

CHAPTER 6 SMOKE-FREE AIR

Authority

N.J.S.A. 26:1A-15 and 16 through 19, and 26:3D-55 et seq.,
particularly 26:3D-64.

Source and Effective Date

R.2007 d.170, effective May 21, 2007.
See: 38 N.J.R. 1925(a), 38 N.J.R. 3095(a), 39 N.J.R. 2027(a).

Chapter Expiration Date

Chapter 6, Smoke-Free Air, expires on May 21, 2012.

Chapter Historical Note

Chapter 6, Qualifications of Superintendents or Operators of Public Water Supply Systems, Water Treatment Plants and Sewage Treatment Plants was adopted January 7, 1969, and became effective October 1, 1969.

Chapter 6, Qualifications of Superintendents or Operators of Public Water Supply Systems, Water Treatment Plants and Sewage Treatment Plants, was repealed by R.2001 d.18, effective January 2, 2001. See: 32 N.J.R. 3367(a), 33 N.J.R. 45(c).

Chapter 6, Smoke-Free Air, was adopted as new rules by R.2007 d.170, effective May 21, 2007. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:6-1.1 Purpose

The purpose of this chapter is to implement P.L. 2005, c. 383, the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq.

8:6-1.2 Definitions

(a) The following words and terms are defined in the Act at N.J.S.A. 26:3D-55 et seq., particularly 26:3D-57 and 59, and are used in this chapter as defined in the Act:

“Bar”;
 “Casino”;
 “Casino simulcasting facility”;
 “Cigar bar”;
 “Cigar lounge”;
 “Indoor public place”;
 “Person having control of an indoor public place”;
 “Smoking”;
 “Tobacco retail establishment”; and
 “Workplace”.

(b) As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Backstream” means recirculate, as that term is defined in the mechanical subcode of the New Jersey State Uniform Construction Code at N.J.A.C. 5:23-3.20.

“Commission” means the New Jersey Casino Control Commission as that term is defined at N.J.S.A. 5:12-14.

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

“Establishment” means a place of business, commerce or other service-related activity, whether public or privately-owned or operated on a for-profit or nonprofit basis.

“Exterior area” means an area that is not structurally enclosed.

1. Potential examples of exterior areas, depending upon whether an area is structurally enclosed, can include balconies, courtyards, decks, gazebos, parking lots, patios, porches, sidewalks, terraces, or yards.

“Evenly distributed” means, with respect to the openings used to qualify a space as not structurally enclosed, the area of the smallest opening is no less than 20 percent of the total opening area necessary to qualify the space as being not structurally enclosed.

“Generally accessible to the public,” when used to describe an establishment, means:

1. Persons other than persons having control of an establishment are permitted or required to enter the establish-

ment, for any purpose, regardless of whether the entry is occasional or routine; or

2. Persons other than persons having control of the establishment perform a service or labor at the establishment, regardless of whether the service or labor is performed for profit or remuneration or on a non-profit or volunteer basis, and regardless of whether the service or labor is performed occasionally or routinely.

“Incidental” means minor and occasional.

1. The sale of food or beverages for on-site consumption is a not an incidental sale of other products.

“Indoor Environments Program” means the program by that name established in the Public Health Services Branch of the Department, the mailing address of which is: Indoor Environments Program, Consumer and Environmental Health Services, Public Health Services Branch, New Jersey Department of Health and Senior Services, PO Box 369, Trenton, NJ 08625-0369.

“Local board of health” shall have the meaning provided at N.J.A.C. 8:52-2.1.

“Local health agency” shall have the meaning provided at N.J.A.C. 8:52-2.1.

1. A searchable database and downloadable list of local health agencies, the municipalities over which they have jurisdiction, and their contact information is available at <http://nj.gov/health/lh/directory/lhdselectcounty.htm>.

2. Contact information for local health agencies is available in the government listings section (blue pages) of most telephone directories.

3. The Department shall provide contact information for local health agencies upon request made by telephone to (609) 292-4993 or in writing to the Office of Public Health Infrastructure, PO Box 360, Trenton, NJ 08625-0360.

“New Jersey design professional” means:

1. A person licensed in New Jersey as a registered architect pursuant to Title 45 of the New Jersey Statutes, particularly N.J.S.A. 45:3-1 et seq., and the rules promulgated pursuant thereto at N.J.A.C. 13:27; or

2. A person licensed in New Jersey as a professional engineer pursuant to Title 45 of the New Jersey Statutes, particularly N.J.S.A. 45:8-27 et seq., and the rules promulgated pursuant thereto at N.J.A.C. 13:40.

“New Jersey-licensed certified public accountant” means a person licensed in New Jersey as a certified public accountant pursuant to Title 45 of the New Jersey Statutes, particularly N.J.S.A. 45:2B-42 et seq., and the rules promulgated pursuant thereto at N.J.A.C. 13:29.

“Not structurally enclosed” means: