SENATE, No. 1333

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Regulates smoking in multiple dwellings; requires Commissioner of Community Affairs to promulgate construction standards for new multiple dwellings permitting smoking.

CURRENT VERSION OF TEXT

As introduced.

AN ACT regulating smoking in multiple dwellings and supplementing P.L.2005, c.383 (C.26:3D-55 et seq.) and P.L.1975, c.217 (C.52:27D-119 et seq.).

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

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Air pressure differential" means an air pressure that is lower than surrounding areas, generally caused by exhausting air from a sealed space.

"Dwelling unit" means dwelling unit as defined in section 3 of the "Hotel and Multiple Dwelling Act," P.L.1967, c.76 (C.55:13A-3) and includes private outdoor spaces associated with units, including but not limited to balconies or patios.

"Multiple dwelling" means multiple dwelling as defined in section 3 of the "Hotel and Multiple Dwelling Act," P.L.1967, c.76 (C.55:13A-3).

"Newly constructed" means any project for which a construction permit is issued subsequent to the effective date of regulations promulgated to effectuate P.L. , c. (C.) (pending before the Legislature as this bill).

"Owner" means the person who owns, purports to own, or exercises control of any multiple dwelling.

"Smoking" means smoking as defined in section 3 of the "New Jersey Smoke-Free Air Act," P.L.2005, c.383 (C.26:3D-57).

"Separate smoking room" means an enclosed room, the exclusive purpose of which is for smoking.

"Water column" means a standard unit of measurement for air pressure differential.

2. a. The owner of an existing multiple dwelling may prohibit smoking in the multiple dwelling, including in individual dwelling units.

b. On or before January 1, 2015, every owner of a multiple dwelling shall designate any nonsmoking dwelling units in which smoking is prohibited. Nonsmoking units must be contiguously grouped together both horizontally and vertically, and physically separated from units where smoking is permitted to the maximum extent practicable.

c. Every landlord shall maintain a list of units in which smoking is allowed and nonsmoking units, and also a floor plan identifying the relative position of smoking and nonsmoking units. The floor plan also shall identify the location of any separate smoking areas. A copy of this list, floor plan, and a copy of any procedures for addressing smoking-related complaints shall

accompany every new written lease or other agreement for the occupancy of a unit in a multiple dwelling.

d. Every written lease or agreement involving new occupancy of a unit in a multiple dwelling shall include language specifying whether smoking is permitted in the unit. The lease or agreement for occupancy shall contain a clause stating that it is a substantial violation or breach of the lease or agreement to:

(1) violate any State law or local government resolution or ordinance regulating smoking while on the premises;

(2) smoke in a nonsmoking unit; or

(3) smoke in any common area in which smoking is prohibited by the landlord.

3. a. Smoking shall not be permitted in any portion of a newly constructed multiple dwelling unless that newly constructed multiple dwelling meets standards adopted by the Commissioner of Community Affairs pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. A least one public entrance to a newly constructed multiple dwelling shall be into an area of the multiple dwelling where smoking is prohibited.

c. Smoking shall be prohibited in any common restroom, and in any maintenance area of a newly constructed or existing multiple dwelling.

d. (1) In any newly constructed or existing multiple dwelling containing a separate smoking room, a person shall not conduct business transactions, including, but not limited to, the sale by vending machines of food, beverages, or any other product, in a separate smoking room. Any doors to a separate smoking room shall remain closed except to the extent necessary to permit ingress and egress to and from that separate smoking room.

(2) A separate smoking room shall not contain the sole means of ingress and egress to any restrooms or other smoke-free area, and shall not constitute the sole indoor waiting or lobby area of the premises. Any doors in such room shall be self-closing. A separate smoking room shall not exceed 10 percent of the aggregate square footage of the premises, including non-smoking lounges, and shall not in any event exceed 350 square feet.

e. The Commissioner of Health, in consultation with the Commissioner of Community Affairs, shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate this section.

4. The Commissioner of Community Affairs, in consultation with the Commissioner of Health, as part of a building subcode applying to residential multiple dwellings, and adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), shall adopt standards for the purpose of

decreasing health risks in multiple dwellings that permit smoking. The Commissioner of Community Affairs shall adopt construction standards to protect the health of nonsmoking residents of a multiple dwelling while allowing other residents to smoke in their dwelling units. The standards may include construction and testing requirements and shall provide, at a minimum, that:

a. Any interior portion of a multiple dwelling where smoking is permitted, including, but not limited to, an individual dwelling or a separate smoking room, shall be structurally separated from any portion of the multiple dwelling in which smoking is prohibited and shall be separately vented to prevent the recirculation of air from such area to the areas of the multiple dwelling where smoking is prohibited.

b. Ingress and egress to and from any interior portion of a multiple dwelling where smoking is permitted shall be through a door providing structural separation from any interior portion of a multiple dwelling where smoking is prohibited.

c. Every multiple dwelling where smoking is permitted shall have mechanical ventilation for units that reduces second hand smoke or ensures that second hand smoke does not travel between units.

d. Any interior portion of a newly constructed multiple dwelling intended to be used as a separate smoking room shall have a ventilation system in which the ventilation rate is at least 60 cubic feet per minute per occupant based on a maximum occupancy of seven individuals per 100 feet of floor space, and the exhaust capacity for the separate smoking room shall be sufficient to establish an air pressure differential of at least three hundredths of an inch of water column relative to the air pressure in an adjacent room in which smoking is not permitted. Such ventilation system shall discharge air from the separate smoking room at least 25 feet away from operable windows, doors, air conditioning, and any other heating, ventilation, and air conditioning intakes.

5. This act shall take effect immediately.

STATEMENT

This bill would regulate smoking in both new and existing multiple dwellings. This legislation requires the Commissioner of Health to promulgate standards delineating where smoking is prohibited in multiple dwellings. The Commissioner of Community Affairs would be required to promulgate standards for the construction of new multiple dwellings to reduce the risks of second-hand smoke for nonsmokers.

For new and existing multiple dwellings, this bill supplements the "New Jersey Smoke-Free Air Act," P.L.2005, c.383

(C.26:3D:55 et seq.) to permit owners of multiple dwellings to prohibit smoking in individual dwelling units. If enacted, the legislation would require multiple dwelling owners to designate any units in which smoking is prohibited, and to maintain a floor plan of the smoking and nonsmoking units. That floor plan must accompany every new written lease or agreement for occupancy of a unit in a multiple dwelling.

This bill also would prohibit the conduct of business in spaces in a multiple dwelling used exclusively for smoking. The bill would limit the size of all separate smoking rooms and require that the rooms have self-closing doors.

The bill also requires that newly constructed multiple dwellings that permit smoking meet construction standards promulgated by the Commissioner of Community Affairs. At a minimum, these standards must include separate ventilation for smoking rooms and areas where smoking is permitted, and structural separation between interior spaces where smoking is prohibited and those where it is permitted. Separate smoking areas would also be required to maintain lower air pressure than surrounding areas to keep cigarette smoke from drifting into adjoining spaces.