

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, DECEMBER 1, 1987

SESSION OF 1987

171ST OF THE GENERAL ASSEMBLY

No. 77

HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.s.t.

THE SPEAKER (K. LEROY IRVIS) IN THE CHAIR

PRAYER

REV. DR. DAVID R. HOOVER, chaplain of the House of Representatives, from McConnellsburg, Pennsylvania, offered the following prayer:

Everlasting Lord and Father of all mankind, as we come to the end of another Thanksgiving season and look forward with anticipation and joy to the holiday season which is rapidly approaching, we pause in Thy presence to express our honor and praise to Thee for Thy nearness, Thy abiding spirit, and the eternal counsel and might which is Thine to give. We humbly pray that we may realize we need to plan and prepare for the days which lie ahead so that the coming holidays do not catch us unprepared. This is a time of joy and fulfillment, and we need to make the most of every single moment. O God, may we open our hearts to Thee and Thy indwelling, may we reach out to others in love and concern, and may we experience the extension of Thy blessed peace. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was delivered by members and visitors.)

JOURNALS APPROVED

The SPEAKER. The Chair has been informed that the Journals for Monday, October 19, 1987, and Tuesday, October 20, 1987, are in print. Unless the Chair hears objection, those Journals will stand as approved, and the Chair does not hear such objection.

JOURNAL APPROVAL POSTPONED

The SPEAKER. However, the Journal for Tuesday, November 24, 1987, is not yet in print, so absents objection thereto, the Chair will pass over the approval of that Journal until it is in print, and the Chair does not hear objection to that.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2017 By Representatives HERMAN, HALUSKA, TRELLO, NAHILL, SHOWERS, RAYMOND, JAROLIN, BARLEY, DISTLER, E. Z. TAYLOR, NOYE, BELARDI, JACKSON, PHILLIPS, LEVDANSKY, GODSHALL, TIGUE, VEON, DIETTERICK, HESS, BUNT, McHALE, MRKONIC, ARTY, STABACK, DURHAM, RUDY, JOHNSON, SCHULER, BATTISTO, GEIST, PETRARCA, ARGALL, MAINE, CARLSON, McVERRY and MICOZZIE

An Act amending the act of June 11, 1968 (P. L. 149, No. 84), known as the "Volunteer Firemen's Relief Association Act," further providing for the expenditure of funds; and making an editorial change.

Referred to Committee on LOCAL GOVERNMENT, December 1, 1987.

No. 2018 By Representatives HERMAN, TIGUE, ARTY, RYBAK, E. Z. TAYLOR, TRELLO, PHILLIPS, LEVDANSKY, VEON, HESS, BUNT, McHALE, MRKONIC, DISTLER, STABACK, DURHAM, JACKSON, JOHNSON, GEIST, JAROLIN, NAHILL, CARLSON, RAYMOND, DeLUCA, PETRARCA, STAIRS and MICOZZIE

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," further providing for the services to be provided by area agencies for aging.

Referred to Committee on HEALTH AND WELFARE, December 1, 1987.

No. 2019 By Representatives CALTAGIRONE, STEIGHNER, NOYE, VEON, RAYMOND and ANGSTADT

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), known as the "Pennsylvania Election Code," further providing for exceptions to certain advertising requirements by candidates, political committees and other persons.

Referred to Committee on STATE GOVERNMENT, December 1, 1987.

No. 2020 By Representatives TRELLO, MAYERNIK, COLE, NAHILL, LaGROTTA,

VAN HORNE, OLASZ, McCALL,
D. R. WRIGHT, LLOYD, GALLEN,
DUFFY, HECKLER, DAVIES, LEH,
GAMBLE, DEMPSEY, ANGSTADT,
DeWEESE, MOWERY, BOOK and
CORNELL

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," removing the market value/income aid ratio from the formula for small school district assistance.

Referred to Committee on EDUCATION, December 1, 1987.

No. 2021 By Representatives HOWLETT, NAHILL,
JAROLIN, FEE, KOSINSKI, NOYE,
WASS, MAIALE, YANDRISEVITS,
MELIO, BELARDI, RAYMOND,
PISTELLA, O'BRIEN, STABACK,
PHILLIPS, TRELLO, STEIGHNER,
VEON, KENNEY, COLAFELLA, TIGUE,
BARLEY, BUNT, JADLOWIEC,
LEVDANSKY, LANGTRY,
E. Z. TAYLOR, FISCHER,
R. C. WRIGHT, J. TAYLOR and ACOSTA

An Act requiring the Department of Environmental Resources to notify affected legislators of permit and license actions.

Referred to Committee on CONSERVATION,
December 1, 1987.

No. 2022 By Representatives O'DONNELL and
WESTON

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," further providing for certain corporate taxes.

Referred to Committee on FINANCE, December 1, 1987.

No. 2023 By Representatives DAWIDA, BATTISTO,
GODSHALL, SAURMAN, MORRIS,
SHOWERS, FARGO, S. H. SMITH and
HECKLER

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, regulating the awarding of punitive damages.

Referred to Committee on JUDICIARY, December 1, 1987.

No. 2024 By Representatives BUSH, BOYES, NOYE,
HAYES, FARGO, KOSINSKI, SCHULER,
G. SNYDER, CARLSON, RAYMOND,
GLADECK, FOX, McCALL, GAMBLE,
ARGALL, KUKOVICH, BUNT, TIGUE,
DISTLER, CHADWICK, JACKSON,
STABACK, CIVERA, MORRIS, BELARDI,
TRELLO, GRUPPO, SIRIANNI,
KASUNIC, J. TAYLOR, MERRY,
PETRARCA and FLICK

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," requiring public hearings in municipalities prior to the issuance of any permit.

Referred to Committee on CONSERVATION,
December 1, 1987.

No. 2025 By Representatives BALDWIN, DALEY,
JAROLIN, McVERRY, LASHINGER,
BOOK, KOSINSKI, VEON, CORRIGAN,
KENNEY, DISTLER, BELFANTI,
RAYMOND, FOX, BELARDI, PHILLIPS,
HALUSKA, TRELLO, COLE,
PETRARCA, FISCHER, JADLOWIEC,
JOHNSON, DeLUCA, MICOZZIE,
WOGAN, STABACK, FEE,
YANDRISEVITS, MRKONIC,
CALTAGIRONE, MARKOSEK, STUBAN
and MELIO

An Act designating Interstate Route 78 as the Catholic War Veterans Highway.

Referred to Committee on TRANSPORTATION,
December 1, 1987.

No. 2026 By Representatives BURNS, J. L. WRIGHT,
CLYMER, CORRIGAN, MELIO and
REINARD

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), known as "The Second Class Township Code," increasing the amount of tax which may be levied for the purpose of supporting ambulance and rescue squads serving the township.

Referred to Committee on FINANCE, December 1, 1987.

No. 2027 By Representative WILSON

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, limiting prosecutions for killing fish or damaging streams in certain cases.

Referred to Committee on GAME AND FISHERIES,
December 1, 1987.

No. 2028 By Representatives DALEY, KASUNIC,
JAROLIN, STEIGHNER, CORRIGAN,
MAINE and McHALE

An Act amending the act of June 11, 1968 (P. L. 149, No. 84), known as the "Volunteer Firemen's Relief Association Act," further providing for the expenditure of volunteer firemen's relief association funds.

Referred to Committee on LOCAL GOVERNMENT,
December 1, 1987.

No. 2029 By Representatives McCALL, STEVENS,
BALDWIN, BATTISTO, BELARDI,
BLAUM, YANDRISEVITS,
D. W. SNYDER, STUBAN, SEMMEL,
PRESSMANN, CAWLEY, HASAY,
JAROLIN, CALTAGIRONE, DAVIES,
GRUPPO, ARGALL, DIETTERICK,
BELFANTI and LUCYK

An Act making an appropriation to the Department of Environmental Resources for the purpose of acquiring real property in Carbon County, Pennsylvania, to be used as a State park.

Referred to Committee on APPROPRIATIONS, December 1, 1987.

SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

SB 125, PN 1600

Referred to Committee on JUDICIARY, December 1, 1987.

SB 311, PN 1181

Referred to Committee on PROFESSIONAL LICENSURE, December 1, 1987.

SB 730, PN 1594

Referred to Committee on LABOR RELATIONS, December 1, 1987.

SB 875, PN 1078

Referred to Committee on CONSERVATION, December 1, 1987.

SB 882, PN 1582

Referred to Committee on JUDICIARY, December 1, 1987.

LEAVES OF ABSENCE

The SPEAKER. The Chair turns now to leaves of absence. The Chair recognizes the gentleman from Lawrence, Mr. Fee.

Mr. FEE. Mr. Speaker, the gentleman from Northumberland, Mr. BELFANTI, for the week, and the gentleman from Clinton-Centre Counties, Mr. LETTERMAN, for the week.

The SPEAKER. The leaves are granted, there being no objection thereto.

The Chair recognizes the minority whip.

Mr. HAYES. Thank you, Mr. Speaker.

I request a leave for the gentleman from Delaware County, Mr. FREIND, for the week; the gentleman from Delaware County, Mr. Robert WRIGHT, for the day; and the gentleman from Lancaster County, Mr. SCHEETZ, for the day.

The SPEAKER. The leaves are granted, there being no objection. The Chair hears no objection.

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that the following bills be lifted from the tabled calendar and placed on the active calendar:

- HB 1454;
- HB 1684;
- HB 1823;

- HB 1988;
- SB 1067; and
- SB 1068.

On the question,
Will the House agree to the motion?
Motion was agreed to.

SENATE MESSAGE

**AMENDED HOUSE BILL
RETURNED FOR CONCURRENCE**

The clerk of the Senate, being introduced, returned **HB 459, PN 2535**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

COMMUNICATION

LOBBYIST LIST PRESENTED

The SPEAKER. The Chair acknowledges receipt from Mark Corrigan, Secretary of the Senate, and John Zubeck, Chief Clerk of the House, who filed, in compliance with Act No. 712 of the 1961 session, the Lobbying Registration and Regulation Act, the list of current lobbyists with their names and addresses. The clerk will file the report.

The following communication was submitted:

Senate of Pennsylvania
December 1, 1987

To the Honorable, the Senate of the
Commonwealth of Pennsylvania
To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania

In compliance with Act No. 712 of the 1961 Session and Act No. 212 of the 1976 Session of the General Assembly titled the "Lobbying Registration and Regulation Act," we herewith jointly present a list containing the names and addresses of the persons who have registered from November 1, 1987 through November 30, 1987, inclusive, for the 171st Session of the General Assembly. This list also contains the names and addresses of the organizations represented by these registrants.

Respectfully submitted:
Mark R. Corrigan, Secretary
Senate of Pennsylvania
John J. Zubeck, Chief Clerk
House of Representatives

(For list, see Appendix.)

MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll call for the day. The members will proceed to vote.

The following roll call was recorded:

PRESENT—198

- | | | | |
|----------|------------|-----------|------------|
| Acosta | Dombrowski | LaGrotta | Reinard |
| Angstadt | Donatucci | Langtry | Richardson |
| Argall | Dorr | Lashinger | Rieger |
| Arty | Duffy | Laughlin | Ritter |

Baldwin	Durham	Leh	Robbins
Barley	Evans	Lescovitz	Roebuck
Battisto	Fargo	Levdansky	Rudy
Belardi	Farmer	Linton	Ryan
Billow	Fattah	Livengood	Rybak
Birmelin	Fee	Lloyd	Saloom
Black	Fischer	Lucyk	Saurman
Blaum	Flick	McCall	Schuler
Book	Foster	McClatchy	Semmel
Bortner	Fox	McHale	Serafini
Bowley	Freeman	McVerry	Seventy
Bowser	Gallen	Maiale	Showers
Boyes	Gamble	Maine	Sirianni
Brandt	Gannon	Manderino	Smith, B.
Broujos	Geist	Manmiller	Smith, S. H.
Bunt	George	Markosek	Snyder, D. W.
Burd	Gladeck	Mayernik	Snyder, G.
Burns	Godshall	Melio	Staback
Bush	Gruitza	Merry	Stairs
Caltagirone	Gruppo	Michlovic	Steighner
Cappabianca	Hagarty	Micozzie	Stevens
Carlson	Haluska	Miller	Suban
Carn	Harper	Moehlmann	Sweet
Cawley	Hasay	Morris	Taylor, E. Z.
Cessar	Hayden	Mowery	Taylor, F.
Chadwick	Hayes	Mrkonic	Taylor, J.
Civera	Heckler	Murphy	Telek
Clark	Herman	Nahill	Tigue
Clymer	Hershey	Noye	Trello
Cohen	Hess	O'Brien	Truman
Colafella	Honaman	O'Donnell	Van Horne
Cole	Howlett	Olasz	Veon
Cornell	Hughes	Oliver	Vroon
Corrigan	Hutchinson	Perzel	Wambach
Cowell	Itkin	Petrarca	Wass
Coy	Jackson	Petrone	Weston
DeLuca	Jadlowiec	Phillips	Wiggins
DeVerter	Jarolin	Piccola	Wilson
DeWeese	Johnson	Pievsky	Wogan
Daley	Josephs	Pistella	Wozniak
Davies	Kasunic	Pitts	Wright, D. R.
Dawida	Kennedy	Pressmann	Wright, J. L.
Dempsey	Kenney	Preston	Yandrisevits
Dietterick	Kitchen	Punt	
Dininni	Kosinski	Raymond	Irvis,
Distler	Kukovich	Reber	Speaker

ADDITIONS—0

NOT VOTING—0

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

WELCOME

The SPEAKER. The Chair welcomes, as the guests of Representative Tom Corrigan, Supervisor Richard Goulding and Supervisor-elect John Domarski of Falls Township in Bucks County. They are to the left of the Speaker. Please rise. Welcome to the hall of the House. We are delighted to have you here.

CALENDAR

BILLS ON SECOND CONSIDERATION

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 265, PN 2547; HB 1727, PN 2548; and HB 1739, PN 2164.

* * *

The House proceeded to second consideration of **HB 389, PN 422**, entitled:

An Act amending the act of December 1, 1977 (P. L. 237, No. 76), known as the "Local Economic Revitalization Tax Assistance Act," adding provisions relating to new construction in deteriorated areas.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader. Mr. MANDERINO. Mr. Speaker, I move that HB 389 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The following bill, having been called up, was considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 978, PN 1075.

* * *

The House proceeded to second consideration of **HB 1658, PN 2068**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," providing for an increase in the discount rate for collecting tax.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader. Mr. MANDERINO. Mr. Speaker, I move that HB 1658 be recommitted to the Committee on Appropriations for a fiscal note.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1782, PN 2534**, entitled:

An Act amending the act of July 3, 1986 (P. L. 351, No. 81), entitled "An act amending the act of July 7, 1947 (P. L. 1368, No. 542), entitled, as amended, 'An act amending, revising and consolidating the laws relating to delinquent county, city, except of the first and second class and second class A, borough, town, township, school district, except of the first class and school dis-

tricts within cities of the second class A, and institution districts taxes, providing when, how and upon what property, and to what extent liens shall be allowed for such taxes, the return and entering of claims therefor; * * *; and repealing existing laws,' * * *; and making editorial changes," extending the time limit on provisions relating to extension of the redemption period.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that **HB 1782** be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 1825, PN 2278; HB 1733, PN 2550; and HB 1716, PN 2141.

* * *

The House proceeded to second consideration of **HB 30, PN 33**, entitled:

An Act providing for the waiver of tuition at certain colleges and universities for certain veterans and their dependent children.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that **HB 30** be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 134, PN 143**, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, changing provisions relating to purchase of military service.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that **HB 134** be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1323, PN 1527**, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for eligibility for tuition credits.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that **HB 1323** be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1683, PN 2093**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," further providing for the payment of gratuities to children of certain veterans.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that **HB 1683** be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **SB 613, PN 678**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," permitting former prisoners of war to use certain State park camping facilities free of charge.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that SB 613 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **SB 873, PN 1261**, entitled:

An Act amending the act of October 11, 1972 (P. L. 899, No. 213), entitled "An act providing scholarships for certain dependents of members of the armed services who while on active duty are taken as prisoners of war or are reported missing in action and making an appropriation," further providing for eligible dependents; increasing the maximum academic year grant; making an appropriation; and providing for funding of grants.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that SB 873 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 1730, PN 2398; and HB 1731, PN 2549.

FILMING PERMISSION

The SPEAKER. John Sanks of WPVI is being given permission to film on the floor of the House.

BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

HB 1692, PN 2582 (Amended)

By Rep. TRELLO

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," excluding purchases or uses made by certain nonprofit organizations from sales tax.

FINANCE.

HB 1865, PN 2334

By Rep. TRELLO

An Act amending the act of May 21, 1931 (P. L. 149, No. 105), known as "The Liquid Fuels Tax Act," further providing for the refund of liquid fuels tax money collected from fuels used in snowmobiles for deposit into a restricted receipts account.

FINANCE.

HB 1904, PN 2414

By Rep. TRELLO

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," further defining the term "installment sales method of reporting."

FINANCE.

HB 2003, PN 2568

By Rep. TRELLO

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," excluding certain transactions from the realty transfer tax.

FINANCE.

HB 2004, PN 2569

By Rep. TRELLO

An Act amending the act of December 31, 1965 (P. L. 1257, No. 511), known as "The Local Tax Enabling Act," excluding certain transactions from realty transfer tax.

FINANCE.

HB 2016, PN 2581

By Rep. TRELLO

An Act amending the act of August 24, 1961 (P. L. 1135, No. 508), referred to as the "First Class A School District Earned Income Tax Act," further providing for the powers and duties of school district treasurers and for interest and penalties.

FINANCE.

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 2003 and HB 2004 both be lifted from the tabled calendar and placed on the active calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 2003 together with HB 2004 be recommitted for fiscal notes to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

WELCOMES

The SPEAKER. The Chair is delighted to welcome back to the hall of the House the gentleman, Mr. Lee Donaldson, and the gentleman, Mr. Ed Dardanell. Will they please step up

here so the members can see them. Come on up. Welcome to the hall of the House, gentlemen. We are all delighted to see both of you.

Terry Donaldson managed to keep Lee straight all the years he was up here in the House of Representatives. Welcome to the hall of the House, Terry.

If the gentleman, Mr. Donaldson, wants to wander up through the halls of the House, the Chair will not see an objection to it. Go right ahead.

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that HB 1730 be recommitted to the Committee on Appropriations.

On the question,

Will the House agree to the motion?

Motion was agreed to.

ANNOUNCEMENT BY MR. PIEVSKY

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Pievsky. Do you stand for reports of committee?

Mr. PIEVSKY. No. For the purpose of introducing a piece of legislation and getting sponsors, may I make a brief statement, Mr. Speaker?

The SPEAKER. You surely may.

Mr. PIEVSKY. Thank you, Mr. Speaker.

Mr. Speaker, tomorrow I plan to introduce the PENN-VEST capital budget bill, and it contains the water and sewer projects in every county of the State. If any member wishes to sponsor this legislation, they can call my staff, Mr. Speaker, and get their name affixed to the bill. Thank you, Mr. Speaker.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 429, PN 1565**, entitled:

An Act providing for the repurchase by the wholesaler, manufacturer or distributor from dealers or heirs of dealers, of certain equipment, certain attachments and parts held for sale upon termination of agreement whereby the dealer agrees to maintain a stock of such implements, attachments and parts, and for the repurchase of certain tools.

On the question,

Will the House agree to the bill on third consideration?

Mr. CHADWICK offered the following amendments No. A4548:

Amend Sec. 3, page 3, lines 10 through 30; page 4, lines 1 through 22, by striking out all of said lines on said pages and inserting

Section 3. Termination of dealer agreement.

(a) General provisions.—It shall be unlawful for a supplier to terminate, cancel or fail to renew a dealer agreement except as provided in subsection (b) or (c).

