

ASSEMBLY, No. 3110

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Establishes certain minimum and maximum temperatures in emergency shelters, rooming and boarding houses, dementia care homes, and certain nursing homes and residential health care facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/5/2020)

1 AN ACT concerning temperature standards in emergency shelters,
2 rooming and boarding houses, dementia care homes, nursing
3 homes, and residential health care facilities, supplementing
4 P.L.1984, c.114 (C.26:2H-14.1 et seq.) and P.L.1985, c.48
5 (C.55:13C-1 et seq.), and amending various parts of the statutory
6 law.

7
8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. Section 3 of P.L.1984, c.114 (C.26:2H-14.3) is amended to
12 read as follows:

13 3. The Commissioner of Health shall, pursuant to the
14 provisions of the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), adopt rules and regulations necessary to
16 effectuate the purposes of this act. The regulations shall require
17 that:

18 a. Each health care facility included within the provisions of
19 this act and which is not equipped with air conditioning on the
20 effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), shall
21 provide for and operate adequate ventilation in all areas used by
22 patients or residents, including, but not limited to, the use of ceiling
23 fans, wall fans or portable fans, where appropriate, so that the
24 temperature in these areas does not exceed **[82]** 81 degrees
25 Fahrenheit, but the health care facility shall not directly assess
26 patients or residents for the purchase or installation of the fans or
27 other ventilating equipment.

28 (1) The regulations shall also provide that within two years after
29 the effective date of P.L.1989, c.173 (C.26:2H-14.4 et al.), every
30 nursing home included within the provisions of this act, and every
31 residential health care facility as specified in this paragraph, shall
32 be equipped with air conditioning, except that the commissioner
33 may grant a nursing home or residential health care facility a waiver
34 from the air conditioning requirement to give the nursing home or
35 residential health care facility one additional year to comply with
36 the air conditioning requirement, for which waiver the nursing
37 home or residential health care facility shall apply on a form and in
38 a manner prescribed by the commissioner, if the nursing home or
39 residential health care facility can demonstrate to the satisfaction of
40 the commissioner that the failure to grant such a waiver would pose
41 a serious financial hardship to the nursing home or residential
42 health care facility. The air conditioning shall be operated so that
43 the temperature in all areas used by patients or residents does not
44 exceed **[82]** 81 degrees Fahrenheit. The air conditioning
45 requirement established in this subsection shall apply to a identical

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 health care facility only: (1) upon enactment into law of legislation
2 that increases the rate of reimbursement provided by the State under
3 the Supplemental Security Income program, P.L.1973, c.256
4 (C.44:7-85 et seq.), which rate is certified by the Commissioner of
5 Health to be sufficient to enable the facility to meet the costs of
6 complying with the requirement; and (2) if the facility qualifies for
7 funds for energy efficiency rehabilitation through the "Petroleum
8 Overcharge Reimbursement Fund," established pursuant to
9 P.L.1987, c.231 (C.52:18A-209 et seq.), which funds can be applied
10 towards equipping the facility with air conditioning. A nursing
11 home or residential health care facility shall not directly assess
12 patients or residents for the purchase or installation of the air
13 conditioning equipment.

14 (2) The regulations shall also provide that within two years after
15 the effective date of P.L.2015, c.125 (C.55:13B-5.1 et al.), every
16 dementia care home shall be equipped with air conditioning, except
17 that the commissioner may grant a dementia care home a waiver
18 from the air conditioning requirement to give the dementia care
19 home one additional year to comply with the air conditioning
20 requirement, for which waiver the dementia care home shall apply
21 on a form and in a manner prescribed by the commissioner, if the
22 dementia care home can demonstrate to the satisfaction of the
23 commissioner that the failure to grant such a waiver would pose a
24 serious financial hardship to that facility. The air conditioning shall
25 be operated so that the temperature in all areas used by residents
26 does not exceed ~~82~~ 81 degrees Fahrenheit. A dementia care
27 home shall not directly assess residents for the purchase or
28 installation of the air conditioning equipment; and

29 b. Patients or residents are identified by predisposition, due to
30 illness, medication or otherwise, to heat-related illness and that
31 during a heat emergency, their body temperature, dehydration status
32 and other symptoms of heat-related illness are monitored frequently
33 and regularly, any anomalies are promptly reported to the attending
34 physician, and any necessary therapeutic or palliative measures are
35 instituted, including the provision of liquids, where required.

36 c. A nursing home, or a residential health care facility owned
37 by a licensed health care facility and licensed by the Department of
38 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), may exceed
39 the temperature limit established pursuant to this section, provided
40 that it is in compliance with the temperature standards established
41 pursuant to 42 C.F.R.483.15(h)(6).

