediate and long-term
28 corrective actions, which are specified in the bill. If an air quality
29 sample indicates that the air levels in an indoor skating rink meet or
30 exceed any of the evacuatory standards for harmful air
31 contaminants that have been established by DHSS, the bill would
32 require the operator to evacuate the facility. Reentry into the
33 facility would be prohibited unless (1) three consecutive follow-up
34 air quality tests, conducted by the operator, indicate that air levels
35 have been reduced below established action levels; (2) long-term
36 corrective measures have been undertaken; and (3) the air levels of
37 harmful air contaminants are independently measured by the local
38 fire department, local board of health, or DHSS, and are found to
39 below established action levels.

40 In the event that five or more air quality samples (excluding
41 follow-up remedial samples) indicate that air levels of
42 contamination are above established action levels, or if, at any time,
43 the facility is evacuated due to contamination, the operator would
44 be required to convert the existing resurfacing machinery to electric
45 power or replace the existing machinery with electrically-powered
46 resurfacing equipment.

A186 CAPUTO

1 The operator would be required to maintain and regularly update
2 a record log in accordance with record-keeping standards and
3 guidelines that are developed by DHSS. The operator would be
4 required to include in the record log, information regarding the ice
5 resurfacing equipment, the results of any air samples or follow-up
6 air samples taken in the skating rink, and the implementation of any
7 corrective actions or evaculatory measures.

8 Any person who knowingly, willingly, or purposefully violates
9 any of the bill's provisions would be liable to a fine of not less than
10 \$1,000 nor more than \$2,500 per day of violation. Any person who
11 falsifies information would be liable to a fine of not less than
12 \$1,500 nor more than \$3,000 for each instance of falsification.