(b) Exceptions.—A supplier may terminate, cancel or fail to renew a dealer agreement if a dealer:

(1) Fails to consistently comply with essential and reasonable requirements imposed by the supplier.

(2) Has transferred ownership interest in the dealership without the manufacturer's or distributor's consent.

(3) Has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against it which has not been discharged within 30 days after the filing.

(4) Has pleaded guilty or has been convicted of a crime, or has been determined to be engaged in an unfair business practice, as defined in other laws of this Commonwealth, the effect of which would be detrimental to the manufacturer, distributor or dealership.

(5) Has failed to operate in a normal course of business for ten consecutive business days or has terminated or voluntarily abandoned said business.

(6) Has relocated the dealer's place of business without the manufacturer's or distributor's consent.

(7) Has defaulted under any chattel mortgage or other security agreement between the dealer and the supplier, or there has been a revocation or discontinuance of any guarantee of the dealer's present or future financial obligations to the supplier.

(c) Other exceptions.—Subject to the provisions of this subsection, a supplier may terminate, cancel or fail to renew a dealer agreement under such conditions as may be provided for in the dealer agreement. When a dealer agreement is terminated or canceled or has failed to be renewed by the supplier under a condition provided for in the dealer agreement, other than a condition set forth in subsection (b), the supplier, upon written request of the dealer, shall pay to the dealer, or credit to the dealer's account if the dealer has outstanding any sums owing the supplier:

(1) A sum equal to 100% of the net cost of all equipment that the dealer purchased from the supplier and not previously sold and put into regular use or service preceding notification by either party of intent to cancel, terminate or fail to renew the dealer agreement.

(2) A sum equal to 100% of the current net price of repair parts, including superseded repair parts, previously purchased from the supplier and 75% of the current net price of specialized repair tools previously purchased pursuant to the requirements of the supplier and held by the dealer on the date of termination, cancellation or failure to renew the dealer agreement. In addition, the supplier shall pay the dealer, or credit to the dealer's account if the dealer has outstanding any sums owing the supplier, a sum equal to 5% of the current net price of all repair parts, excluding incoming freight cost, and specialized repair tools returned to the supplier to compensate the dealer for the inventory, packing and loading of the same to the supplier, provided that the supplier may perform such inventory, packing and loading in lieu of paying 5% to the dealer. Upon the payment or allowance of credit to the dealer's account, as applicable, in the sum required by this section, all of the dealer's title and interest in and to the equipment, repair parts and specialized repair tools shall pass to the supplier, and the supplier shall be entitled to the possession of the same. Payments or allowance of credit to the dealer, as applicable, required by this section shall be made no later than 90 days after such termination, cancellation or discontinuance or 60 days after the supplier's receipt of the equipment, repair parts or specialized repair tools.

(3) In the event a dealer terminates a dealer agreement, the obligation of the supplier to repurchase equipment, repair parts and specialized repair tools shall be governed by the terms and conditions then in effect in the dealer agreement between the supplier and the dealer and not by the provisions of this act.

(d) Burden of proof.—The supplier shall bear the burden of proof to establish that cancellation, termination or failure to renew was made for good cause as provided in this section.

(e) Written notice required.—No supplier shall terminate, cancel or fail to renew, either directly or indirectly, through any officer, agent or employee, a dealer agreement for the reasons specified in subsection (b)(1) or (2) without giving the dealer at least 90 days' written notice setting forth the reasons for such termination, cancellation or failure to renew. A supplier may terminate, cancel or fail to renew a dealer agreement for the reasons specified in subsection (b)(3) through (7) effective immediately upon receipt of written notice from the supplier to the dealer setting forth such reasons.

(f) Deficiencies may be cured.—Except for termination, cancellation or discontinuance for reasons set forth in subsection (b)(3) through (7), the supplier shall allow the dealer no less than 60 days to cure the deficiencies set forth in the notice required under subsection (e). Any such time provided to the dealer to cure deficiencies shall be calculated from the date of receipt of notice.

Amend Sec. 9, page 7, lines 2 through 30; page 8, lines 1 through 20, by striking out all of said lines on said pages

Amend Sec. 10, page 8, line 21, by striking out "10" and inserting

9

Amend Sec. 11, page 8, line 27, by striking out "11" and inserting

10

Amend Sec. 12, page 9, line 2, by striking out "12" and inserting

11

Amend Sec. 13, page 9, line 5, by striking out "13" and inserting

12

Amend Sec. 14, page 9, line 15, by striking out "14" and inserting

13

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Bradford, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

Despite the length of this amendment, it is only intended to correct an inherent contradiction that was in the bill which was discovered, my understanding is, by the House Democratic legal staff. This amendment does correct that inherent contradiction.

I would appreciate an affirmative vote.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Fayette, Mr. Taylor.

Mr. F. TAYLOR. Thank you, Mr. Speaker.

We are in agreement with the amendment.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—192

Acosta	Dombrowski	LaGrotta	Reinard
Angstadt	Donatucci	Langtry	Rieger
Argall	Dorr	Lashingner	Ritter
Arty	Duffy	Laughlin	Robbins
Baldwin	Durham	Leh	Roebuck
Barley	Evans	Lescovitz	Rudy
Battisto	Fargo	Levdansky	Ryan

Belardi	Farmer	Linton	Rybak
Billow	Fattah	Livengood	Saloom
Birmelin	Fee	Lloyd	Saurman
Black	Fischer	Lucyk	Schuler
Blaum	Flick	McCall	Semmel
Book	Foster	McClatchy	Serafini
Bortner	Fox	McHale	Seventy
Bowley	Freeman	McVerry	Showers
Bowser	Gallen	Maiale	Sirianni
Boyes	Gamble	Maine	Smith, B.
Brandt	Gannon	Manderino	Smith, S. H.
Broujos	Geist	Manmiller	Snyder, D. W.
Burd	George	Markosek	Snyder, G.
Burns	Gladeck	Mayernik	Staback
Bush	Godshall	Melio	Stairs
Caltagirone	Gruitza	Merry	Steighner
Cassabianca	Gruppo	Michlovic	Stevens
Carlson	Haluska	Miller	Stuban
Carn	Harper	Moehlmann	Sweet
Cawley	Hasay	Morris	Taylor, E. Z.
Cessar	Hayden	Mowery	Taylor, F.
Chadwick	Hayes	Mrkonic	Taylor, J.
Civera	Heckler	Murphy	Telek
Clark	Herman	Noye	Tigue
Clymer	Hershey	O'Brien	Trello
Cohen	Hess	O'Donnell	Truman
Colafella	Honaman	Olasz	Van Horne
Cole	Howlett	Oliver	Veon
Cornell	Hughes	Perzel	Vroon
Corrigan	Hutchinson	Petrarca	Wambach
Cowell	Itkin	Petrone	Wass
Coy	Jackson	Phillips	Weston
DeLuca	Jadlowiec	Piccola	Wiggins
DeVerter	Jarolin	Pievsky	Wilson
DeWeese	Johnson	Pistella	Wogan
Daley	Josephs	Pitts	Wozniak
Davies	Kasunic	Pressmann	Wright, D. R.
Dawida	Kennedy	Preston	Wright, J. L.
Dempsey	Kenney	Punt	
Dietterick	Kitchen	Raymond	Irvis,
Dininni	Kosinski	Reber	Speaker
Distler	Kukovich		

NAYS—1

Yandrisevits

NOT VOTING—5

Bunt	Micozzie	Nahill	Richardson
Hagarty			

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendments were agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. CHADWICK offered the following amendment No. A4531:

Amend Sec. 13, page 9, lines 6 through 14, by striking out all of said lines and inserting

The provisions of this act shall apply to existing dealer agreements which can be terminated at will and to dealer agreements entered into or renewed after the effective date of this act. Nothing contained in this section is intended to violate section 17 of Article I of the Constitution of Pennsylvania, relative to impairing the obligations of contracts.

On the question,
Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Bradford, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

The last section of the bill explains what contracts the bill will be applicable to. I liked the bill the way it was, but there was a concern expressed by the minority leader that the bill in its current form might be unconstitutional because of the constitutional prohibition regarding changing existing contracts. The language of this amendment is intended to alleviate that concern of the minority leader.

I would appreciate an affirmative vote.

The SPEAKER. On the amendment, the Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, I agree with the gentleman, Mr. Chadwick. I think the bill as drafted would fail to meet the test of constitutionality on impairment of contract.

Accordingly, I would support the amendment that the gentleman is offering at this time, and, incidentally, withdraw my own amendments which have been circulated.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—188

Acosta	Dombrowski	LaGrotta	Rieger
Angstadt	Dorr	Langtry	Ritter
Argall	Duffy	Lashinger	Robbins
Arty	Durham	Laughlin	Roebuck
Baldwin	Evans	Leh	Rudy
Barley	Fargo	Lescovitz	Ryan
Battisto	Farmer	Levdansky	Rybak
Belardi	Fattah	Livengood	Saloom
Billow	Fee	Lloyd	Saurman
Birmelin	Fischer	Lucy	Schuler
Black	Flick	McCall	Semmel
Blaum	Foster	McClatchy	Serafini
Book	Fox	McHale	Seventy
Bortner	Freeman	McVerry	Showers
Bowley	Gallen	Maiale	Sirianni
Bowser	Gamble	Maine	Smith, B.
Boyes	Gannon	Manderino	Smith, S. H.
Brandt	Geist	Manmiller	Snyder, D. W.
Broujos	George	Markosek	Snyder, G.
Burd	Gladeck	Mayernik	Staback
Burns	Godshall	Melio	Stairs
Bush	Gruitza	Merry	Steighner
Caltagirone	Gruppo	Michlovic	Stevens
Cappabianca	Hagarty	Miller	Suban
Carlson	Haluska	Moehlmann	Sweet
Carn	Harper	Morris	Taylor, E. Z.
Cawley	Hasay	Mowery	Taylor, F.
Cessar	Hayden	Mrkonic	Taylor, J.
Chadwick	Hayes	Murphy	Telek
Civera	Heckler	Nahill	Tigue
Clark	Herman	Noye	Trello
Clymer	Hershey	O'Brien	Truman
Colafella	Hess	O'Donnell	Van Horne
Cole	Honaman	Olasz	Veon
Cornell	Howlett	Perzel	Vroon
Corrigan	Hutchinson	Petrarca	Wambach
Cowell	Itkin	Petrone	Wass
Coy	Jackson	Phillips	Weston
DeLuca	Jadlowiec	Piccola	Wiggins

DeVerter	Jarolin	Pievsky	Wilson
DeWeese	Johnson	Pistella	Wogan
Daley	Josephs	Pitts	Wozniak
Davies	Kasunic	Pressmann	Wright, D. R.
Dawida	Kennedy	Punt	Wright, J. L.
Dempsey	Kenney	Raymond	
Dietterick	Kitchen	Reber	Irvis,
Dininni	Kosinski	Reinard	Speaker
Distler	Kukovich		

NAYS—1

Yandrisevits

NOT VOTING—9

Bunt	Hughes	Micozzie	Preston
Cohen	Linton	Oliver	Richardson
Donatucci			

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—191

Acosta	Distler	Kukovich	Rieger
Angstadt	Dombrowski	LaGrotta	Ritter
Argall	Dorr	Lashinger	Robbins
Arty	Duffy	Laughlin	Roebuck
Baldwin	Durham	Leh	Rudy
Barley	Evans	Lescovitz	Ryan
Battisto	Fargo	Levdansky	Rybak
Belardi	Farmer	Linton	Saloom
Billow	Fattah	Livengood	Saurman
Birmelin	Fee	Lloyd	Schuler
Black	Fischer	Lucy	Semmel
Blaum	Flick	McCall	Serafini
Book	Foster	McClatchy	Seventy
Bortner	Fox	McHale	Showers
Bowley	Freeman	McVerry	Sirianni
Bowser	Gallen	Maiale	Smith, B.
Boyes	Gamble	Maine	Smith, S. H.
Brandt	Gannon	Manderino	Snyder, D. W.
Broujos	Geist	Manmiller	Snyder, G.
Bunt	George	Markosek	Staback
Burd	Gladeck	Mayernik	Stairs
Burns	Godshall	Melio	Steighner
Bush	Gruitza	Merry	Stevens
Caltagirone	Gruppo	Michlovic	Suban
Cappabianca	Hagarty	Miller	Sweet
Carlson	Haluska	Moehlmann	Taylor, E. Z.
Carn	Harper	Morris	Taylor, F.
Cawley	Hasay	Mrkonic	Taylor, J.
Cessar	Hayden	Murphy	Telek
Chadwick	Hayes	Nahill	Tigue
Civera	Heckler	Noye	Trello
Clark	Herman	O'Brien	Truman
Clymer	Hershey	O'Donnell	Van Horne
Cohen	Hess	Olasz	Veon
Colafella	Honaman	Perzel	Vroon
Cole	Howlett	Petrarca	Wambach

Cornell	Hutchinson	Petrone	Wass
Corrigan	Itkin	Phillips	Weston
Cowell	Jackson	Piccola	Wiggins
Coy	Jadlowiec	Pievsky	Wilson
DeLuca	Jarolin	Pistella	Wogan
DeVertter	Johnson	Pitts	Wozniak
DeWeese	Josephs	Pressmann	Wright, D. R.
Daley	Kasunic	Preston	Wright, J. L.
Davies	Kennedy	Punt	Yandrisevits
Dawida	Kenney	Raymond	
Dempsey	Kitchen	Reber	Irvis,
Dietterick	Kosinski	Reinard	Speaker
Dininni			

NAYS—2

Langtry	Mowery
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NOT VOTING—5

Donatucci	Micozzie	Oliver	Richardson
Hughes			

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Berks, Mr. Gallen. Why does the gentleman rise?

Mr. GALLEN. To correct a vote, Mr. Speaker.

Mr. Speaker, on SB 429 I inadvertently voted in the affirmative. I would like to be recorded in the negative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of SB 26, PN 1464, entitled:

An Act amending the act of April 27, 1927 (P. L. 465, No. 299), entitled, as amended, "Fire and Panic Act," providing for specialized smoke detectors for the deaf and hearing impaired in lodging houses, hotels and motels; requiring smoke detectors in class IV buildings; and requiring that hotels and motels furnish information concerning measures taken for protection from fire.

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. PIEVSKY offered the following amendments No. A4259:

Amend Sec. 1 (Sec.3.3), page 2, line 26, by inserting after "FIRE—"

(a)

Amend Sec. 1 (Sec.3.3), page 3, by inserting between lines 5 and 6

(b) Any travel agency arranging accommodations in a foreign hotel or motel shall, upon request of the persons who will utilize the facilities, attempt to acquire information concerning the measures which have been taken at the hotel or motel for protection from fire. The information provided or a statement regarding the failure of the hotel or motel to provide such information shall be provided in writing to the person requesting such information.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Pievsky.

Mr. PIEVSKY. Thank you, Mr. Speaker.

Mr. Speaker, this amendment addresses the requirement that hotels and motels provide information regarding their fire and panic safety features. We have no way to require such information from foreign facilities.

My amendment would require travel agents, when requested, to seek such information regarding a foreign facility's fire and panic safety features. The agency would then be required to forward to their customer the information acquired or a statement that no information was received.

Mr. Speaker, I urge your support for this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—193

Acosta	Donatucci	LaGrotta	Rieger
Angstadt	Dorr	Langtry	Ritter
Argall	Duffy	Lashingier	Robbins
Arty	Durham	Laughlin	Roebuck
Baldwin	Evans	Leh	Rudy
Barley	Fargo	Lescovitz	Ryan
Battisto	Farmer	Levdansky	Rybak
Belardi	Fattah	Linton	Saloom
Billow	Fee	Livengood	Saurman
Birmelin	Fischer	Lloyd	Schuler
Black	Flick	Lucyk	Semmel
Blaum	Foster	McCall	Serafini
Book	Fox	McClatchy	Seventy
Bortner	Freeman	McHale	Showers
Bowley	Gallen	McVerry	Sirianni
Bowser	Gamble	Maiale	Smith, B.
Boyes	Gannon	Maine	Smith, S. H.
Brandt	Geist	Manderino	Snyder, D. W.
Broujos	George	Manmiller	Snyder, G.
Bunt	Gladeck	Markosek	Staback
Burd	Godshall	Mayernik	Stairs
Burns	Gruitza	Melio	Steighner
Bush	Gruppo	Michlovic	Stevens
Caltagirone	Hagarty	Miller	Suban
Cappabianca	Haluska	Morris	Sweet
Carlson	Harper	Mowery	Taylor, E. Z.
Carn	Hasay	Mrkonic	Taylor, F.
Cawley	Hayden	Murphy	Taylor, J.
Cessar	Hayes	Nahill	Telek
Chadwick	Heckler	Noye	Tigue
Civera	Herman	O'Brien	Trello
Clark	Hershey	O'Donnell	Truman
Clymer	Hess	Olasz	Van Horne
Cohen	Honaman	Oliver	Veon
Colafella	Howlett	Perzel	Vroon
Cole	Hughes	Petrarca	Wambach
Cornell	Hutchinson	Petrone	Wass
Corrigan	Itkin	Phillips	Weston
Cowell	Jackson	Piccola	Wiggins

Coy	Jadlowiec	Pievsky	Wilson
DeLuca	Jarolin	Pistella	Wogan
Daley	Johnson	Pitts	Wozniak
Davies	Josephs	Pressmann	Wright, D. R.
Dawida	Kasunic	Preston	Wright, J. L.
Dempsey	Kennedy	Punt	Yandrisevits
Dietterick	Kenney	Raymond	
Dininni	Kitchen	Reber	Irvis,
Distler	Kosinski	Reinard	Speaker
Dombrowski	Kukovich	Richardson	

NAYS—3

DeVerter	Merry	Moehlmann
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NOT VOTING—2

DeWeese	Micozzie
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EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendments were agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. COHEN offered the following amendments No. A4122:

Amend Title, page 1, lines 15 and 16, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Title, page 1, line 17, by striking out "SMOKE DETECTORS" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.1), page 1, line 26, by striking out "Smoke Detectors" and inserting

Automatic Fire Detection Devices

Amend Sec. 1 (Sec. 3.1), page 2, line 3, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.1), page 2, line 5, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.1), page 2, line 9, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.1), page 2, line 12, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.1), page 2, line 14, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.1), page 2, line 16, by striking out "smoke detectors" and inserting

automatic fire detection devices

Amend Sec. 1 (Sec. 3.2), page 2, line 20, by striking out "SMOKE DETECTORS" and inserting

Automatic Fire Detection Devices

Amend Sec. 1 (Sec. 3.2), page 2, line 21, by inserting after "AUTOMATIC"

fire

Amend Sec. 1 (Sec. 3.3), page 3, lines 2 and 3, by striking out "SMOKE DETECTORS" and inserting

automatic fire detection devices

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, this amendment changes the words "smoke detectors" to "automatic fire detection devices" throughout the bill. The Department of Labor and Industry believes "smoke detector" is not a sufficiently clear legal word and that "automatic fire detection devices" is a clear phrase which will withstand any court challenges to what its meaning is.