42 (cf: P.L.2015, c.125, s.5)

43

44 2. Section 2 of P.L.1989, c.173 (C.26:2H-14.4) is amended to
45 read as follows:

46 2. a. A nursing home or residential health care facility
47 included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et
48 seq.) which is constructed or expanded after the effective date of

1 P.L.1989, c.173 (C.26:2H-14.4 et al.), or a dementia care home
2 included within the provisions of P.L.1984, c.114 (C.26:2H-14.1 et
3 seq.) which is constructed or expanded after the effective date of
4 P.L.2015, c.125 (C.55:13B-5.1 et al.), shall be equipped with air
5 conditioning and heating in all areas used by patients or residents,
6 and the air conditioning and heating shall be operated so that the
7 temperature in these areas does not exceed **82** 81 degrees
8 Fahrenheit or fall under 65 degrees Fahrenheit. All areas used by
9 patients or residents shall be maintained within a temperature range
10 from 65 to 81 degrees Fahrenheit, except in rooms:

11 (1) designated for activities requiring physical exertion; or

12 (2) where residents can individually control the temperature in
13 their own living units, independent from other areas.

14 b. A nursing home, or a residential health care facility owned
15 by a licensed health care facility and licensed by the Department of
16 Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), may
17 maintain a temperature in an area used by patients or residents that
18 does not fall within the range provided pursuant to subsection a. this
19 section, provided that it is in compliance with the temperature
20 standards established pursuant to 42 C.F.R.483.15(h)(6).

21 (cf: P.L.2015, c.125, s.6)

22
23 3. (New section) The Commissioner of Health may grant a
24 waiver to a nursing home or residential health care facility in the
25 case of any unusual event which results from natural or unnatural
26 causes beyond the control of the facility, including, but not limited
27 to, the declaration of a state of emergency or disaster by the State or
28 by the federal government, which results in the inability of the
29 facility to maintain the temperature guidelines detailed in section 3
30 of P.L.1984, c.114 (C.26:2H-14.3), or section 2 of P.L.1989, c.173
31 (C.26:2H-14.4).

32
33 4. Section 6 of P.L.1979, c.496 (C.55:13B-6) is amended to
34 read as follows:

35 6. The commissioner shall establish standards to ensure that
36 every rooming and boarding house in this State is constructed and
37 operated in such a manner as will protect the health, safety, and
38 welfare of its residents and at the same time preserve and promote a
39 homelike atmosphere appropriate to such facilities, including, but
40 not limited to, standards to provide for the following:

41 a. Safety from fire;

42 b. Safety from structural, mechanical, plumbing, and electrical
43 deficiencies;

44 c. Adequate light and ventilation;

45 d. Physical security;

46 e. Protection from harassment, fraud, and eviction without due
47 cause;

48 f. Clean and reasonably comfortable surroundings;

- 1 g. Adequate personal and financial services rendered in
- 2 boarding houses;
- 3 h. Disclosure of owner identification information;
- 4 i. Maintenance of orderly and sufficient financial and
- 5 occupancy records;
- 6 j. Referral of residents, by the operator, to social service and
- 7 health agencies for needed services;
- 8 k. Assurance that no constitutional, civil, or legal right will be
- 9 denied solely by reason of residence in a rooming or boarding
- 10 house;
- 11 l. Reasonable access for employees of public and private
- 12 agencies, and reasonable access for other citizens upon receiving
- 13 the consent of the resident to be visited by them;
- 14 m. Opportunity for each resident to live with as much
- 15 independence, autonomy, and interaction with the surrounding
- 16 community as the resident is capable of doing **[.]** ; and
- 17 n. (Deleted by amendment, P.L.2015, c.125)
- 18 o. An approved heating and cooling system capable of
- 19 maintaining the temperature of the facility within the required
- 20 range. In all areas used by residents, the operator shall maintain the
- 21 rooming and boarding house at a temperature within the range of 65
- 22 through 81 degrees Fahrenheit, except in rooms:
- 23 (1) designated for activities requiring physical exertion; or
- 24 (2) where residents can individually control the temperature in
- 25 their own living units, independent from other areas.
- 26 (cf: P.L.2015, c.125, s.13)

27

28 5. (New section) The operator of an emergency shelter for the

29 homeless shall maintain all areas used by persons admitted to such

30 shelter at a temperature no higher than 81 degrees Fahrenheit, and

31 no lower than 65 degrees Fahrenheit.

32

33 6. This act shall take effect on the first day of the sixth month

34 next following enactment.

35

36

37 STATEMENT

38

39 This bill requires that the temperature within emergency shelters,

40 rooming and boarding houses, dementia care homes, nursing homes,

41 and residential health care facilities be maintained within a range of

42 65 through 81 degrees Fahrenheit. This standard would not apply

43 to nursing facilities, or to residential health care facilities that are

44 owned by a licensed health care facility and licensed by the

45 Department of Health, that are in compliance with the federal

46 regulatory standard for nursing homes participating in the Medicare

47 and Medicaid programs, which requires facilities to maintain a

48 temperature range of 71 to 81 degrees Fahrenheit.

1 The temperature requirements under this bill would be restricted
2 to areas of the facilities that are used by the residents or patients.
3 The temperature requirements would not apply to rooms designated
4 for activities requiring physical exertion, or rooms where residents
5 can individually control the temperature in their own living units,
6 independent from other areas.

7 In the case of nursing homes and residential health care facilities,
8 current law permits the Commissioner of Health to waive certain air
9 conditioning requirements if compliance with the requirements
10 would cause serious financial hardship, or if the nursing home or
11 residential health care facility has not been constructed or expanded
12 since August 17, 1989. This bill does not remove these existing
13 exceptions to temperature control requirements.