SENATE, No. 2940

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:
Senator JOSEPH PENNACCHIO
District 26 (Essex, Morris and Passaic)

Co-Sponsored by:
Senator Connors

SYNOPSIS

Clarifies spitting in law enforcement officer's food or drink constitutes aggravated assault; requires certain sanctions on restaurant employees who commit this crime.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/8/2020)

AN ACT concerning aggravated assault against law enforcement officers, amending P.L.1997, c.182, and supplementing Title 26 of the Revised Statutes.

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

1. Section 2 of P.L.1997, c.182 (C.2C:12-13) is amended to read as follows:

2. a. A person who throws a bodily fluid at a Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, probation officer, any sheriff, undersheriff or sheriff's officer or any municipal, county, or State law enforcement officer while in the performance of the person's duties or otherwise purposely subjects **[**such**]** an employee to contact with a bodily fluid commits an aggravated assault. If the victim suffers bodily injury, this shall be a crime of the third degree. If the victim's food was spit upon or beverage spit into, this shall be a crime of the third degree, and, notwithstanding the provisions of N.J.S.2C:43-3, the person shall be fined $15,000. Otherwise, this shall be a crime of the fourth degree. A term of imprisonment imposed for this offense shall run consecutively to any term of imprisonment currently being served and to any other term imposed for another offense committed at the time of the assault. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for a violation or attempted violation of chapter 11 of Title 2C of the New Jersey Statutes **[**or**]** , subsection b. of N.J.S.2C:12-1, or any other provision of the criminal laws.

b. For the purposes of this section, a person "subjects an employee to contact with a bodily fluid" if the person spits on an employee's food or into an employee's beverage.

(cf: P.L.2019, c.219, s.4)

2. (New section) a. A restaurant employer shall immediately suspend any employee that is charged with a violation of section 2 of P.L.1997, c.182 (C.2C:12-13). If the employee is convicted of the violation of section 2 of P.L.1997, c.182 (C.2C:12-13), the restaurant employer shall terminate the employee.

b. A restaurant employer who fails to comply with subsection a. of this section shall be subject to a civil penalty in an amount not to exceed $500 for the first violation and $1,000 for each subsequent violation, collectible by the Department of Labor and Workforce Development in a summary proceeding pursuant to the

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.

"Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. The Commissioner of the Department of Labor and Workforce Development shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

d. For the purposes of this section, "restaurant" shall have the same meaning as defined in section 1 of P.L.1983, c.488 (C.26:3E-1).

3. This act shall take effect immediately.

STATEMENT

This bill clarifies that spitting on the food or into the beverage of a law enforcement officer constitutes aggravated assault. The bill also requires restaurants to impose certain sanctions on an employee who engages in this conduct.

Under current law, a person who throws a bodily fluid at a law enforcement officer while in the performance of the person's duties or otherwise purposely subjects the officer to contact with a bodily fluid commits aggravated assault. It is a crime of the third degree if the officer suffers bodily injury. Otherwise, it is a crime of the fourth degree. A third degree crime generally is punishable by a term of imprisonment of three to five years, a fine of up to $15,000, or both. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of $10,000, or both.

This bill clarifies that subjecting a law enforcement officer to contact with a bodily fluid includes spitting on an officer's food or into the officer's beverage and that this is a crime of the third degree. In addition to the three to five year term of imprisonment, the bill provides for a mandatory fine of $15,000.

The bill also requires a restaurant employer to suspend an employee who is charged with aggravated assault for spitting in an officer's food or drink and fire the employee if convicted of the crime. A restaurant employer who violates this provision is to be civilly fined up to $500 for the first violation and up to $1,000 for each subsequent violation. The bill defines a restaurant as "any facility or part thereof in which food is prepared and provided or served for consumption on the premises, but shall not include mobile food establishments or any temporary food establishment which operates at a fixed location for a limited period of time in connection with a fair, carnival, public exhibition, or similar transitory gathering or charitable fund raising event."