I urge support for this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—196

Acosta	Dombrowski	LaGrotta	Reinard
Angstadt	Donatucci	Langtry	Rieger
Argall	Dorr	Lashinger	Ritter
Arty	Duffy	Laughlin	Robbins
Baldwin	Durham	Leh	Roebuck
Barley	Evans	Lescovitz	Rudy
Battisto	Fargo	Levdansky	Ryan
Belardi	Farmer	Linton	Rybak
Billow	Fattah	Livengood	Saloom
Birmelin	Fee	Lloyd	Saurman
Black	Fischer	Lucyk	Schuler
Blaum	Flick	McCall	Semmel
Book	Foster	McClatchy	Serafini
Bortner	Fox	McHale	Seventy
Bowley	Freeman	McVerry	Showers
Bowser	Gallen	Maiale	Sirianni
Boyes	Gamble	Maine	Smith, B.
Brandt	Gannon	Manderino	Smith, S. H.
Broujos	Geist	Manmiller	Snyder, D. W.
Bunt	George	Markosek	Snyder, G.
Burd	Gladeck	Mayernik	Staback
Burns	Godshall	Melio	Stairs
Bush	Gruitza	Merry	Steighner
Caltagirone	Gruppo	Michlovic	Stevens
Cappabianca	Hagarty	Miller	Stuban
Carlson	Haluska	Moehlmann	Sweet
Carn	Harper	Morris	Taylor, E. Z.
Cawley	Hasay	Mowery	Taylor, F.
Cessar	Hayden	Mrkonic	Taylor, J.
Chadwick	Hayes	Murphy	Telek
Civera	Heckler	Nahill	Tigle
Clark	Herman	Noye	Trello
Clymer	Hershey	O'Brien	Truman
Cohen	Hess	O'Donnell	Van Horne
Colafella	Honaman	Olasz	Veon
Cole	Howlett	Oliver	Vroon
Cornell	Hughes	Perzel	Wambach
Corrigan	Hutchinson	Petrarca	Wass
Cowell	Itkin	Petrone	Weston
Coy	Jackson	Phillips	Wiggins
DeLuca	Jadlowiec	Piccola	Wilson
DeVerter	Jarolin	Pievsky	Wogan
DeWeese	Johnson	Pistella	Wozniak
Daley	Josephs	Pitts	Wright, D. R.
Davies	Kasunic	Pressmann	Wright, J. L.
Dawida	Kennedy	Preston	Yandrisevits
Dempsey	Kenney	Punt	
Dietterick	Kitchen	Raymond	Irvis,
Dininni	Kosinski	Reber	Speaker
Distler	Kukovich		

NAYS—0

NOT VOTING—2

Micozzie Richardson

EXCUSED—5

Belfanti Letterman Scheetz Wright, R. C.
Freind

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. REBER offered the following amendments No. A4375:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1, page 3, by inserting between lines 5 and 6

Section 3.4. School Tobacco Control Act.—(a) Tobacco use by a pupil is prohibited in school buildings and school buses and on school property owned by, leased by or under the control of a school district.

(b) (1) The department shall promulgate regulations necessary to enforce the prohibition of tobacco use.

(2) The department shall publish and distribute to all pupils and parents a copy of this section and the regulations promulgated under this subsection.

(c) This section supersedes any municipal ordinance or school board regulation to the contrary.

(d) Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.

(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Department." The Department of Education of the Commonwealth.

"School." A school operated by a joint board, board of directors or school board where pupils are enrolled in compliance with Article XIII of the act of March 10, 1949 (P.L.30, No.14),

known as the "Public School Code of 1949." The term includes area vocational-technical schools and intermediate units.

"Smoking." Includes possession of a lighted cigarette, cigar, pipe or other lighted smoking equipment.

"Tobacco use." Includes smoking and the use of smokeless tobacco in any form.

Section 2. Section 12 of the act is amended to read:

Section 12. Failure to Comply with Provisions of this Act.—

(a) Whenever the owner of any building or structure, as described in this act, or the rules and regulations of the Department of Labor and Industry formulated under the authority of this act, and upon whom a written order shall have been served by the Department of Labor and Industry to comply with the said provisions of this act and the rules and regulations of the Department of Labor and Industry, and who nevertheless shall have failed to comply with the said written order within the time specified in the same, the Department of Labor and Industry shall be authorized to immediately order the building or structure to be vacated or placed out of service until such time as the requirements of this act and the rules and regulations of the Department of Labor and Industry shall have been fully complied with.

(b) The department may assess a civil penalty of fifty dollars (\$50) against a person who violates section 3.4.

Amend Sec. 2, page 3, line 6, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, this particular amendment is classified as the School Tobacco Control Act. There was quite a bit of debate on the issue of smoking earlier 2 weeks ago, and it relates in many parts to the concern expressed by this amendment, the intent behind this amendment. I am not going to go into the dissertation on the issues as Representative Dawida did. I would only simply say that I agree with virtually all those statements that have already been placed on the record during earlier debate on the subject of smoking in general.

This particular amendment though, Mr. Speaker, I think is very unique in its drafting, very unique in the application, and most importantly, unique in the effect that it hopefully will have.

Mr. Speaker, I think there is no greater concern with our young people than was expressed recently in the debates that have taken place on the floor of the House here recently. Many school districts exhibit a concern for smoking that goes on in the public school system. And for the information of the members, if they have not been somewhat attuned to the various ways in which this problem has been handled heretofore and presently in the Commonwealth of Pennsylvania, I think it can be best said that it is done case by case, in a very hodgepodge, unique type of way.

What this particular amendment will do is, in essence, prohibit the smoking in public schools or any school in the Commonwealth of Pennsylvania relating to leased property or property under the control of that school or on a schoolbus owned by a school district. This particular amendment will

further take away what is rather repugnant to myself—and I know many members in speaking to them are concerned about that as well—in that the way this issue is handled to date in some areas is by securing passage by a municipality of a particular statute under the local municipal code applicable to that municipality and thereby creating a summary offense for the violation of some smoking ordinance which is impacted upon the school district and ultimately impacted upon the student.

What this particular amendment does is set up a standard unified statewide prohibition prohibiting the smoking by a pupil in a public school building, as I said earlier. More importantly, Mr. Speaker, the intent of this particular amendment is not to stigmatize or criminalize the student that may in fact violate this or some similar type of regulatory ordinance. What this will do, in essence, is create a civil penalty with a fine up to \$50, with a payment of a civil penalty up to \$50, for the violation of this particular prohibition.

I think, Mr. Speaker, this goes a long way to solve a lot of problems. First of all, it uniformly attacks the problem of smoking in public schools by students. Secondly, it takes away the stigmatization which in fact may impact upon a student who might be arrested, if you will, under current legislation that may be enforced by some municipalities for such a violation. And with that particular arrest on a summary offense, it may jeopardize that particular student's application for employment or application for higher education at a later date. So we are removing that type of criminalization and stigmatization also.

And finally, Mr. Speaker, I think we are going to form a uniform type of consideration for curbing the considerations that Representative Dawida has spoken about very eloquently on the issue of smoking in general. I think it goes a long way to solving problems that our school districts want solved, going a long way to solving problems that most of our students want solved in the school districts, and most importantly, goes a long way to handle the problem in what I consider to be a pragmatic and practical and yet not a punitive fashion where it is going to impact in the future on a student.

I would urge adoption. Thank you.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, will the gentleman, Mr. Reber, submit to interrogation?

The SPEAKER. Mr. Reber indicates he will stand for interrogation. You are in order, and you may proceed.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I wonder if the gentleman could inform us whether he has introduced this bill as an amendment to the School Code or not.

Mr. REBER. Mr. Speaker, this has not been introduced as an amendment to the School Code, no.

Mr. COHEN. Has it been introduced in any bill form whatsoever?

Mr. REBER. The bill has in fact been introduced in bill form. That is correct.

Mr. COHEN. And what committee is it in, Mr. Speaker?

Mr. REBER. That, Mr. Speaker, I am not sure of without looking it up in the Journal.

Mr. RYAN. Mr. Speaker?

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, I fail to see the relevance of the questions that the gentleman, Mr. Cohen, is asking, whether this type language is found in a bill in some committee somewhere. The question before the House is, are we in favor or not in favor of the Reber amendment?

The SPEAKER. Mr. Cohen, under interrogation, if you do know the answer to a question, you are not permitted to ask the question.

Mr. COHEN. I assure the Speaker I do not know the answer to the question.

The SPEAKER. Well, the Chair would advise you then that the gentleman, Mr. Ryan's point is well taken. Where this language may or may not have been submitted, when it may or may not have been submitted is not before the House. What is before the House is whether the House agrees with it. You must contain your interrogation to the matter before the House.

Mr. COHEN. Okay.

Mr. Speaker, what is before the House now is whether we should give the Department of Labor and Industry power to regulate the 501 school districts.

Mr. REBER. Mr. Speaker, am I still being interrogated?

Mr. COHEN. No, Mr. Speaker.

The SPEAKER. I think the interrogation is over.

Is the interrogation over, Mr. Cohen?

Mr. COHEN. Yes, the interrogation is over, Mr. Speaker.

The SPEAKER. Yes, the interrogation is over, Mr. Reber.

Mr. COHEN. Thank you very much.

Mr. REBER. Thank you, Mr. Speaker. I am sorry for the interruption.

The SPEAKER. You may now proceed, Mr. Cohen.

Mr. COHEN. Mr. Speaker, what is before the House right now is whether we should give the Department of Labor and Industry power over the 501 school districts in the State of Pennsylvania.

There are various reasons why we should not give the Department of Labor and Industry power over the 501 school districts. These reasons include the fact that the Department of Labor and Industry is unprepared to accept the power over the 501 school districts. The Department of Labor and Industry is fighting to stay within a limited budget and has a tremendous backlog in many, many areas. There are backlogs in unemployment compensation; there are backlogs in workers' compensation; there are backlogs in vocational rehabilitation; there are backlogs in elevator inspection; there are backlogs in safety inspection. The Department of Labor and Industry simply is not doing as good a job as it ought to be doing in the areas of responsibility it has right now. Giving the Department of Labor and Industry a whole new set of powers that it has no money to execute—and this amendment does not include an appropriation to the Department of Labor and

Industry—would be a very serious mistake. It would create the illusion that we are doing something while in effect we would be doing very, very little.

Secondly, Mr. Speaker, the Education Department exists, and I would submit that that department that is best able to regulate school districts in Pennsylvania is the Department of Education.

Now, Mr. Dawida introduced this amendment as an amendment to this bill because he had in the course of numerous sessions attempted to introduce bills seeking that the Health Department regulate smoking, and each time Mr. Dawida introduced this legislation before the Health and Welfare Committee, regardless of who the chairman of the Health and Welfare Committee was—and I believe there were at least three different individuals who chaired the Health and Welfare Committee over the period of time that Mr. Dawida tried to get this bill introduced—regardless of who the individual was, Mr. Dawida's amendment was never taken seriously enough—

Mr. RYAN. Mr. Speaker?

Mr. COHEN. —to be placed on the Health and Welfare Committee agenda.

The SPEAKER. Why do you rise, Mr. Ryan?

Mr. RYAN. Why, Mr. Speaker, do we have to listen to a tirade about Mr. Dawida's amendments never having been considered by different committee chairmen? The amendments for this bill are going to be offered or are offered by Mr. Dawida; they are circulated at least. Today we have something before us which is a Reber amendment. Can we not just stick with that question?

Mr. COHEN. Mr. Speaker, if the gentleman, Mr. Ryan, will let me continue without interruption, he will find out what the relevance of the things are that I am saying.

The SPEAKER. You may proceed, Mr. Cohen.

Mr. COHEN. Now, that situation does not exist with the Reber amendment. Mr. Reber has made no attempt to get this bill considered before the Education Committee. There has been no pattern that the Education Committee has been blocking this legislation—

The SPEAKER. Just a moment, Mr. Cohen. It makes no difference whatsoever whether Mr. Reber has introduced this before or whether he ever made an attempt before the Education Committee. You are going entirely too far afield. Limit yourself to why we should or should not adopt the Reber amendment. It has nothing to do with whether he made any attempt before to do this.

Mr. COHEN. Mr. Speaker, there is no reason why the Department of Education ought not to run the school systems in the State of Pennsylvania. There is no reason to believe that the Department of Labor and Industry has more expertise in running the school systems of Pennsylvania than the Department of Education does. No reason has been cited why the Department of Education is incapable of running this act. No reason has been cited why the Department of Education should not have this authority.

Local school districts have a lot more input on a day-to-day basis with the Department of Education than they do with the Department of Labor and Industry. They are well familiar with all of the intricacies of school districts throughout the State of Pennsylvania. There are established channels of communication between each of the 501 school districts in Pennsylvania and the Department of Education.

It is a very simple thing to give power to the Department of Education. It makes good sense to give power to the Department of Education. This amendment simply does not give power to the Department of Education; it gives it to a department that has no jurisdiction over the school districts of Pennsylvania. It gives it to a department that has no tradition of dealing with the school districts of Pennsylvania. It is going to create a lot of confusion for the Department of Labor and Industry. It will create confusion for the Department of Education. It will create confusion for each of the 501 school districts in the State of Pennsylvania, and it is just poor legislation. It makes no sense whatsoever to give it to this department. I would urge, therefore, that this amendment be defeated.

The SPEAKER. On the question of the Reber amendment, the Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Would the gentleman, Mr. Reber, consent to interrogation, please?

The SPEAKER. Mr. Reber indicates he will stand for further interrogation by Mr. Cowell.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, there seems to be some debate about which department of State Government would be responsible for the implementation of this amendment, and I would ask the maker of the amendment to clarify that. We have heard some debate very recently from Mr. Cohen about responsibilities given to the Department of Labor and Industry. However, in this amendment I see that "department" is defined as the Department of Education. So would you clarify which department shall promulgate regulations and which department shall publish and distribute to pupils the information?

Mr. REBER. Mr. Speaker, I can best respond to that question by simply saying that it is obvious that you read the amendment and the previous speaker did not read the amendment, for openers.

Under the amendment, the department that is going to promulgate regulations and regulate this, if you will, is in fact the Department of Education. There has been no usurping, if you will, of the intent of this amendment into L&I. It is the Department of Education that is going to promulgate it and work with the school districts, as would be the case under all circumstances. Labor and Industry, though, I think certainly has a legitimate concern, as line 20 on the first page of the bill states, "...CONCERNING MEASURES TAKEN FOR PROTECTION FROM FIRE;..." and that is exactly what this does. Labor and Industry gets involved in virtually all the aspects surrounding the construction of school buildings and the regulation for purposes of prohibiting fire and panic from

existing as a result of a fire in a school district. And I do not think there is any doubt that by Labor and Industry legislation, if you will, being the vehicle where in fact we are talking about taking all measures necessary to prohibit fire and panic from taking place, this is not a place for this to be considered. But I think, frankly, there is no doubt that the Department of Education is in fact, and I use this word with guarded remarks, "policing" this particular piece of legislation, and we are not adding to the administrative burdens of L&I to do the same.

Mr. COWELL. Mr. Speaker, furthermore in terms of questions, I am concerned, however, about your perhaps adding to the administrative burden of the Department of Education. Section (2) says that "The department shall publish and distribute to all pupils and parents a copy of this section and the regulations promulgated under this subsection." Now, the fiscal note that you requested assumes that the materials that would be distributed would somehow be carried home by students to parents, and that seems to suggest that the department would not have a direct role in distributing, i.e., through the mail, but instead would provide for distribution through school districts. Is that your intent or do you envision the Department of Education having primary responsibility to make sure that this material is delivered to every student and all parents throughout the Commonwealth?

Mr. REBER. Mr. Speaker, I cannot speak for the rationale or the factual basis for the fiscal note. I did not prepare that. I simply requested it, which is required under the rules of the House, and circulated it, which is under the rules of the House. I think the monetary amount set forth therein takes care of that, and I would submit if there is any rhyme or reason behind that, possibly the interrogation go to someone else on the Appropriations Committee or the chairman.

As far as the language regarding publishing and distributing, I think the department can be creative enough to get the information to disseminate the program, to disseminate the concern to the students and to the parents. I think that if the department is creative enough to do some of the things that we have seen recently they have created in the Department of Education over the years, they can certainly be creative enough to get word to the students and to the parents of a way to nonstigmatize this particular manner but yet prohibit it and appropriately regulate it.

Mr. COWELL. Mr. Speaker, would it be inconsistent with your intent if the Department of Education would print materials and provide for the distribution of those materials to parents and students through the school districts and by the school districts?

Mr. REBER. Mr. Speaker, I think anything that can be economical to accomplish the goals can be done. It is certainly my intent to leave the widest latitude to the department through the school districts and to virtually have the local school districts administer this particular type of program as best possible. I would tend to agree with your statement in part, yes.

Mr. COWELL. Thank you, Mr. Speaker.

The SPEAKER. On the Reber amendment, the Chair recognizes the gentleman from Adams, Mr. Cole, followed by Miss Sirianni.

Miss SIRIANNI. Mr. Speaker, may I interrogate Mr. Reber?

The SPEAKER. When your turn comes.

Miss SIRIANNI. Oh, I am sorry.

Mr. COLE. I will yield to the lady, Mr. Speaker.

The SPEAKER. You are afraid of her, too, huh?

The Chair recognizes the lady from Susquehanna, Miss Sirianni.

Do you wish to interrogate Mr. Reber?

Miss SIRIANNI. Mr. Speaker, does this include teachers?

Mr. REBER. Mr. Speaker, I would simply respond to the question of the gentle lady, Miss Sirianni, that in the Commonwealth of Pennsylvania, assuming that we are talking about teachers being adults—and I think from the certification process, they must reach that emancipation age to appropriately receive the appropriate degree to in fact be certified as a teacher—they are not prohibited from the purchasing of cigarettes, which is currently the law in Pennsylvania as it might relate to a student. I think it would be a very serious infringement upon the rights of people that are otherwise permitted the legal authority to purchase and possess these particular items to attempt to otherwise regulate them and prohibit them. So obviously I would not attempt to discriminate against a class such as teachers, which is legitimately authorized to do certain things in this area.

The SPEAKER. Miss Sirianni, he means no.

Miss SIRIANNI. Mr. Speaker, we have 18-year-olds in school, too, and that is legal for them. Is it not discriminatory to let the teachers smoke and not the 18-year-old students?

The SPEAKER. You are not asking the Chair that because you know what the Chair's prejudices are on that matter.

Miss SIRIANNI. No; I am asking Mr. Reber.

The SPEAKER. Mr. Reber.

Mr. REBER. Mr. Speaker, for brevity's sake, I will simply rely upon my earlier response.

The SPEAKER. Again the answer is no.

Miss SIRIANNI. Mr. Speaker, how is he going to patrol the football field and the baseball field and the hockey field and all of that with the students? It is on school property.

The SPEAKER. Do you want to try and answer that, Mr. Reber?

Mr. REBER. Mr. Speaker, I am not sure that I heard the full question, to be quite honest. Could the lady repeat that, please?

Miss SIRIANNI. Mr. Speaker, how does he plan to patrol the football field and the baseball field and the hockey field and so forth?

Mr. REBER. Mr. Speaker, I think the only way I can respond to that is, the language of the amendment as proposed permits the department to promulgate such regulations to enforce this particular concept. As I said before, the Department of Education has shown a propensity in the past

to be very and extremely creative in the guidelines that they hand down. I feel that they will again be able to rise to the occasion.

Miss SIRIANNI. Mr. Speaker, I think it behooves us to try to pass bills that are possible to enforce. I would hate to be the Department of Education and have to enforce this on any outdoor field and the property that belongs to a school.

The SPEAKER. The Chair thanks the lady.

Now, Mr. Cole, the floor is yours.

Mr. COLE. Thank you, Mr. Speaker.

Mr. Speaker, I support the Reber amendment. I did not want to get into the health aspects of this legislation, and I will mention at the time when I speak on the final passage of the bill why I am going to emphasize the health effects of this legislation. But I think that one of the things that is important in this amendment, the Reber amendment, is preventing smoking by young people, not only because they are on school property or attending school functions but because that is where many of our young people begin to learn to smoke. Yes, they do on the ballfield and the playing fields and so forth. But if that is school activity going on at that time, there is to be a supervising teacher there on the playing field or wherever other activities are taking place on school property. So there should be supervision there.

The important thing is we are trying to prevent people from smoking, and this is where a great percentage of them learn to smoke - in the boys' room, in the girls' room, out behind the school, and on the playing fields - and I think that we have an obligation to prevent smoking amongst our young people. We are paying the hundreds of millions of dollars to educate our children, and I think that we are not infringing on this social habit that they develop on school grounds during school time. So I urge your support for the Reber amendment because of the alarming statistics that we have that are related to smoke and to lung cancer.

WELCOME

The SPEAKER. The Chair welcomes to the hall of the House—they are in the gallery—a group from Johnstown. They are the guests of Representatives Wozniak, Billow, Haluska, and Telek. Welcome to the hall of the House. We are delighted to have you here.

CONSIDERATION OF SB 26 CONTINUED

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Markosek.

Mr. MARKOSEK. Thank you, Mr. Speaker.

Mr. Speaker, would the maker of the amendment please rise for brief interrogation?

The SPEAKER. Mr. Reber indicates he will stand for further interrogation. You are in order, and you may proceed.

Mr. MARKOSEK. Thank you, Mr. Speaker.

Mr. Speaker, my question centers around the fact that the Department of Ed is called upon to promulgate certain regulations regarding smoking in schools. I see in your amendment

you do not have anything regarding parochial schools, but because of the fact that the Department of Ed promulgates such regulations, could that be interpreted to apply to them also?

Mr. REBER. It is my intent, Mr. Speaker, to include those particular schools that you referenced, yes.

Mr. MARKOSEK. Have you checked the language to insure that that will occur? I would agree that we should do that as well.

Mr. REBER. It is my information, Mr. Speaker, that they would come under the penumbra, if you will, of the intent of this bill, and accordingly, I would submit that they do.

Mr. MARKOSEK. Okay. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I rise in favor of the Reber amendment. This is the first time, and if we are going to do anything with this type of legislation, we should address it in our school districts. Back in my legislative district the parent-teachers' associations today are starting to organize on this type of legislation. This way we can give them a clear message on how to go about it, because there are some facts that they do not know on how to proceed in enforcing this type of legislation in their various school districts. A lot of times municipalities do not want to get involved in drafting ordinances to help the school districts enforce this type of legislation. In this respect, we can have a uniform law and it will benefit the students of our Commonwealth. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Fox, on the amendment.

Mr. FOX. Thank you, Mr. Speaker.

Just briefly for the members, I think it is important to note that with this particular amendment, Mr. Reber has used some creativity in not having any criminal penalty but only a civil one. The only question is, do we want to encourage our students to smoke or not to smoke, and I think the Reber amendment is a positive step in the right direction. Thank you, Mr. Speaker.

The SPEAKER. On the amendment for the second time, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, we are told that this amendment sends a clear message, and—

The SPEAKER. Just a moment, Mr. Cohen.

Mr. Saurman, are you up to debate?

Mr. SAURMAN. Yes, Mr. Speaker.

The SPEAKER. The Chair apologizes to both of you. The Chair did not notice that Mr. Saurman was up, and he has not spoken yet for the first time.

The Chair recognizes the gentleman from Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

One of the things, Mr. Speaker, that I would like to do is to correct the record. A previous speaker indicated, and I think off of the Reber amendment, but nevertheless it is in the

record that the Dawida amendment was considered by the Health and Welfare Committee under three different chairmen with no action and that indicated a lack of interest. Mr. Speaker, in the last days of the last session the Health and Welfare Committee did in fact consider the Clean Indoor Air Act, and it passed unanimously out of committee and onto the floor but too late to be acted upon on the floor of the House.

Now I would like to speak more directly to the Reber amendment and indicate, for the very reason that no action has been taken in other areas, that Mr. Reber's approach to dealing with this smoking in school and the health problems that Representative Cole spoke to is a very unique one, an opportunity for us to take action on the floor today, to give a message but direction to a program that will indeed say to our young people that smoking is not good.

Mr. Speaker, the approach is one of safety, but in achieving that safety we are also going to be gaining some tremendous health benefits. I urge the support of the Reber amendment. Thank you.

The SPEAKER. Now the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, we are told that this amendment sends a clear message, and in a sense if we just go by today's vote, today's vote will send a clear message. But when we go beyond today's vote, when we go beyond the newspaper stories, the message will not at all be so clear. The Department of Education promulgates regulations. The Department of Education under this amendment, though, has no power to enforce the regulations. Local school districts under this amendment have no power to enforce the regulations.

Now, in Mr. Reber's amendment in section 3.4, when he says "School Tobacco Control Act," in that section of the bill Mr. Reber is referring to the Department of Education. However, when we go down to the second section, section 12, "Failure to Comply with Provisions of this Act," when we get there Mr. Reber is not talking about the Department of Education, he is talking about the Department of Labor and Industry.

Now, we are giving the Department of Education power to make regulations, but the Department of Labor and Industry has to enforce these regulations. The school districts have no power to enforce these regulations. So let us deal with a practical, everyday circumstance as to how it will work under this bill, and what we are dealing with is a specific legislative proposal here, not just a general idea. Of course we are all against kids smoking, but what we are dealing with here is not a resolution attacking teenage smoking; what we are dealing with is a specific plan to achieve a specific purpose.

Now, in a real-life, everyday situation under this bill, what happens is a teacher sees a student smoking. Now, I suppose the Department of Education is empowered to write regulations allowing the teacher to tell the kid not to smoke. The teacher is probably allowed to tell the kid that this is against the law. But in terms of actually enforcing the law, the teacher

has no power to actually enforce the law. The teacher's aide has no power to actually enforce the law. The principal has no power to actually enforce the law. What they have to do is call up the Department of Labor and Industry and have them send an inspector out. Now, the Department of Labor and Industry inspection system works for permanent violations. Like if an elevator is failing to work, you call the Department of Labor and Industry and they will stop by a few days later and they will see the elevator is not working anymore and they will issue a citation, or if something is unsafe, it will stay unsafe for a period of time. But the cigarette will long be out. The cigarette will long be out by the time the Department of Labor and Industry gets there.

Mr. Speaker, the point of the opposition to this amendment is that this amendment has no meaningful enforcement scheme. There is a very obvious possible enforcement scheme to this kind of legislation, and that enforcement scheme is to have the school districts, who deal with the kids on a day-to-day basis, enforce this legislation. The school districts could easily enforce this legislation through teachers, principals, and teachers' aides. Instead, Mr. Speaker, instead of having the obvious agency enforce this legislation, the people who see this violation occur, instead of having them enforce it, what they are doing is turning it over to the Department of Labor and Industry which does not have the manpower to do it, which does not have the relationships with the school districts to do it, and which, therefore, is not going to do a very good job if indeed it is going to do anything at all.

Mr. Speaker, Mr. Reber is well intentioned. He has a good idea that there ought to be State action to deal with this problem. But State action ought not to be undertaken by a department such as the Department of Labor and Industry; it ought to be undertaken by the Department of Education, which under Mr. Reber's amendment makes the regulations, but under Mr. Reber's amendment the Department of Education has no enforcement power and the local school districts have no enforcement power. Enforcement power ought to be in the local school districts. It ought to be in the Department of Education. It ought not to be in the Department of Labor and Industry. We ought to have an enforcement scheme that practically achieves the high ideals which motivated Mr. Reber to introduce this amendment.

I would urge that we vote not just to send a symbolic gesture but that we vote to do things in a meaningful fashion. I would therefore urge that this amendment be defeated, and then Mr. Reber perhaps ought to consider reintroducing another amendment which would give the power of enforcement to the Department of Education and to the local school districts. Thank you, Mr. Speaker.

The SPEAKER. For the second time on the amendment, the Chair recognizes the gentleman from Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, I would like to direct the attention of the previous speaker and other members of this House to page 2, paragraph (b), subsection (1), "The department shall promul-

gate regulations necessary to enforce the prohibition of tobacco use," and then, sir, to a further section, paragraph (b) at the bottom of the page, "The department may assess a civil penalty of fifty dollars (\$50) against a person who violates section 3.4," which is that very section of violation and enforcement. Therefore, Mr. Speaker, using that imagination which just created the scenario which put us in trouble with the Labor and Industry regulations, I would suggest that the previous speaker apply that same ingenuity to understand that the department, which has been defined as the Department of Education very clearly in the Reber amendment, can in fact develop the enforcement procedures up to that point where, if all else fails, it can in fact impose a civil penalty of \$50.

Mr. Speaker, once again, I think the language is all very clear, and I would recommend and ask for your support of the Reber amendment.

The SPEAKER. For the second time on the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, would Mr. Reber again consent to interrogation, please?

The SPEAKER. Mr. Reber indicates he will stand for further interrogation. You are in order. You may proceed.

Mr. COWELL. Mr. Speaker, if you could wait one second, I want to get a correct copy of your amendment.

Mr. Speaker, I would like to return to page 1 of your amendment, if I may, in the language that would amend the title of the act. I would like you to clarify, if you would, the intent of the language in the title of the act where a bracket appears before the words "not in cities of the first class, second class, and second class A," and a bracket appears after that phrase. Is it your intent or would it be the impact of this amendment to include in the provisions of the Fire and Panic Act cities of the first class, second class, and second class A?

Mr. REBER. Mr. Speaker, it is the intent of this particular amendment to be all-encompassing for virtually all of the school districts and students in the Commonwealth of Pennsylvania. The remedial bracketing that you are speaking about was done as a result of the earlier debate on this subject when I believe it was the minority leader, Representative Ryan, who raised the concern about the overall applicability at that time on the debate of the Dawida amendment encompassing only portions of the State. So it is my understanding that when these amendments were all redrafted, this particular amendment included, the instruction was given for this to have applicability statewide, not to have any municipality, if you will, be excluded.

Mr. COWELL. I understand that, Mr. Speaker, but the question is, in approving the amendment as you have drafted it, would we in fact make the entire Fire and Panic Act applicable to all municipalities in the Commonwealth, or have you structured this in such a way that only your language dealing with smoking in school buildings would be applicable to school buildings in all municipalities?

Mr. REBER. I would submit the latter.

Mr. COWELL. Mr. Speaker, are you clear about that though? Can you show us in your amendment, can you point to language in your amendment that would cause us to interpret it more narrowly rather than broadly?

Mr. REBER. Mr. Speaker, all I can say is that it is the intent of the language of this amendment to be given statewide applicability. That was the request in the drafting, and that is the manner in which it was done. I cannot say any more than that. I think it is crystal clear that it has the intent, as drafted, to encompass that.

PARLIAMENTARY INQUIRY

Mr. COWELL. Mr. Speaker, may I address a parliamentary inquiry to the Chair then, please?

The SPEAKER. You may.

Mr. COWELL. Mr. Speaker, in the Chair's judgment or perhaps the judgment of the Parliamentarian, if we would approve the Reber amendment—and I am making particular reference to the language on page 1 where we amend the act to read as follows, and then it says "AN ACT"; and I am particularly concerned about the brackets that appear in lines 2 and 3 of that amended language—would we in fact make the entire Fire and Panic Act applicable to all municipalities in the Commonwealth, or would we, as the maker of the amendment has suggested, only in a more narrow sense amend the law so that the no-smoking provisions would be applicable to all municipalities but other language in the Fire and Panic Act would still have the exemption for cities of the first class, second class, and second class A?

The SPEAKER. The opinion of the Chair, after conferring with the experts on the matter and reading the legislation himself, is that the passage of this would not amend the entire Fire and Panic Act to exclude cities of the first class, cities of the second class, and second class A. The specific section of the bill which is amended, section 15, is specifically amended by this amendment in section (d), saying "Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth." So therefore, the Chair thinks that the interpretation given by Mr. Reber is accurate and that it would apply throughout the Commonwealth with no exceptions.

Mr. COWELL. Mr. Speaker, I would like to be recognized to speak on the amendment.

The SPEAKER. The gentleman has the floor and may proceed.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I have a great deal of respect for my friend and colleague, Representative Cohen, the chairman of the Labor Relations Committee, but on this issue I must respectfully disagree with him. I ask that the members of the House support this particular amendment.

I do not believe that it is an undue intrusion in school matters and I do not believe that it presents us with a situation that would not be enforceable. I think in fact, on the other

hand, it would assist school districts, many of which find themselves somewhat frustrated in their attempts to deal with the problem of smoking on their premises, in their buildings, in their schoolbuses, and sometimes frustrated by the inability of municipal governments to provide them necessary assistance. And in terms of enforcement issues, I think that they are appropriately taken care of in the language where certain responsibilities are given to the Department of Education to promulgate rules and regulations. I think that in those rules and regulations they do provide an opportunity for the enforcement issue to be addressed so that school districts could be given certain authorities and responsibilities.

Finally, I would note with respect to the question-and-answer session that Mr. Reber and I engaged in, I do support this amendment with the understanding that the Department of Education will not be required to engage in a costly dissemination of material but instead will simply be responsible for preparing printed materials which in fact can be distributed to students and their parents through the 501 school districts around the Commonwealth. Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—169

Acosta	Evans	Laughlin	Ritter
Angstadt	Fargo	Leh	Robbins
Argall	Farmer	Lescovitz	Roebuck
Arty	Fattah	Levdansky	Rudy
Baldwin	Fee	Linton	Ryan
Barley	Fischer	Livengood	Rybak
Battisto	Flick	Lucyk	Saloom
Belardi	Foster	McCall	Saurman
Birmelin	Fox	McClatchy	Schuler
Black	Freeman	McHale	Semmel
Blaum	Gallen	McVerry	Serafini
Bortner	Gamble	Maiale	Seventy
Bowley	Gannon	Maine	Showers
Bowser	Geist	Manderino	Sirianni
Boyes	George	Manmiller	Smith, B.
Brandt	Godshall	Markosek	Smith, S. H.
Broujos	Gruppo	Mayernik	Snyder, G.
Bunt	Hagarty	Melio	Staback
Burns	Haluska	Merry	Stairs
Bush	Harper	Michlovic	Steighner
Cappabianca	Hasay	Miller	Stevens
Carlson	Hayden	Morris	Stuban
Carn	Hayes	Mrkonic	Sweet
Chadwick	Heckler	Murphy	Taylor, E. Z.
Civera	Herman	Nahill	Taylor, F.
Clymer	Hershey	O'Brien	Taylor, J.
Colafella	Hess	O'Donnell	Telek
Cole	Honaman	Olasz	Tigue
Cornell	Hughes	Oliver	Trello
Corrigan	Hutchinson	Petrarca	Truman
Cowell	Itkin	Petrone	Van Horne
Coy	Jackson	Phillips	Vroon
DeLuca	Jadlowiec	Piccola	Wambach
Daley	Jarolin	Pievsky	Wass
Davies	Johnson	Pistella	Wiggins
Dawida	Josephs	Pitts	Wilson
Dempsey	Kasunic	Pressmann	Wogan
Dietterick	Kenney	Preston	Wright, J. L.
Dininni	Kitchen	Punt	Yandrisevits
Distler	Kosinski	Raymond	
Donatucci	LaGrotta	Reber	Irvis,
Dorr	Langtry	Reinard	Speaker
Durham	Lashingier	Rieger	

NAYS—26

Billow	Cohen	Kennedy	Perzel
Book	DeVerter	Kukovich	Snyder, D. W.
Burd	DeWeese	Lloyd	Veon
Caltagirone	Dombrowski	Moehlmann	Weston
Cawley	Duffy	Mowery	Wozniak
Cessar	Gruitza	Noye	Wright, D. R.
Clark	Howlett		

NOT VOTING—3

Gladeck	Micozzie	Richardson
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EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. VEON offered the following amendments No. A4393:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting
; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23
Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1, page 3, by inserting between lines 5 and 6
Section 10.1. Clean Indoor Air.—(a) The purpose of this act is to protect the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.

(b) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(c) This prohibition shall not apply:

(1) In cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

(2) To factories, warehouses and similar places of work not usually frequented by the general public, except that the Department of Labor and Industry shall, in consultation with the Department of Health, establish by regulation rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employes.

(3) To restaurants.

(d) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(e) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a nonsmoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

(f) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

(1) posting appropriate signs;

(2) arranging seating to provide a smoke-free area;

(3) asking smokers to refrain from smoking upon request of a client or employe suffering discomfort from the smoke; or

(4) any other means which may be appropriate.

(g) The Department of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this section, except as provided for in subsection (c).

(h) The Department of Health may, upon request, waive the provisions of this section if it determines there are compelling reasons to do so and such a waiver will not significantly affect the health and comfort of nonsmokers.

(i) Any person who violates subsection (b) commits a summary offense.

(j) The Department of Health, a local board or department of health or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of subsection (f).

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Public meeting." All meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."

"Public place." Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

"Smoking." Includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Amend Sec. 2, page 3, line 6, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, as I mentioned on the floor of the House several weeks ago when this issue came up, I intended to offer an amendment that would exempt restaurants from the provisions of Mr. Dawida's amendment, if it were successful. As the members can see from the amendment on your desk, this language in my amendment, amendment 4393, is exactly the same language as Mr. Dawida's amendment except for on page 2, under section 10.1, subsection (c)(3), where it clearly would exempt restaurants from the provisions of this bill.

Mr. Speaker, I intend to vote for Mr. Dawida's amendment whether or not my amendment is successful. However, I have been approached by a number of restaurants in my legislative district that think the provisions of Mr. Dawida's amendment go much too far in dealing with restaurants and that people should be able to go to the restaurant of their choice. If they enter that restaurant and do not like the smoking policy of that restaurant, then obviously they will not return. The restaurateurs believe that that freedom of choice, that marketplace, will dictate whether or not they need nonsmoking in their restaurant and to what degree.

So with that, Mr. Speaker, I would urge an affirmative vote to exempt restaurants from the provisions of Mr. Dawida's amendment. Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Dawida.

Mr. DAWIDA. Mr. Speaker, I would urge a "no" vote for this amendment. While Mr. Veon is well intended in what he attempts to do, restaurants are at the heart of what people perceive this bill to be doing and what they want it to do. Now, the restrictions in my amendment are no more onerous for restaurants than they are for anywhere else. In fact, if there is a weakness in them, they go too far into the compromise end. We do not require any structural changes. We require no—

The SPEAKER. Mr. Dawida, we are not on your amendment.

Mr. DAWIDA. Thank you.

The SPEAKER. We are on the Veon amendment.

Mr. DAWIDA. Mr. Speaker, I urge a "no" vote for the Veon amendment, because it is in the restaurants where most people in Pennsylvania in every single one of your legislative districts want this bill to apply most importantly. It would be a mistake, I think, to exempt them. The people of Pennsylvania I do not think want them exempted, and I would ask for a "no" vote.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, would the gentleman, Mr. Veon, stand for a period of interrogation?

The SPEAKER. Mr. Veon indicates he will stand for interrogation. You may proceed, Mr. Pressmann.

Mr. PRESSMANN. Mr. Speaker, under your amendment, except for the provision for restaurants, you are saying it is the exact same as the Dawida amendment?

Mr. VEON. Yes, Mr. Speaker.

Mr. PRESSMANN. Mr. Speaker, would you then be asking us on the Dawida amendment to vote "no"?

Mr. VEON. No, Mr. Speaker. My intention is that if my amendment were to pass, the language in my amendment would exempt restaurants. Therefore, if Mr. Dawida's amendment passes and his does not include restaurants, the two bills combined would then exempt restaurants. That is my understanding, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mr. PRESSMANN. Mr. Speaker, parliamentary inquiry.

The SPEAKER. What is the gentleman's parliamentary inquiry?

Mr. PRESSMANN. Mr. Speaker, if the Veon amendment were to be passed and then the Dawida amendment were to be passed, would not the Veon amendment then be out of the bill and the Dawida amendment would be what would appear in the final bill?

The SPEAKER. Wherever the later words would cancel the earlier words, the earlier words would disappear.

Mr. PRESSMANN. Mr. Speaker, can we have a parliamentary decision on whether or not, if that were to happen, the Veon amendment would be out if the Dawida amendment were to pass?

The SPEAKER. No; we cannot say that because the House has not acted. Listen very carefully to what the Chair has said. If the House were to accept the Veon amendment and then later were to accept the Dawida amendment, the words of the Dawida amendment where they canceled out words of the earlier amendment would obtain in the final bill. Now, if each word of the Dawida amendment canceled out a word of the Veon amendment, then the Veon amendment would totally evaporate, but we would have to compare them word by word and line by line. But they would not both remain in the bill, if that is what you are concerned about. The later amendment would be the one which would take precedence over the earlier amendment placed into the language of the bill.

AMENDMENTS WITHDRAWN

Mr. VEON. Mr. Speaker?

The SPEAKER. Yes, Mr. Veon.

Mr. VEON. Mr. Speaker, would it be appropriate or possible for me to withdraw my amendment and for it to be offered after Mr. Dawida's amendment, since that seems to be the concern of some of the members?

The SPEAKER. The gentleman may withdraw his amendment at any time he wishes.

Do you wish to withdraw your amendment?

Mr. VEON. Can it then be reoffered?

The SPEAKER. Yes.

Mr. VEON. Mr. Speaker, that is what I would prefer to do at this time.

The SPEAKER. All right. The gentleman temporarily withdraws his amendment.

Mr. VEON. Thank you, Mr. Speaker.

The SPEAKER. Are you withdrawing the second amendment also?

Mr. VEON. Mr. Speaker, that is a similar amendment in that the language—

The SPEAKER. You will hold that to a later time?

Mr. VEON. Yes, sir.

The SPEAKER. Fine.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. FOX offered the following amendments No. A4372:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; authorizing municipalities to install teletypewriters in the police headquarters to enable deaf residents to communicate requests for assistance in emergencies; and providing for Commonwealth reimbursement of installation expense.

Amend Bill, page 1, lines 23 through 25, by striking out all of said lines and inserting

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts."

Section 2. The act is amended by adding sections to read:

Amend Sec. 1, page 3, by inserting between lines 5 and 6

Section 3.4. Installation of Teletypewriters.—(a) Any municipality may install in its police headquarters a teletypewriter which will enable deaf residents of the municipality to communicate to the police requests for assistance in emergencies.

(b) The Department of Labor and Industry shall reimburse municipalities for the expense of implementing subsection (a).

(c) The Department of Labor and Industry shall promulgate regulations to set standards for teletypewriters to be installed by municipalities, and to establish reimbursement procedure for municipalities.

(d) Notwithstanding the provision of Section 15, this section shall be applicable throughout this Commonwealth.

Amend Sec. 2, page 3, line 6, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Fox, on the amendment.

Mr. FOX. Thank you, Mr. Speaker.

Mr. Speaker, this amendment would allow each municipality that has hearing-impaired persons within its district to in fact install a teletypewriter for the deaf, commonly known as a TTY machine. There are people who are hearing impaired in the State of Pennsylvania who need such machines to communicate police and fire emergencies who obviously cannot use a telephone. This amendment is a "may" provision for each municipality at the bottom of page 1 of the amendment, and if a municipality decides to install a TTY machine, they in fact would be reimbursed by the State.

As you can see, there has been bipartisan support for this legislation. It was passed previously out of a committee in the last session. I believe that you will note in prior correspondence to the members that the Delaware Valley Telecommunications for the Deaf, a leading hearing-impaired organization in the Commonwealth, strongly believes that this legislation is needed so that the hearing-impaired persons that live in your district and mine can in fact communicate during a time of fire and other emergencies.

I would ask for an affirmative vote. Thank you.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, would the maker of the amendment stand for interrogation?

The SPEAKER. Mr. Fox indicates he will stand for interrogation. You may proceed, Mr. Davies.

Mr. DAVIES. Mr. Speaker, is there any reason why this only addresses those that are hearing impaired and not those that suffer other vocal problems where they cannot use the telephone?

Mr. FOX. Mr. Speaker, the benefit of the legislation, of this amendment, is the TTY would be used by anyone in the community. The hearing impaired are a group that would be able to use it and also those who cannot otherwise speak.

Mr. DAVIES. Can you show me where that is in the amendment, Mr. Speaker?

Mr. FOX. If the machine is there, Mr. Speaker, then it can be used by anyone. Obviously, the deaf are the largest part of the population that can use it. The machine was originally created for their benefit, but obviously anyone who cannot communicate and could take advantage of it obviously would have the benefit of the TTY machine. Anyone who temporarily, for instance, may lose their hearing or temporarily lose their vocal cords usage would have the benefit of the bill. We would not have to enumerate every single category of persons who could use it. If it is publicly in the police department of a municipality, then anyone who lives in that township, borough, or city could in fact enjoy the benefit of it because the police department has paid for the installation of it.

Mr. DAVIES. I have no objections to the provision of your amendment, but I think that if you send this back to the Senate, you ought to look at, rather than the definition you have there, increasing the definition to make sure that you do include those particular people and that the reimbursement is going to follow those particular people as well.

Mr. FOX. I think the member's comments are well taken, Mr. Speaker, and I will communicate that to the Senate.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—185

Acosta	Dombrowski	Laughlin	Rieger
Angstadt	Donatucci	Leh	Ritter
Argall	Dorr	Lescovitz	Robbins
Arty	Durham	Levdansky	Roebuck
Baldwin	Fargo	Linton	Rudy
Barley	Farmer	Livengood	Ryan
Battisto	Fee	Lloyd	Rybak
Belardi	Fischer	Lucyk	Saloom
Birmelin	Foster	McCall	Saurman
Black	Fox	McClatchy	Schuler
Blaum	Freeman	McHale	Semmel
Book	Gallen	McVerry	Serafini
Bortner	Gamble	Maiale	Seventy
Bowley	Gannon	Maine	Showers
Bowser	Geist	Manderino	Sirianni
Boyes	George	Manmiller	Smith, B.
Broujos	Gladeck	Markosek	Smith, S. H.
Bunt	Godshall	Mayernik	Snyder, D. W.
Burd	Gruitza	Melio	Snyder, G.
Burns	Gruppo	Merry	Staback
Bush	Hagarty	Michlovic	Stairs
Caltagirone	Haluska	Miller	Steighner
Cappabianca	Harper	Moehlmann	Stevens
Carlson	Hasay	Morris	Stuban
Carn	Hayden	Mowery	Sweet
Cawley	Hayes	Mrkonic	Taylor, E. Z.
Cessar	Heckler	Murphy	Taylor, F.
Chadwick	Herman	Nahill	Taylor, J.
Civera	Hershey	Noye	Telek
Clark	Hess	O'Brien	Tigue
Clymer	Honaman	O'Donnell	Van Horne
Cohen	Howlett	Olasz	Veon
Colafella	Hughes	Oliver	Vroon
Cole	Hutchinson	Perzel	Wambach
Cornell	Itkin	Petrarca	Wass
Corrigan	Jackson	Petrone	Weston
Cowell	Jadlowiec	Phillips	Wiggins
Coy	Jarolin	Piccola	Wilson
DeLuca	Johnson	Pievsky	Wogan
DeVerter	Josephs	Pistella	Wozniak
Daley	Kasunic	Pitts	Wright, D. R.
Davies	Kenney	Pressmann	Wright, J. L.
Dawida	Kosinski	Preston	Yandrisevits
Dempsey	Kukovich	Punt	
Dietterick	LaGrotta	Raymond	Irvis,
Dininni	Langtry	Reber	Speaker
Distler	Lashingier	Reinard	

NAYS—3

Billow	DeWeese	Duffy
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NOT VOTING—10

Brandt	Flick	Micozzie	Trello
Evans	Kennedy	Richardson	Truman
Fattah	Kitchen		

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. DAWIDA offered the following amendments No. A4360:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A.] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1, page 3, by inserting between lines 5 and 6

Section 10.1. Clean Indoor Air.—(a) The purpose of this section is to protect the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.

(b) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(c) This prohibition shall not apply:

(1) In cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

(2) To factories, warehouses and similar places of work not usually frequented by the general public, except that the Department of Labor and Industry shall, in consultation with the Department of Health, establish by regulation rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

(d) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(e) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and

posted as a nonsmoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

(f) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

(1) posting appropriate signs;

(2) arranging seating to provide a smoke-free area;

(3) asking smokers to refrain from smoking upon request of a client or employe suffering discomfort from the smoke; or

(4) any other means which may be appropriate.

(g) The Department of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this section, except as provided for in subsection (c).

(h) The Department of Health may, upon request, waive the provisions of this section if it determines there are compelling reasons to do so and such a waiver will not significantly affect the health and comfort of nonsmokers.

(i) Any person who violates subsection (b) commits a summary offense.

(j) The Department of Health, a local board or department of health or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of subsection (f).

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Public meeting." All meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."

"Public place." Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

"Smoking." Includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Amend Sec. 2, page 3, line 6, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Dawida.

Mr. DAWIDA. Mr. Speaker, we all know the issue. Quickly I will reiterate just a few of the facts and then ask you for a vote.

Nine years ago this bill was put into committee, and for 9 years it has been unable to get a vote on the floor of the House, so today we are making history.

More than half of all the hotel fires and motel fires in this country are caused by smoking. One-fourth of every fire is caused by smoking, including a number of the fires that recently have been ravaging West Virginia and Kentucky. One-third of all the fatalities, which is between 2,000 and 4,000 lives a year, are lost in buildings by smoking. Sixty million dollars a year are spent to treat burn injuries sustained in fires caused by smoke, and up to two-thirds of all the fires in hospitals are caused by smoking. There is no body of scientific information anywhere, except that which has been

bought by the Tobacco Institute, which says anything other than that smoking is bad for your health, destructive of your property, and costly to business.

There are no structural requirements in this bill, and that was a compromise. In many bills of this type, businesses would be required to spend money making structural changes. We do not require that in this bill. We also compromised on the idea that you could go into a restaurant and literally be in the nonsmoking section and still perhaps be sitting next to a smoker. Now, I personally would have preferred not having that, but that was a compromise that was made to help small businesses.

The master manipulators of the Tobacco Institute have made their profits on the misery of our people in Pennsylvania. This is a bill based on compromise and consensus. I ask you to do what the majority, the overwhelming majority, of people in each and every one of your districts want you to do. This is not my speech; these are the 10,000 or so petitions that have come into my office since we made the vote a couple of weeks ago. Those of you who are interested in where they are from are welcome to go through it, but I can tell you, from Philadelphia to Waynesburg and everywhere in between, people are flooding offices that they want this bill. In fact, there are at least six pages from Waynesburg alone on the West Virginia border. This is a bill that over 80 percent of the public in every poll conducted by anybody outside of the Tobacco Institute are in favor of.

I urge a "yes" vote.

The SPEAKER. On the Dawida amendment, the Chair recognizes the gentleman from Butler, Mr. Burd.

Mr. BURD. Thank you, Mr. Speaker.

Mr. Speaker, as we debated this bill last week, I got up and did a written resume of some of the findings about what the economic impacts would be to the tobacco industry and to the farming industry in eastern Pennsylvania. I am not going to read that whole resume again, but I do want to remind the membership of some of the figures that I brought before them.

I mentioned at that time that Lancaster County was the fifth largest tobacco-producing county in the United States. I also mentioned the fact that Lancaster produces around 20 million dollars' worth of tobacco each year. Now, it might seem a little strange to some of the members as to why a person from western Pennsylvania is arguing an economic impact for eastern Pennsylvania, but it does deal with the overall picture as far as our agribusiness is concerned here in the State of Pennsylvania. And if I can cite figures like that for just one county—and there are other counties here in eastern Pennsylvania, of course, that are growing tobacco—you might wonder why that is significant. The reason it is significant is if we would pass the Dawida amendment and then our tobacco growers would go to the southern markets, such as the Carolinas, where most of the huge tobacco auctions are held, they might tell Pennsylvania growers to take their tobacco back home, they do not want it, because you now have an antismoking legislation in your State, and therefore,

we will just grow our own tobacco and you can go ahead and smoke it or feed it to the hogs, whatever.

Since we debated this legislation last week, there have been other significant reports that have come in - surveys done by both public and private concerns on the issue of ambient air and on the issue of what is referred to as "sick buildings." I would like to read a couple statistics to you, if I may.

NIOSH (National Institute for Occupational Safety and Health), which is a division of OSHA (Occupational Safety and Health Administration) and is Federal, did an investigation of buildings, and their findings were that 2 percent of the buildings they investigated between 1978 and 1983 had environmental tobacco smoke problems. Now, what that means is that they detected that 2 percent of the buildings had a smoking problem where coughing or maybe irritated eyes might be prevalent. A firm known as ACVA (Air Conditioning Ventilation Access) Atlantic, Inc., did the same type of a survey, as an independent company, and their findings were that there was 4 percent. So this indicates to me right off the bat that the private concern was doing a fair survey in that their findings were more severe than NIOSH's figures were.

It goes on and tells about other things, but the interesting fact and one of the interesting things that these surveys seem to prove out was that in investigating these buildings and trying to find out and determine the problems with the ambient air inside of buildings, it was not the tobacco smoke that was causing the problem but rather it was dust, molds, and pollens that had accumulated in the ductwork of air-conditioning units in the various buildings. They also found that because of conservation efforts on the part of us, the legislative branch, and on the part of just people in general trying to save on heating bills, that a lot of firms and a lot of companies and a lot of building owners actually shut off the fresh air supply coming back into the building that would be the replacement air that is so desirable in a building of that type.

Since we debated this legislation last week, there was another occurrence. The city council of Pittsburgh decided to pass their own antismoking legislation for the city itself. Prior to their voting on that, there was an independent survey done in the city to find out how many people were in favor of and not in favor of having this type of legislation. It is very interesting, and I will read to you what the question was. "Is legislation necessary or can business handle on its own?" Thirty-two percent of Pittsburghers said it was necessary; 64 percent said that business could handle it on its own; 3 percent said they did not know.

"Table 2: Council should pass law or business determine policy?" In favor of council passing a law, 22 percent; business should set its own policy, 76 percent; do not know, 1 percent.

Now, you know, I heard Representative Dawida saying that all the surveys that he has seen clearly indicate that people are for this type of legislation, and here we have a survey taken right in the city of Pittsburgh, sophisticated as it was, done by responsible people, and we are coming up with a set of figures like this. It kind of indicates to me that surveys can go in any

direction maybe some people would want them to, but let me go on and let me show you how fair the questions were determining this.

“Table 3: Business handle issue on their own very well or not?” Eighty-one percent of the people said that they felt that businesses could handle it on their own; 17 percent said this is not the case; and 2 percent said they did not know.

“Table 4: Agree-disagree statements on smoking. Leave restaurant smoking to owners”: agree, 84 percent; disagree, 15 percent; do not know, 1 percent. “Civil lawsuits could clog courts”: 83 percent said that that could happen; 13 percent disagreed; 4 percent did not know. “Business has proven they can handle the problem”: 76 percent said they would agree with that; 21 percent disagreed; 3 percent did not know. “Law not needed because smoking is already prohibited”: agreed, 71 percent; disagreed, 27 percent; did not know, 2 percent. “Too much regulation on business already”: 69 percent agreed; 26 percent did not agree; 5 percent did not know. “Law not fair to minorities”: 59 percent agreed; 35 percent disagreed; 6 percent did not know. “Ban on smoking is unenforceable”: 55 percent agreed; 41 percent did not agree.

Now, I know it has taken a little time, Mr. Speaker, to read from that survey, but owing to the fact that the sponsor of the amendment had his survey ready and available, I thought maybe it might be interesting for this General Assembly to hear what another survey had to say.

Now, I would like to go just a step further. It is my understanding of the language of this amendment, first of all, that if this amendment passed and became law, unless the proprietor of a restaurant or a building caused action to allow smoking, the building would automatically become a non-smoking building. Now, this would include all the restaurants, all the buildings, all the public places that we are talking about. Not only that, but they would have to post signs and arrange seating. The proprietor must inform smokers as of no smoking or do what is appropriate. I do not know what is appropriate, and I do not know who is supposed to decide what is appropriate, so the language to me becomes a little loose or a little vague in that particular area.

Another point that I would like to make in this legislation is that the burden of proof is now on the owner of the restaurant or of the building, and the Department of Health or any aggrieved party can bring suit against that person if he does not in fact catch you or me smoking and inform us that we should not be smoking. He now becomes the victim of this type of legislation.

Pittsburgh passed a smoking bill. We all know that. And I believe they passed it against the will of the people of the Pittsburgh area. I believe that survey I just read proves that. And I believe that due to the fact now that Pittsburgh has passed a nonsmoking ordinance, before we as a General Assembly put our votes together and zone the whole State, it might be wise for us just to sit by for a while and see what in fact does happen in that great city of Pittsburgh, because if that survey I just read to you is true, I think you are going to find some city council people coming back and rescinding a law.

That is all I have to say about it, Mr. Speaker, other than the fact that I do wish that the membership would take into consideration the things that I have said today. I honestly and truly believe that of all the things that we have been doing to the businessman and the business person of this State, this is one of the worst things we could do. If he wants to provide a no-smoking area for his people, for his customers, then let him do that on a voluntary basis and do not make us by law make him designate 20 percent of an area that maybe he does not have 20 percent of the people to fill. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Adams, Mr. Cole.

Mr. COLE. Thank you, Mr. Speaker.

Mr. Speaker, I was not going to speak on the health aspects of this legislation, but I serve on the board of directors of the State American Cancer Society. At the Hershey headquarters several weeks ago for the Great American Smokeout, they received a telegram there from the Tobacco Institute, and it just goes to show the arrogance of the Tobacco Institute when they lobby against a certain piece of legislation or through an effort to curtail smoking and clean air in Pennsylvania. That telegram said, “In the spirit of the 11th Annual Great American Smokeout, the Tobacco Institute has a challenge. We will pay for testing the air your employees and volunteers breathe. We believe that the quality of indoor air is important. If you do too, you’ll accept our offer.”

That is the arrogance that I know of the Tobacco Institute when I worked for 7 years to try to get a cancer control plan for Pennsylvania and a 1-cent cigarette tax. I know of their arrogance and I know the pressure that they bear on legislators to defeat legislation that is good for clean air and for the health of the citizens of Pennsylvania. That challenge was nothing but a public relations ploy on the part of the Tobacco Institute to divert public attention from the medical and social realities of cigarette smoking.

Now, we all know that it is a fact that the recent report of the Surgeon General of the United States on smoking and health, based on responsible scientific evidence, indicated sidestream or secondhand smoke as a threat to the health of nonsmokers. So we support this legislation of Representative Dawida’s.

Now, you heard all kinds of statistics here this afternoon. Let me give you a few of my own that I have compiled in my research. From the American Cancer Society, preliminary study projects that in 1987 involuntary exposure to tobacco smoke will claim the lives of 5,000 nonsmokers nationwide. Pennsylvania Health Department survey—listen to these statistics: 90 percent of the respondents support controls on smoking in public areas; 72 percent favor separate smoking areas; 18 percent favor total prohibition. A national poll by Gallup: 87 percent want public smoking controls; 75 percent say smokers should not light up near nonsmokers; 94 percent believe smoking is hazardous to their health; 80 percent of current smokers feel companies should have policies regulating smoking in the workplace. So the majority of the public out there want this legislation.

We know that just a few years ago 38 percent of the American public smoked. That is down to 30 percent now, and probably hardcore smokers are 25 percent and you never will eliminate them. So while they are enjoying smoking, the other 75 percent should not have to put up with the inconvenience of the dirty habit of smoking in their company.

We heard about the impact on agriculture in Pennsylvania. Let me tell you members from the rural areas that the Pennsylvania Farmers' Association endorses this legislation; they endorse this legislation.

Recently I introduced a bill, another clean-indoor-air bill, to preserve the treasures that we have here in our State buildings. Look at the desecration of 80 years of smoking in the House of Representatives, and then go down in the rotunda and into the new building and some of the other areas of the Main Capitol where we spent \$2 1/2 million and refurbished the treasures that we have there. Let us preserve that, if you do nothing else, in voting for this legislation today.

Health is the paramount issue here, not money or any other consideration. I urge you to vote for the Dawida amendment.

The SPEAKER. On the Dawida amendment, the Chair recognizes the gentleman from Allegheny, Mr. Trello.

Mr. TRELLO. Mr. Speaker, I rise to oppose the Dawida amendment for several reasons. In the past on many occasions this House has passed laws dealing with moral issues, eating habits, smoking, whatever. I think we should stick with the business of dealing with laws that better this country and this State from hardened criminals and other areas.

But first of all, the previous speaker has talked about arrogance. Is it arrogant for an industry to get up and protect its business? I think not. Mr. Speaker, I think if I was in the tobacco business, I certainly would get up and promote the business that I am in, and I do not think anybody would consider it as arrogant.

If we are going to outlaw things that are bad for our health, then I cannot think of many things that would be good for our health. They talk about eating too much red meat; it is no good for you. Sugar and salt are no good for you; white flour is no good for you; candy, alcohol, and the list goes on and on and on. Are we going to deal with all those issues that deal with bad health?

I think that people who invest their own money into a business that provides services for the public, like our restaurants do, know what is good for them. I do not think they want to drive anybody away from eating in their restaurants, whether they are a smoker or a nonsmoker. I think they are intelligent enough to know that we need two areas to accommodate both the smoker and the nonsmoker. I do not think they need Big Brother here in Harrisburg to tell them that they have to do it.

I also believe that government-imposed regulations on smoking in a social atmosphere are undesirable, unenforceable, and would place undue and economic hardship on the business people in Pennsylvania, and I therefore ask for a "no" vote on the amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, would the maker of the amendment stand for brief interrogation?

The SPEAKER. You may proceed.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, there has been some concern regarding whether or not and how this amendment would exempt bars, which is language that is in the maker of the amendment's amendment, as opposed to what the State has as hotel or tavern licensees. I would just like, for the record, for the maker of the amendment to tell me what his intent is when he says "bar" in the language of this amendment?

Mr. DAWIDA. Mr. Speaker, the term "bar" was used in a law that this is modeled after in Minnesota, where this law, I might add, has existed quite peacefully for 11 years. The bar is the place where people drink, whether that be a tavern, a club, or whatever, and the area where they drink is exempt from this legislation.

Mr. VEON. Mr. Speaker, in regard to a restaurant with a bar—

Mr. DAWIDA. The restaurant part would have a designated smoking and nonsmoking area. The bar area or the drinking area would not.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I would like to make a statement.

The SPEAKER. On the amendment?

Mr. VEON. Yes, sir.

The SPEAKER. The gentleman is in order, and he may proceed.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I want to commend the gentleman, Mr. Dawida, for the leadership that he has shown on a very tough issue. I am going to support the Dawida amendment, although I disagree with certain parts of it, and I would hope that we can deal with that shortly.

Mr. Speaker, as a legislator who has opposed the seatbelt legislation in Pennsylvania, for example, I do not think that Mr. Dawida's amendment crosses that line in which this body does not have a right or an obligation to in some way, shape, or form try to control the behavior of society. I draw the line when that behavior begins to affect someone else and not only yourself. I think that that is where the line should be drawn on all the legislation that we deal with when it comes to trying to in some way, shape, or form control society's behavior.

Mr. Speaker, I would hope that we could pass the Dawida amendment, and I ask for an affirmative vote. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bradford, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

Will the gentleman, Mr. Dawida, stand for brief interrogation?

The SPEAKER. You may proceed. Mr. Dawida indicates he will stand for further interrogation.

Mr. CHADWICK. Thank you, Mr. Speaker.

Just two questions for clarifying legislative intent. First of all, currently the Capitol cafeteria has a number of tables set aside and marked as a nonsmoking area. Under the bill, if it becomes law, would the Capitol cafeteria be in compliance?

Mr. DAWIDA. Yes.

Mr. CHADWICK. All right. Thank you.

My second area is, would the bill apply to our offices and our secretaries' work areas in the Capitol?

Mr. DAWIDA. It depends. It would not apply to private offices. If the secretary is in a private, enclosed area, it would not affect her or him. What it would do is, in areas where the public is expected to come in, I would say that, for instance, in my legislative office back home, at the front reception desk, it would be covered, but my office in the back would not.

Mr. CHADWICK. In other words, in the new addition in the East Wing, in an area where two legislators share an office and there are two secretaries together, that would not apply?

Mr. DAWIDA. Probably not, because it would be considered a private office.

Mr. CHADWICK. Thank you, Mr. Speaker.

Mr. Speaker, that concludes my interrogation. I would like to make a brief statement.

The SPEAKER. The gentleman has the floor. He may proceed.

Mr. CHADWICK. Thank you, Mr. Speaker.

I am going to vote for this, and I urge an affirmative vote. I only wish it went a lot farther than it does.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Very briefly, Mr. Speaker, we have heard comments about the tobacco industry standing up and fighting for its business. I have seen figures that say that \$12 billion are gained through the tobacco industry; in other words, that is a \$12-billion plus. However, \$18 billion is the cost to society of smoking in terms of medical expenses, property damage, and lost time. That is a net loss of \$6 billion. I do not see the doctors and the medical people standing up and saying we are going to lose this business and protecting their industry or their services. To the contrary, every medical and health association that I know of supports this because of its need in terms of the overall well-being of our people and our citizens.

I would urge support of the Dawida amendment.

The SPEAKER. For the second time, the Chair recognizes the gentleman from Allegheny, Mr. Trello.

Mr. TRELLO. Mr. Speaker, I would just like to remind the members that every area is a no-smoking area until they provide a no-smoking section. If you think about that, even our tobacco shops - one in Strawberry Square, a number of them throughout the Commonwealth - that do an exclusive business and do nothing but sell tobacco products, you would be prevented from smoking in a tobacco shop. So think about that. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Dombrowski.

Mr. DOMBROWSKI. Mr. Speaker, although I am a non-smoker and I believe in the cause of the nonsmokers, I rise to oppose this amendment. I think we are losing sight of the fact of what the original bill's intentions were. I think with all these amendments that are being offered, by the time this bill goes back to the Senate, we are going to lose a good piece of legislation.

I ask for a negative vote.

The SPEAKER. The Chair recognizes the gentleman from Indiana, Mr. Wass.

Mr. WASS. Mr. Speaker, may I make a statement?

The SPEAKER. On the amendment?

Mr. WASS. Of personal privilege.

The SPEAKER. Try it and we will see.

Mr. WASS. Mr. Speaker, now would be a good time to put into the record how much we appreciate your insistence in policing the no-smoking rule in this House of Representatives. We congratulate you, and we ask you to continue your policing.

The SPEAKER. When it comes to smoking and drinking, the Speaker's biases and prejudices are well known across the State. I would stop all, every place. Lucky for you, I do not have that power.

The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, just to straighten out the parliamentary record, that was not a personal privilege. Was that not under unanimous consent?

The SPEAKER. That was unanimous consent.

Mr. DAVIES. Thank you, Mr. Speaker.

The SPEAKER. It might be called personal flattery; I do not know.

Mr. WASS. Mr. Speaker, may I have unanimous consent?

The SPEAKER. You have unanimous consent.

Mr. WASS. Mr. Speaker, now would be a good time to put into the record how much we appreciate your policing the no-smoking rule in this House of Representatives. Thank you very much and continue your good work.

The SPEAKER. On the Dawida amendment for the second time, the Chair recognizes the gentleman from Butler, Mr. Burd.

Mr. BURD. Thank you, Mr. Speaker.

Mr. Speaker, I do not know whether I should have come up this early; I do not see too many people standing right now. But one of the things I was trying to point out about surveys when I read a very lengthy survey here earlier—and my point was proven when Representative Cole got up and gave the results of his survey. Now, the result of his survey and the question that he posed to us was, how many people think smoking is hazardous to your health? And, of course, the result of that survey was that there was a resounding, huge number of people who said, yes, we agree that smoking is hazardous to your health. But I read from a survey that asked people in the Pittsburgh area, do you feel that we need a law or can business people best handle voluntarily whether we should have designated smoking areas, and the result of that

survey was a resounding yes; 80-some percent of the people said, yes, we believe that the business people should on a voluntary basis be able to handle this.

Now, Mr. Speaker, I wonder if I may ask the maker of the amendment for brief interrogation.

The SPEAKER. You may proceed under interrogation. Mr. Dawida indicates to the Chair that he is ready.

Mr. BURD. Mr. Speaker, under general rule it says, "No person shall smoke in a public place or at a public meeting except in designated smoking areas." Designated area or public place: "Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to, restaurants, retail stores,..." and whatever. It does not say anything about churches, Mr. Speaker. Would churches be included?

Mr. DAWIDA. Yes.

Mr. BURD. Okay. Would fire halls be included?

Mr. DAWIDA. Generally not, because fire halls are generally rented and it would be under the control not of the proprietor but of the person renting the hall, and it would be that person's responsibility.

Mr. BURD. Is that your opinion or is it in the legislation?

Mr. DAWIDA. It is in the bill. I do not think it is in your little synopsis there, but it is in the bill.

Mr. BURD. Well, I have the bill in front of me here. I have your bill here. I do not see it.

Well, to go on with my interrogation. Nonprofit organizations then, would they be included?

Mr. DAWIDA. Absolutely.

Mr. BURD. Okay. Buses, would they be included?

Mr. DAWIDA. Yes.

Mr. BURD. Airplanes, would they be included?

Mr. DAWIDA. Airplanes are superseded by the Federal Government. We do not regulate interstate commerce. Airplanes by the Federal Government and the FCC (Federal Communications Commission) are going to be much more stringent than my bill.

Mr. BURD. I asked a question. Does this bill include airplanes?

Mr. DAWIDA. No.

Mr. BURD. No. Well, it is safe then, if we were flying across the United States and happened to be flying across Pennsylvania, we would not have to put our cigarettes out. Is that correct?

Mr. DAWIDA. No, because the Federal law would take precedence.

Mr. BURD. Okay. Just so we understand.

Well, Mr. Speaker, thank you for the second time. This tells me more and more why this is a very bad piece of legislation. It is antibusiness; it is too much control on the lives of too many people, and I am very adamantly opposed and would ask my colleagues on both sides of the aisle to vote "no" on this amendment. Thank you, Mr. Speaker.

The SPEAKER. For the first time, the Chair recognizes the gentleman from Monroe, Mr. Battisto.

Mr. BATTISTO. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Dawida amendment. Mr. Speaker, the time for this bill has really come. If you talk about surveys, we can obfuscate the public with all kinds of surveys, but I entreat you to ask this direct question. Simply say, should we enact legislation limiting smoking in public places? I did that. After discussing the Clean Indoor Air Act, I asked that question and I got a resounding 90 percent yes, and I daresay you would get that in your district, too, if you asked that direct question.

Probably a better barometer would be what my daughter said last weekend. I picked her up from the bus as she was returning from the University of Pennsylvania for Thanksgiving. As she approached to embrace me, the first words out of her mouth were, Daddy, when are you going to enact a ban on smoking? She had been engulfed in smoke on the bus. She does not smoke and the people around her were smoking. I think that is a sensible request: when are you going to prohibit or ban smoking in public places?

The time has come. I ask for a resounding "yes" vote on this legislation. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Olasz, for the first time on the Dawida amendment.

Mr. OLASZ. Mr. Speaker, would the maker of the amendment stand for brief interrogation, please?

The SPEAKER. You may proceed. Mr. Dawida indicates again he will stand.

Mr. OLASZ. Mr. Speaker, what is the minimum amount and the maximum amount of a fine and what type of offense is it?

Mr. DAWIDA. It is a summary offense; \$300 maximum.

Mr. OLASZ. A \$300 fine. That is a lot of cigarettes.

When the question was asked, does this eliminate smoking in churches, was the answer affirmative?

Mr. DAWIDA. Yes.

Mr. OLASZ. What effect would it have on the bingo games that are held in the church halls?

Mr. DAWIDA. Section 10.1, Clean Indoor Air, subsection (1), says, "In cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor..., " that is not part of the law. However, the bingo game will probably be required, since it is a public function, to have a designated smoking area, which I suspect will be most of the hall.

Mr. OLASZ. So in a bingo game it would be very difficult then to control smoking for the senior citizens' bingo games, if not impossible. Think about it.

Mr. Speaker, that ends my interrogation. Just a comment.

The SPEAKER. The gentleman has the floor. He may proceed.

Mr. OLASZ. Just a week ago we heard about referendums and letting the public indicate their true feelings on subject matters such as this. Recent election results have shown throughout the country that when the public had an opportunity to voice their vote on a ballot, they overwhelmingly

rejected abstinence from smoking in restaurants and other public places.

I will repeat what I said last week, that NIOSH, in an investigation of 203 buildings, found that only 2 percent were found to have air quality problems resulting from smoking. When you consider that we talk about smoking in public places and that refers to the working area, we are talking approximately 80 hours a week. That is 80 hours out of 148 hours. So we are talking about where an individual has approximately 68 hours in his home and other areas where he can be smoking, and I submit, your cooking aromas and God only knows what you can inhale in your own home or what you may smoke in your confined areas of your home. All I am concerned about are the warning labels and the educational process that we go through to alert our children and to alert adults of the harm you can be doing yourself, but we sit up here and start mandating that you must on an item that is already taxed to the hilt and probably will absorb many more taxes in the future.

No one has answered, where do we make up the revenues that we are going to lose on the taxes? I agree that the health is an overwhelming problem that confronts us every day with smokers, but let us do it on an educational basis. Let us not get out and mandate you must do this, you will do this.

I am not here arguing with you on the merits of the GASP group, but I can remember in Allegheny County many, many years ago, not too many in fact, maybe a dozen years ago, when groups would run around with the GASP buttons. I will tell you, when you run up and down that steel valley today, I guess a lot of those people welcome an opportunity to see that smoke pouring from those open-hearth furnaces. My mother is 89 and she put up with that smoke and graphite dust when we used to be able to write our names in it, and thank God she still has a good set of lungs. We go back to the coal miners that had the black lung disease. Think about it.

I would urge a "no" vote.

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Bowser, on the amendment.

Mr. BOWSER. Thank you, Mr. Speaker.

Mr. Speaker, just a few more quick numbers here to back up some of those that Mr. Burd gave. According to a national study, 59 percent of businesses surveyed have some policy in place now pertaining to smoking. Of those, 35 percent have some restrictive policy in place; 8 percent have a total ban. This shows a commitment on the part of private enterprise to address the smoking situation, and this is the point I am making.

You know, what we are doing now is working through education. Why do we have to sit down here as a body, as has been done in many, many other legislatures across the country, telling people once again that we know better than they do and we have got to make a law so that they will adhere to it. I am telling you that I feel in the last few weeks we have gotten into people's lives too darn much.

I am going to vote against this because I do not like this type of legislation. I think the point that Representative

Dombrowski made that this was a good bill before we started adding on should have some merit also, and I hope the membership considers that. Thank you very much.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—121

Acosta	Dininni	Lashinger	Roebuck
Argall	Distler	Laughlin	Rudy
Arty	Donatucci	Leh	Ryan
Baldwin	Dorr	Lescovitz	Rybak
Barley	Fargo	Linton	Saloom
Battisto	Fee	McCall	Saurman
Belardi	Fischer	McClatchy	Schuler
Birmelin	Foster	McHale	Semmel
Black	Fox	McVerry	Serafini
Blaum	Freeman	Maiale	Showers
Bortner	Geist	Maine	Smith, B.
Bowley	George	Manmiller	Snyder, G.
Broujos	Gladeck	Markosek	Staback
Bunt	Godshall	Mayernik	Steighner
Bush	Gruppo	Melio	Stevens
Caltagirone	Hagarty	Merry	Stuban
Carn	Harper	Michlovic	Taylor, E. Z.
Chadwick	Hayden	Morris	Taylor, F.
Clark	Hayes	Mowery	Tigue
Clymer	Heckler	Mrkoncic	Van Horne
Cohen	Herman	Murphy	Veon
Colafella	Hershey	Nahill	Vroom
Cole	Hess	O'Donnell	Wambach
Cornell	Hughes	Phillips	Wass
Corrigan	Itkin	Piccola	Wilson
Cowell	Johnson	Pitts	Wright, J. L.
DeLuca	Josephs	Pressmann	Yandrisevits
Daley	Kasunic	Reber	
Dawida	Kosinski	Reinard	Irvis,
Dempsey	Kukovich	Rieger	Speaker
Dietterick	Langtry	Ritter	

NAYS—72

Angstadt	Duffy	Kitchen	Punt
Billow	Durham	LaGrotta	Raymond
Book	Evans	Livengood	Robbins
Bowser	Farmer	Lloyd	Seventy
Boyes	Flick	Lucyk	Sirianni
Brandt	Gallen	Manderino	Smith, S. H.
Burd	Gannon	Miller	Snyder, D. W.
Burns	Gruitza	Moehlmann	Stairs
Cappabianca	Haluska	Noye	Sweet
Carlson	Hasay	O'Brien	Taylor, J.
Cawley	Honaman	Olasz	Telek
Cessar	Howlett	Oliver	Trello
Civera	Hutchinson	Perzel	Truman
Coy	Jackson	Petrarca	Weston
DeVerter	Jadlowiec	Petrone	Wiggins
DeWeese	Jarolin	Pievsky	Wogan
Davies	Kennedy	Pistella	Wozniak
Dombrowski	Kenney	Preston	Wright, D. R.

NOT VOTING—5

Fattah	Levdansky	Micozzie	Richardson
Gamble			

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. MAYERNIK offered the following amendments No. A4398:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1 (Sec. 3.2), page 2, line 25, by inserting after "PROTECTION."

Unless specified otherwise in the lease agreement, it shall be the responsibility of the tenant to inspect and test the operation of the automatic detection device at the beginning of the tenant's occupancy and then monthly thereafter, and to replace batteries if needed in order to keep the automatic detection device operable at all times. The tenant shall also be responsible for notifying the owner in case the automatic detection device is not properly functioning. Notwithstanding the provisions of section 15, this section shall apply throughout the Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city. For the purpose of this section, tenant means a tenant for thirty (30) days or longer.

Amend Sec. 2, page 3, line 6, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Mayernik.

Mr. MAYERNIK. Thank you, Mr. Speaker.

Amendment 4398 defines the responsibility of the tenant to inspect and maintain the smoke alarm on a monthly basis, also to notify the owner or the landlord if the device is not functioning. This is so the owner can eventually replace or repair the nonfunctional device.

This amendment was put in because if you are a tenant, you would not want your landlord running over to your apartment on a monthly basis to infringe on your privacy to check that smoke alarm, nor does the landlord want to run over to that apartment on a monthly basis to check the smoke alarm. This would put the responsibility of checking the smoke alarm on the tenant where it should be.

I ask for an affirmative vote on this amendment, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, this amendment transfers the responsibility, as Mr. Mayernik said, for the maintenance of smoke detectors from the building owner to the building tenants. Under this amendment both long-term tenants of apartment houses and overnight tenants of hotels are responsible for the maintenance and testing of smoke detectors, including the replacement of batteries. This amendment unnecessarily confuses the responsibility for the maintenance of fire protection equipment in class 4 buildings, which are apartments, hotels, and so on, by requiring tenants and hotel guests to be responsible for the maintenance and testing of equipment. This amendment creates the clear inference that building owners and managers are not responsible for the maintenance of fire protection equipment. This is the clear intent of the amendment.

Current regulations and enforcement practices of the Department of Labor and Industry already allow the department to take action against tenants and other persons if they have caused a violation of the Fire and Panic Act. The department has assured us that it will and does on occasion take action against persons other than building owners. So why are we trying to remove the building owners' legal responsibility for the maintenance of fire protection equipment?

The only effect this amendment will have is to weaken the enforcement of fire protection standards promulgated by the Commonwealth. The Department of Labor and Industry has stated its intent to continue to issue citations against building owners even if this amendment passes. Unfortunately, the danger in this is I do not believe we can make tenants of apartment buildings legally responsible for the maintenance of smoke detectors but cite building owners when smoke detectors are not maintained.

In the event of an overnight tenant of a hotel, this amendment would require travelers to carry an assortment of batteries with them on trips and to test smoke detectors in their own rooms. In the case of tenants of apartment buildings, this amendment reassigns all responsibility of the maintenance and testing of a device to the tenant. The tenant is required to notify the owner in the case that a smoke detector is not functioning. However, the amendment does not require the building owner to replace or to repair the device.

What this amendment does is to confuse responsibility for fire protection provided in buildings with overnight accommodations. Current regulations of the department require building owners to install smoke detectors in hallways, stair

wells, and other public areas. This amendment could be construed as requiring the tenant to test these hallway devices. The amendment itself does not restrict the tenant's responsibility to inspect and maintain only the device within his or her individual apartment. In fact, this amendment language is inserted in the same subsection which relates to the installation of fire protection devices in halls and stair wells.

In conclusion, this amendment makes the provisions of the Fire and Panic Act practically unenforceable by requiring the department to enforce fire protection standards on an apartment-by-apartment basis or a room-by-room basis.

Mr. Speaker, this amendment guts the intent of the bill to provide meaningful fire protection for tenants and hotel guests. If this amendment passes, the protection for tenants and hotel guests is really a sham. I would ask the House to defeat this amendment. Thank you.

The SPEAKER. On the Mayernik amendment for the second time, the Chair recognizes the gentleman from Allegheny, Mr. Mayernik.

Mr. MAYERNIK. Thank you, Mr. Speaker.

I stand to rebut the comments of my learned colleague from Philadelphia. It seems that he would appear to be confused somewhat on three amendments, not that that would be obvious, but let me try to clarify some of these points, if I may.

As he had stated in his prepared text, his statements, as prepared, addressed a previous amendment I had drafted, A3920. That has now been corrected to the present amendment 4398. The initial statement of Mr. Cohen states that it would address class 4. Class 4 has been taken out of the present amendment that is in front of us.

Number two, Mr. Cohen would lead us to believe that if you entered a hotel or living quarters or a motel, that you would have to carry a cadre of batteries with you. I would like to draw his attention to the last line on page 2 that states that "...tenant means a tenant for thirty (30) days or longer." So that would then refute his argument of being in a motel or hotel and carrying batteries with you.

Also, I would like to address the fact that if we do not have this amendment in, a landlord would have to constantly go back to his property and check it on a monthly basis to make sure that the device is operating. If anyone here owns property or knows people that own property, they do not want to do that. If you have ever rented property, let me ask you, do you want your landlord coming in on a monthly basis? Gaynor Cawley, do you? No; that is correct, no, and that is why I think this amendment should pass, because the tenant does not want the landlord in; the landlord does not want to come in. The tenant is there every day and can check it on a monthly basis.

I ask for an affirmative vote. Thank you, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, the way this amendment is drafted, it seems to me that if the tenant does not perform the obligation of

inspecting the smoke detector at the beginning of his occupancy and every month thereafter and there is a disaster and that disaster somehow starts in the part of the building where that tenant is a resident, that tenant is the one who is going to be held legally responsible for all of the damage that occurs thereafter. I am not convinced that that responsibility ought to be on the tenant, especially if the fire does not necessarily start within his space. It is one thing if he is sitting around smoking, falls asleep, and starts a fire, and you can say, well, maybe he ought to be responsible, but what if it is wiring that he has no access to or what if it is a heating element to which he has no access and it starts a fire? Why should he be the one who bears the liability for that faulty device?

Maybe Mr. Mayernik has a point with regard to the landlord's not having certain responsibilities, but his amendment seems to me to place that legal liability on the tenant, and that is the wrong place for it to be. I think for that reason we ought to reject the amendment.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Preston, on the Mayernik amendment.

Mr. PRESTON. Thank you.

Will the gentleman who is the maker of the amendment answer a couple of questions for me, please?

The SPEAKER. Mr. Mayernik indicates he will stand for interrogation. You may proceed.

Mr. PRESTON. Thank you.

Mr. Speaker, my main concern is accessibility. There are an awful lot of apartment buildings that I have been in where I have seen that the detector itself is not readily accessible, and a lot of people who rent apartments do not have a ladder, and in some apartments and some hotels per se, if you stay there long enough, the detector happens to be on the ceiling. Are there any provisions in your amendment who would be responsible then for checking it if it is not readily accessible?

Mr. MAYERNIK. As the amendment reads now, no. But it is obvious that if you want to change a light bulb, you get a chair if you do not have a ladder. If you want to do something that is high up, you get your relative or you get your nephew or somebody if you are older. That is how I think that should be addressed.

Mr. PRESTON. My concern is, for example, my grandmother is getting ready to move into a senior citizens highrise. The smoke detectors right now are about 8 or 9 feet and above the top of the door. Is it going to be the owner's responsibility or is it going to be my grandmother's responsibility to turn away or to test that herself?

Mr. MAYERNIK. I am sure that in a highrise they have maintenance people who would be happy to assist your grandmother in testing that device to see that it is operating properly on a monthly basis.

Mr. PRESTON. So in other words, is it the owner of the building's responsibility to make sure, therefore, that those people are going to have access? I do not see that in the amendment.

Mr. MAYERNIK. No; it is the tenant's.

Mr. PRESTON. Also, I am trying to be concerned, too, about the hotels that also rent things for a month. Again, it appears to me that it is going to be the person's responsibility who rents the room for over a month just as well, and if someone else tests it—that is also my additional question—if someone else does the actual testing and it is not the person who actually resides there, does that take the tenant off the hook?

Mr. MAYERNIK. First of all, I want to go back to the senior citizens highrise. You will have the maintenance person testing that, and they will keep an eye on it.

Yes; the responsibility is with the tenant. When you go to a hotel, most of them now have a panelboard, and whenever the battery gets weak, if it is battery, you will hear it emitting a sound. If it has a panelboard, it will be indicated in the main circuitry down at the desk if there are problems.

Mr. PRESTON. Thank you, Mr. Speaker. I have no further questions.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—63

Table with 4 columns of names: Angstadt, Barley, Black, Bowser, Boyes, Burd, Cawley, Civera, Clark, Coy, DeVerter, Dawida, Dietterick, Dorr, Durham, Fargo, Flick, Foster, Gallen, Gamble, Gannon, Gruppo, Haluska, Hershey, Honaman, Hutchinson, Jackson, Jadlowiec, Kenney, Langtry, McClatchy, Markosek, Mayernik, Merry, Miller, Moehlmann, Mrkonic, Murphy, O'Brien, Olasz, Perzel, Petrarca, Petrone, Pitts, Punt, Raymond, Schuler, Semmel, Serafini, Seventy, Showers, Smith, B., Snyder, D. W., Stairs, Steighner, Stevens, Telek, Trello, Van Horne, Vroon, Weston, Wogan, Wozniak

NAYS—133

Table with 4 columns of names: Acosta, Argall, Arty, Baldwin, Battisto, Belardi, Billow, Birmelin, Blaum, Book, Bortner, Bowley, Brandt, Broujos, Bunt, Burns, Bush, Caltagirone, Cappabianca, Carlson, Carn, Cessar, Chadwick, Clymer, Cohen, Colafella, Cole, Dempsey, Dininni, Distler, Dombrowski, Donatucci, Duffy, Evans, Farmer, Fattah, Fee, Fischer, Fox, Freeman, Geist, George, Gladeck, Godshall, Gruitza, Hagarty, Harper, Hasay, Hayden, Hayes, Heckler, Herman, Hess, Howlett, Kitchen, Kosinski, Kukovich, LaGrotta, Lashingier, Laughlin, Leh, Lescovitz, Levdansky, Linton, Livengood, Lloyd, Lucyk, McCall, McHale, McVerry, Maiaale, Maine, Manderino, Manmiller, Melio, Michlovic, Morris, Mowery, Nahill, Noye, O'Donnell, Reber, Reinard, Rieger, Ritter, Robbins, Roebuck, Rudy, Ryan, Rybak, Saloom, Saurman, Sirianni, Smith, S. H., Snyder, G., Staback, Stuban, Sweet, Taylor, E. Z., Taylor, F., Taylor, J., Tigue, Truman, Veon, Wambach, Wass, Wiggins, Wilson

Table with 4 columns of names: Cornell, Corrigan, Cowell, DeLuca, DeWeese, Daley, Davies, Hughes, Itkin, Jarolin, Johnson, Josephs, Kasunic, Kennedy, Oliver, Phillips, Piccola, Pievsky, Pistella, Pressmann, Preston, Wright, D. R., Wright, J. L., Yandrisevits, Irvis, Speaker

NOT VOTING—2

Micozzie Richardson

EXCUSED—5

Belfanti Letterman Scheetz Wright, R. C. Freind

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. MAYERNIK offered the following amendments No. A4695:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1 (Sec. 3.2), page 2, line 20, by inserting after "BUILDINGS.—"

(a)

Amend Sec. 1 (Sec. 3.2), page 2, by inserting between lines 25 and 26

(b) An owner of one or more apartments who complies with subsection (a) shall not be responsible for any damage or injury to any person or property due to or as a result of any misuse or tampering with the automatic detection device caused by a person other than the owner or his agent.

(c) Notwithstanding the provisions of section 15, this section shall apply throughout the Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city.

Amend Sec. 2, page 3, line 6, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Mayernik.

Mr. MAYERNIK. I will try it again, Mr. Speaker.

This one deals with misuse and tampering of smoke detectors. I do not believe that a landlord should be liable or responsible if a tenant tampers with a smoke alarm. You are saying, how is a tenant going to tamper with a smoke alarm? Well, what happens if they need a battery for their clock? What happens if they need a battery for their camera? What happens if they need a battery for their transistor radio and take the battery out of their smoke detector that the landlord has placed there and now checks on a monthly basis, takes that battery out and uses it? And then there is a fire. Who is responsible now? Is the landlord responsible because the tenant decided he wanted a free battery? I do not think that should be. What happens if the battery is weak and the tenant decides— I will give you an example of what happened to me the other day.

I came home after working a hard night of going to my different legislative receptions, it must have been 1 or 2 o'clock in the morning, and the battery was going off and this beeper was sounding and sounding. The alarm system was up on the ceiling and I could not shut it off. I tried to get the alarm apart, but it would not come apart, so I ripped it off the ceiling. And when I ripped it off the ceiling, I disconnected the battery and I put it in my cupboard, and it sat there for 6 weeks.

Now, what happens if a tenant comes home—the same as I did in my own residence—decides that the battery is weak and the battery has a sound of beeping coming out, and decides he does not want to tolerate it, does not want to get a ladder, does not want to get a chair, and rips it out of the ceiling as I did, and he puts it off to the side. Now, who is responsible? Is the landlord responsible? I do not think so.

This amendment would state that the landlord is not responsible for misuse or tampering with that battery or that unit. I ask for an affirmative vote on this amendment, Mr. Speaker.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, this is a back-door tort reform amendment. This amendment removes responsibility for any damage done not caused by the owner or agent of a building. Under this amendment the owner would not be responsible for not fixing serious damage caused by a prior tenant years ago or by vandals years ago or by natural disasters years ago. Under this amendment landlords have virtually no responsibility for maintenance in many, many cases.

This is not what this bill is about. I would strongly urge the defeat of this amendment.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Pressmann, on the amendment.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Would the gentleman, Mr. Mayernik, stand for a brief period of interrogation?

The SPEAKER. Mr. Mayernik indicates he will so stand. You may proceed.

Mr. PRESSMANN. Mr. Speaker, is it the intention of your amendment, if your amendment were to pass, that in a case where there should be, say, faulty wiring in a building because it was rewired incorrectly, and if there would be a fire and, under your amendment, the smoke detector had been tampered with, is it the intent of your legislation then that the full fault would lie with the tenant and not with the person who did the wiring?

Mr. MAYERNIK. I do not think this amendment addresses that, Mr. Speaker.

Mr. PRESSMANN. Mr. Speaker, is it your intent to exempt the owner of the building from responsibility for damages when an alarm is tampered with?

Mr. MAYERNIK. That is correct. If it is misused or tampered with. If the battery is taken out or it is taken off the ceiling, then I do not believe the landlord should be responsible.

Mr. PRESSMANN. So under any circumstances that would cause damage, the landlord would not be responsible if a smoke alarm was tampered with.

Mr. MAYERNIK. If the alarm was supposed to sound, yes. That is correct.

Mr. PRESSMANN. Thank you, Mr. Speaker.

I would like to make a statement on the amendment.

The SPEAKER. The gentleman has the floor and may proceed on it.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment. I think the gentleman, Mr. Mayernik, has the beginnings of a good idea here, but I think that the amendment has too many loopholes.

And I would agree with a previous speaker that this is a back-door tort reform measure. I think that when we say that there has been damage done because a fire alarm has been tampered with and there is a lack of negligence on the original cause of the fire so that it cannot be laid on somebody else, I think there is a good point that the person who tampered with the fire alarm should be held responsible. But under a circumstance where maybe the landlord had rewired the apartment himself, had done a shoddy job and not done a proper job and that caused the fire, I think the landlord then has fault. I think under this amendment the landlord is absolved from fault, and I think for those reasons we should vote to defeat this amendment. Thank you.

The SPEAKER. On the amendment for the second time, the Chair recognizes the gentleman from Allegheny, Mr. Mayernik.

Mr. MAYERNIK. Mr. Speaker, I would like to address the remarks of Mr. Pressmann.

This does not take away the liability and it is not back-door tort reform. If there is faulty wiring, that individual, that landlord, is still held responsible for that faulty wiring and can be held liable in court. This addresses the misuse and tampering of a smoke alarm. This does not address the cause of a fire. It just states that they cannot be held liable if the smoke alarm is tampered with for that purpose of smoke alarms once they are installed in a house.

The SPEAKER. The Chair recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Mr. Speaker, I would like to interrogate Mr. Mayernik.

The SPEAKER. Mr. Mayernik indicates he will stand for interrogation. You may proceed.

Mr. LLOYD. Mr. Speaker, I am going to put a hypothetical situation. Suppose I am the tenant and I come home and my alarm is beeping, just as yours was, and I call the landlord and I cannot get him to come because it is midnight. I cannot find anybody, so I take the batteries out or do something else to it to render it inoperative. About 2 o'clock in the morning the boiler in the building explodes, causes a fire which forces everybody out of the building, kills some people, damages most of the property. The argument by the landlord now is that if Lloyd had not tampered with that smoke detection device, some of the people would have gotten out safely, and therefore I, the landlord, even though I messed up and I was negligent in allowing the boiler to be in the condition in which it exploded, part of the liability is on Lloyd because he took out that smoke alarm. Under that hypothetical situation, would your amendment in fact shift, in your opinion, the liability from the landlord onto me, the tenant?

Mr. MAYERNIK. I do not believe so, Mr. Speaker. I would still hold that the liability remains with the landlord for having a malfunctioning boiler that initially caused the fire. Also, in a court of law I am sure that counsel would know the reasonable, logical, prudent man would not put the blame on the tenant for disconnecting that within a 2-hour period, if he can prove that that is actually the case.

Mr. LLOYD. Mr. Speaker, the problem is that the language says that the landlord is not responsible for any damage or any injury which occurs which is due to or the result of misuse or tampering. What that seems to be doing, whether it is your intention or not, what the language seems to be doing is to say that if there is some other person who is negligent, who has done something wrong, that shields the landlord from liability.

Mr. MAYERNIK. I would disagree with your interpretation of the words "misuse or tampering." To correct the situation that the battery is weak and an audible sound is coming out, I would not call that tampering; I would call that corrective measures.

Mr. LLOYD. But, Mr. Speaker, there is no definition anywhere in the Fire and Panic Act that talks about what "misuse or tampering" is, or is there such a definition? I really do not know. Is there a definition?

Mr. MAYERNIK. I do not know if there is a definition for that, but I am sure that the courts could decide what "misuse or tampering" is, the difference between that and responding to correct the problem.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, on the amendment?

The SPEAKER. The gentleman has the floor and may proceed.

Mr. LLOYD. Mr. Speaker, I do not think there is anything wrong with tort reform, as I indicated with my vote a couple of weeks ago, but I think this is not the right kind. I think that there are some definitional problems. There does not appear to be a definition in the Fire and Panic Act. There clearly is not one in this amendment. The question of what the proximate cause of certain damage is is one which is unclear under this amendment. So for all of those reasons I think we should reject this amendment at this time. Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—82

Barley	Farmer	Leh	Reber
Blaum	Fischer	Levdansky	Reinard
Bowser	Flick	Manmiller	Saurman
Brandt	Foster	Markosek	Schuler
Broujos	Fox	Mayernik	Semmel
Bunt	Gallen	Merry	Serafini
Burns	Gamble	Miller	Seventy
Caltagirone	Gannon	Moehlmann	Smith, B.
Cawley	Gladeck	Murphy	Smith, S. H.
Chadwick	Godshall	Nahill	Snyder, D. W.
Civera	Hagarty	Noye	Stevens
Clark	Hasay	O'Brien	Taylor, J.
Clymer	Heckler	Olasz	Telek
Coy	Herman	Perzel	Tigue
DeVerter	Hershey	Petrarca	Trello
Dawida	Honaman	Petrone	Van Horne
Dempsey	Hutchinson	Piccola	Weston
Dietterick	Jackson	Pitts	Wogan
Dininni	Kennedy	Punt	Wozniak
Dorr	Kenney	Raymond	Wright, J. L.
Fargo	Langtry		

NAYS—114

Acosta	Davies	Kukovich	Ritter
Angstadt	Distler	LaGrotta	Robbins
Argall	Dombrowski	Lashingier	Roebuck
Arty	Donatucci	Laughlin	Rudy
Baldwin	Duffy	Lescovitz	Ryan
Battisto	Durham	Linton	Rybak
Belardi	Evans	Livengood	Saloom
Billow	Fattah	Lloyd	Showers
Birmelin	Fee	Lucyk	Sirianni
Black	Freeman	McCall	Snyder, G.
Book	Geist	McClatchy	Staback
Bortner	George	McHale	Stairs
Bowley	Gruitza	McVerry	Steighner
Boyes	Gruppo	Maiale	Stuban
Burd	Haluska	Maine	Sweet
Bush	Harper	Manderino	Taylor, E. Z.
Cappabianca	Hayden	Melio	Taylor, F.
Carlson	Hayes	Michiovic	Truman
Carn	Hess	Morris	Veon
Cessar	Howlett	Mowery	Vroon
Cohen	Hughes	Mrkonic	Wambach
Colafella	Itkin	O'Donnell	Wass
Cole	Jadlowiec	Oliver	Wiggins

Cornell	Jarolin	Phillips	Wilson
Corrigan	Johnson	Pievsky	Wright, D. R.
Cowell	Josephs	Pistella	Yandrisevits
DeLuca	Kasunic	Pressmann	
DeWeese	Kitchen	Preston	Irvis,
Daley	Kosinski	Rieger	Speaker

NOT VOTING—2

Micozzie Richardson

EXCUSED—5

Belfanti Letterman Scheetz Wright, R. C.
Freind

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. BOWSER offered the following amendments No. A4699:

Amend Title, page 1, line 18, by striking out “AND” where it appears the first time

Amend Title, page 1, line 20, by removing the period after “FIRE” and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out “1” and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out “of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,”

Amend Sec. 1, page 3, by inserting between lines 5 and 6

Section 10.1. Clean Indoor Air.—(a) The purpose of this section is to protect the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.

(b) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(c) This prohibition shall not apply:

(1) In cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

(2) To factories, warehouses and similar places of work not usually frequented by the general public.

(d) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(e) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a nonsmoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

(f) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

(1) posting appropriate signs;

(2) arranging seating to provide a smoke-free area;

(3) asking smokers to refrain from smoking upon request of a client or employe suffering discomfort from the smoke; or

(4) any other means which may be appropriate.

(g) The Department of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this section, except as provided for in subsection (c).

(h) The Department of Health may, upon request, waive the provisions of this section if it determines there are compelling reasons to do so and such a waiver will not significantly affect the health and comfort of nonsmokers.

(i) Any person who violates subsection (b) commits a summary offense.

(j) The Department of Health, a local board or department of health or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of subsection (f).

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Public meeting.” All meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the “Sunshine Act.”

“Public place.” Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

“Smoking.” Includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Amend Sec. 2, page 3, line 6, by striking out “2” and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Erie, Mr. Bowser.

Mr. BOWSER. Thank you, Mr. Speaker.

This amendment would take the workplace out of the bill for nonsmoking. The figures that I gave awhile ago in my discussion against the bill are still the same. These are workplace figures - 59 percent of all businesses surveyed have some policy in place right now. Again, it is working. Why do we have to legislate when they are taking care of the problem? All you are going to do is shift these people to smoke some other

place, those who still do, and 59 percent of them have already done something. Let us let that thing work.

I appreciate support of this amendment. Thank you.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Dawida.

Mr. DAWIDA. Mr. Speaker, I believe this is a bad amendment. We have built into this a consensus process, a compromise process in every workplace. And Mr. Bowser's arguments, quite frankly, support voting "no" against his amendment. The fact is business in Pennsylvania has long ago realized the benefits of curtailing smoking in the workplace, not eliminating it but curtailing it. They know that this is good for them, and many businesses support this kind of legislation. There is no need to exempt them, and it is a very important element of the bill. The workplace is where most of us get the complaints from people, people in our districts. So I would urge a "no" vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—49

Book	Dombrowski	Kenney	Smith, S. H.
Bowser	Fargo	Lescovitz	Snyder, D. W.
Boyes	Farmer	Merry	Stairs
Brandt	Flick	Moehlmann	Sweet
Burd	Gallen	Nahill	Taylor, J.
Burns	Gruitza	Noye	Telek
Caltagirone	Haluska	Perzel	Trello
Cawley	Honaman	Petrone	Vroon
Cessar	Hutchinson	Punt	Weston
Clark	Jackson	Robbins	Wozniak
DeVerter	Jadlowiec	Seventy	Wright, D. R.
Davies	Kennedy	Sirianni	Wright, J. L.
Distler			

NAYS—145

Acosta	Donatucci	Langtry	Raymond
Angstadt	Dorr	Lashinger	Reber
Argall	Duffy	Laughlin	Reinard
Arty	Durham	Leh	Rieger
Baldwin	Evans	Levdansky	Ritter
Barley	Fee	Linton	Roebuck
Battisto	Fischer	Livengood	Rudy
Belardi	Foster	Lloyd	Ryan
Billow	Fox	Lucyk	Rybak
Birmelin	Freeman	McCall	Saloom
Black	Gamble	McClatchy	Saurman
Blaum	Gannon	McHale	Schuler
Bortner	Geist	McVerry	Semmel
Bowley	George	Maiale	Serafini
Broujos	Gladeck	Maine	Showers
Bunt	Godshall	Manderino	Smith, B.
Bush	Gruppo	Manmiller	Snyder, G.
Cappabianca	Hagarty	Markosek	Staback
Carlson	Harper	Mayernik	Steighner
Carn	Hasay	Melio	Stevens
Chadwick	Hayden	Michlovic	Stuban
Civera	Hayes	Miller	Taylor, E. Z.
Clymer	Heckler	Morris	Taylor, F.
Cohen	Herman	Mowery	Tigue
Colafella	Hershey	Mrkonic	Truman
Cole	Hess	Murphy	Van Horne
Cornell	Howlett	O'Donnell	Veon
Corrigan	Hughes	Olasz	Wambach
Cowell	Itkin	Oliver	Wass
Coy	Jarolin	Petrarca	Wiggins
DeLuca	Johnson	Phillips	Wilson

DeWeese	Josephs	Piccola	Wogan
Daley	Kasunic	Pievsky	Yandrisevits
Dawida	Kitchen	Pistella	
Dempsey	Kosinski	Pitts	Irvis,
Dietterick	Kukovich	Pressmann	Speaker
Dininni	LaGrotta	Preston	

NOT VOTING—4

Fattah	Micozzie	O'Brien	Richardson
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EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. SEVENTY offered the following amendments No. A4717:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1, page 3, by inserting between lines 5 and 6

Section 10.1. Clean Indoor Air.—(a) The purpose of this section is to protect the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.

(b) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(c) This prohibition shall not apply:

(1) In cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

(2) To factories, warehouses and similar places of work not usually frequented by the general public, except that the Depart-

ment of Labor and Industry shall, in consultation with the Department of Health, establish by regulation rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

(d) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(e) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a nonsmoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

(f) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

(1) posting appropriate signs;

(2) arranging seating to provide a smoke-free area;

(3) asking smokers to refrain from smoking upon request of a client or employe suffering discomfort from the smoke; or

(4) any other means which may be appropriate.

(g) The Department of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this section, except as provided for in subsection (c).

(h) The Department of Health may, upon request, waive the provisions of this section if it determines there are compelling reasons to do so and such a waiver will not significantly affect the health and comfort of nonsmokers.

(i) Any person who violates subsection (b) commits a summary offense and shall, upon conviction be sentenced to pay a fine of not more than \$25.00.

(j) The Department of Health, a local board or department of health or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of subsection (f).

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Public meeting.” All meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the “Sunshine Act.”

“Public place.” Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

“Smoking.” Includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Amend Sec. 2, page 3, line 6, by striking out “2” and inserting

3

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Seventy.

Mr. SEVENTY. Thank you, Mr. Speaker.

Mr. Speaker, the intent of this amendment is simply to make the fine a maximum of \$25. Now, the reason for that, I have to admit the antismoking coalition over the years has done a remarkable job. In fact, we smokers are now in the minority, and that is definite. Even Amos quit. But the fact that they have done it advertising—

The SPEAKER. Just a moment, Mr. Seventy. You have made a momentous announcement. Are you accurate? Are you saying that the gentleman, Mr. Amos Hutchinson, no longer smokes?

Mr. SEVENTY. That is what he told me, sir.

The SPEAKER. It has been worthwhile.

Go ahead, Mr. Seventy.

Mr. SEVENTY. Thank you, Mr. Speaker.

Now my trend of thought is almost gone.

There is no doubt that we are in the minority, but the coalition against smoking has accomplished this mainly by education and advertising, and I think that is the way it should stay. The old adage - if it ain't broke, don't fix it. Keep it that way. Make the top fine \$25. Vote for my amendment, please.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Dawida.

Mr. DAWIDA. Mr. Speaker, my good friend, Mr. Seventy, is well intended in this amendment. He really believes that the \$25 fine is all we need. But let us look at the way this bill in reality, this law, would work.

We have experience from Nebraska and Minnesota with similar legislation, and in both of those States in 11 years of experience, there has been one fine. What generally happens, what always happens is people are warned; they are asked to change and they change. One fine in the entire State of Minnesota and zero in the State of Nebraska. Because of that we should not lower the figure to \$25. We have a summary offense that has a discretionary amount in it, and it would depend on the amount of intransigence on the person who is not meeting the law.

What Mr. Seventy is worried about is people being tagged as they are walking along the street, and that is not the issue here. The issue is in the workplace, if someone will comply with the law, and you need at least enough teeth in it to make them fear the law. But the reality of practice on this kind of legislation in other States is we do not need to lower the fine. The fine is fine. There will not be many fines, so I would ask for a “no” vote.

The SPEAKER. For the second time on the amendment, the Chair recognizes the gentleman from Allegheny, Mr. Seventy.

Mr. SEVENTY. Thank you, Mr. Speaker.

Now, Mr. Dawida knows as well as I do that the top fine could possibly be as high as \$300. Now, there are many J.P.'s (justices of the peace) who have it in for this guy or that guy. Mine in my particular area are great. They are fair people, but there are definitely an awful lot of local justices who will just take advantage of the summary offense being a total of \$300. I suggest that \$25 would be plenty to fine anybody for smoking. Thank you.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—73

Baldwin	Dombrowski	Jarolin	Robbins
Barley	Durham	Kennedy	Saloom
Billow	Fargo	Kenney	Schuler
Book	Farmer	LaGrotta	Seventy
Brandt	Fee	Langtry	Sirianni
Bunt	Flick	Laughlin	Smith, S. H.
Burd	Gallen	Livengood	Snyder, D. W.
Burns	George	Lloyd	Snyder, G.
Caltagirone	Godshall	Merry	Staback
Carlson	Gruitza	Moehlmann	Steighner
Cawley	Haluska	Noye	Taylor, J.
Clark	Harper	O'Brien	Telek
Cohen	Hasay	Olasz	Tigue
Cornell	Herman	Perzel	Weston
Coy	Honaman	Petrone	Wogan
DeVerter	Hutchinson	Preston	Wozniak
DeWeese	Itkin	Punt	Wright, D. R.
Davies	Jackson	Reber	Wright, J. L.
Distler			

NAYS—120

Acosta	Donatucci	Lescovitz	Reinard
Angstadt	Dorr	Linton	Rieger
Argall	Duffy	Lucyk	Ritter
Arty	Evans	McCall	Roebuck
Battisto	Fattah	McClatchy	Rudy
Belardi	Fischer	McHale	Ryan
Birmelin	Foster	Maiale	Rybak
Black	Fox	Maine	Saurman
Blaum	Freeman	Manderino	Semmel
Bortner	Gamble	Manmiller	Serafini
Bowley	Gannon	Markosek	Showers
Bowser	Geist	Mayernik	Smith, B.
Boyes	Gladeck	Melio	Stairs
Broujos	Gruppo	Michlovic	Stevens
Bush	Hagarty	Miller	Stuban
Cappabianca	Hayden	Morris	Sweet
Carn	Hayes	Mowery	Taylor, E. Z.
Cessar	Heckler	Mrkonic	Taylor, F.
Chadwick	Hershey	Murphy	Truman
Civera	Hess	Nahill	Van Horne
Clymer	Howlett	O'Donnell	Veon
Colafella	Hughes	Oliver	Vroon
Cole	Jadlowiec	Petrarca	Wambach
Corrigan	Johnson	Phillips	Wass
Cowell	Josephs	Piccola	Wiggins
DeLuca	Kasunic	Pievsky	Wilson
Daley	Kitchen	Pistella	Yandrisevits
Dawida	Kosinski	Pitts	
Dempsey	Kukovich	Pressmann	Irvis,
Dietterick	Lashinger	Raymond	Speaker
Dininni	Leh		

NOT VOTING—5

Levdansky	Micozzie	Richardson	Trello
McVerry			

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the negative, and the amendments were not agreed to.

WELCOME

The SPEAKER. The Chair is delighted to welcome to the hall of the House, as the guests of Representative Burd, the following young people: From Butler County, Don and Linda McCleary; from the Union of South Africa, Helena Strijdom; and from Germany, Silke Beckhusen. Will you please rise. They are to the left of the Speaker. Welcome to the hall of the House.

CONSIDERATION OF SB 26 CONTINUED

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. VEON reoffered the following amendments No. A4393:

Amend Title, page 1, line 18, by striking out "AND" where it appears the first time

Amend Title, page 1, line 20, by removing the period after "FIRE" and inserting

; regulating smoking in certain public places; and providing a penalty.

Amend Bill, page 1, by inserting between lines 22 and 23

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is amended to read:

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures [not in cities of the first class, second class, and second class A,] by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Amend Sec. 1, page 1, line 23, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 23 and 24, by striking out "of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act,"

Amend Sec. 1, page 3, by inserting between lines 5 and 6

Section 10.1. Clean Indoor Air.—(a) The purpose of this act is to protect the public health, comfort and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.

(b) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(c) This prohibition shall not apply:

(1) In cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place.

(2) To factories, warehouses and similar places of work not usually frequented by the general public, except that the Department of Labor and Industry shall, in consultation with the

Department of Health, establish by regulation rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employes.

(3) To restaurants.

(d) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(e) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. In the case of public places consisting of a single room, the provisions of this law shall be considered met if one side of the room is reserved and posted as a nonsmoking area. No public place other than a bar shall be designated as a smoking area in its entirety. If a bar is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

(f) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by:

(1) posting appropriate signs;

(2) arranging seating to provide a smoke-free area;

(3) asking smokers to refrain from smoking upon request of a client or employe suffering discomfort from the smoke; or

(4) any other means which may be appropriate.

(g) The Department of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this section, except as provided for in subsection (c).

(h) The Department of Health may, upon request, waive the provisions of this section if it determines there are compelling reasons to do so and such a waiver will not significantly affect the health and comfort of nonsmokers.

(i) Any person who violates subsection (b) commits a summary offense.

(j) The Department of Health, a local board or department of health or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of subsection (f).

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Public meeting.” All meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the “Sunshine Act.”

“Public place.” Any enclosed, indoor area used by the general public or serving as a place of work including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

“Smoking.” Includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

Amend Sec. 2, page 3, line 6, by striking out “2” and inserting

3

On the question recurring,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, as I mentioned previously on the floor of the House, this amendment would simply and totally exempt res-

taurants from the provisions of Mr. Dawida’s amendment. In my mind, there is no industry that would be more adversely or directly affected than the restaurant industry by the provisions of this amendment.

I think that the issues have been well debated, well explained, and are clear to all members of the House. I would ask for an affirmative vote on amendment 4393. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Dawida.

Mr. DAWIDA. Mr. Speaker, the restaurant associations in every State that has passed this kind of legislation have affirmatively said they like the legislation after it is in. What we have here are a few restaurateurs—Most understand that this is good for their business. We have a few restaurateurs—and I appreciate their need and their desire—who do not understand that the bill is a compromise, that it will not negatively affect them. If they were to contact their brethren at the Nebraska Restaurant Association, they would find out that that group has endorsed legislation like this.

I would ask for a “no” vote.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Veon, for the second time.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I would like to point out one fact that I would hope would not be overlooked. Several restaurants in my legislative district have approached me regarding the language of the Dawida amendment. In particular, Mr. Dawida has language in his amendment that says when we speak of a one-room facility or a one-room public place—and I have many restaurants in my legislative district that are in fact one-room facilities—Mr. Dawida’s language says that one side of the room shall be designated nonsmoking and one side of the room shall be designated smoking.

The one-room restaurants in my district view that language to be a problem for them. We ought to try to have language that is much more flexible for public places, period. I supported Mr. Dawida’s amendment, but clearly in my opinion and in the opinion of those restaurateurs in my legislative district, particularly the restaurateurs with one-room facilities, this particular amendment would create a problem for them. They may not have 50 percent smoking and 50 percent nonsmoking clientele at any given time.

For that reason I would hope that we could have an affirmative vote and exempt restaurants totally from the language in Mr. Dawida’s amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—97

Acosta	Durham	Laughlin	Robbins
Angstadt	Evans	Leh	Rybak
Billow	Fargo	Lescovitz	Saloom
Book	Farmer	Livengood	Seventy
Bowser	Gallen	Lucyk	Sirianni
Boyes	Gannon	McVerry	Smith, S. H.
Brandt	Godshall	Maiale	Snyder, G.
Bunt	Gruitza	Maine	Staback

Burd	Haluska	Manderino	Stairs
Burns	Harper	Miller	Steighner
Caltagirone	Hasay	Moehlmann	Sweet
Cappabianca	Honaman	Morris	Taylor, F.
Carlson	Howlett	Nahill	Taylor, J.
Cawley	Hutchinson	Noye	Telek
Cessar	Jackson	O'Brien	Tigue
Civera	Jadlowiec	Olasz	Trello
Clark	Jarolin	Perzel	Veon
Cornell	Kasunic	Petrone	Wass
Coy	Kennedy	Pievsky	Weston
DeVerter	Kenney	Pistella	Wogan
DeWeese	Kitchen	Preston	Wozniak
Daley	Kosinski	Punt	Wright, D. R.
Davies	LaGrotta	Raymond	Wright, J. L.
Distler	Langtry	Rieger	Yandrisevits
Dombrowski			

NAYS—96

Argall	Donatucci	Lashinger	Reinard
Arty	Dorr	Levdansky	Ritter
Baldwin	Duffy	Linton	Roebuck
Battisto	Fee	Lloyd	Rudy
Belardi	Fischer	McCall	Ryan
Birmelin	Flick	McClatchy	Saurman
Black	Foster	McHale	Schuler
Blaum	Fox	Manmiller	Semmel
Bortner	Freeman	Markosek	Serafini
Bowley	Gamble	Mayernik	Showers
Broujos	Geist	Melio	Smith, B.
Bush	George	Merry	Snyder, D. W.
Carn	Gladeck	Michlovic	Stevens
Chadwick	Gruppo	Mowery	Stuban
Clymer	Hagarty	Mrkonic	Taylor, E. Z.
Cohen	Hayden	Murphy	Truman
Colafella	Hayes	O'Donnell	Van Horne
Cole	Heckler	Oliver	Vroon
Corrigan	Herman	Petrarca	Wambach
Cowell	Hershey	Phillips	Wiggins
DeLuca	Hess	Piccola	Wilson
Dawida	Itkin	Pitts	
Dempsey	Johnson	Pressmann	Irvis,
Dietterick	Josephs	Reber	Speaker
Dininni	Kukovich		

NOT VOTING—5

Barley	Hughes	Micozzie	Richardson
Fattah			

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Veon. Do you wish to offer a second amendment?

Mr. VEON. Mr. Speaker, I will withdraw the second amendment.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Gamble. Why do you rise?

Mr. GAMBLE. I wanted to be recorded on the Dawida amendment. My button did not work. Do I do that after, Mr. Speaker?

The SPEAKER. No; we will listen to you now. Go ahead.

Mr. GAMBLE. I would like to be voted in the affirmative on A4360 to SB 26.

The SPEAKER. The gentleman's remarks will be spread upon the record.

CONSIDERATION OF SB 26 CONTINUED

REQUEST TO PASS OVER

The SPEAKER. The Chair recognizes the gentleman from Butler, Mr. Burd. Why do you rise?

Mr. BURD. Mr. Speaker, if I am in order, at this time I would like to make a request to the body to allow us to hold this bill over to give us some time to prepare some amendments, now owing to the fact that the Dawida amendment has become part of SB 26. I apologize to the General Assembly for asking them to do it in this manner, but it seems the Reference Bureau has been jammed up and unable to get to our amendments and they were using the argument to us that they could not prepare amendments to an amendment until it had become part of the bill. Of course, we did not know or no one knew until today whether the Dawida amendment would in fact become part of SB 26, and therefore, I ask for the indulgence of the House, if they would kindly agree to allow us to hold this bill over until we have had a chance to prepare some amendments. Thank you, Mr. Speaker.

The SPEAKER. The correct motion for you, Mr. Burd, absents the agreement of the majority leader, of course, would be to move to place the bill on final passage postponed. But the Chair suggests you confer with the man who runs the floor, the majority leader, and see what his wishes are in the matter.

The House will stand at ease for a moment.

The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I wish this issue would go away. We have been on it long enough. I would like to move on to other business of the House. I am not going to impose my will on the House, but I think we ought to vote on whether or not to pass over.

MOTION TO PLACE BILL ON FINAL PASSAGE POSTPONED CALENDAR

The SPEAKER. Do you wish to make the motion, Mr. Burd?

Mr. BURD. If the Speaker would restate the motion, I would—

The SPEAKER. The motion by Mr. Burd would be to move to place SB 26, as amended, on the final passage postponed calendar. If the House would agree to that, then it would go on the final passage postponed calendar.

Mr. BURD. Then I so move, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Burd, moves that SB 26, as amended, be placed on the final passage postponed calendar. Those who agree will vote "aye"; those who disagree will vote "no."

On the question,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—84

Angstadt	Dietterick	Kasunic	Punt
Barley	Distler	Kennedy	Robbins
Billow	Duffy	Kenney	Ryan
Black	Durham	Langtry	Saloom
Book	Fargo	Lashinger	Serafini
Bowser	Farmer	Lloyd	Seventy
Boyes	Flick	McVerry	Sirianni
Brandt	Foster	Maiale	Smith, S. H.
Bunt	Gallen	Merry	Snyder, D. W.
Burd	Godshall	Miller	Stairs
Burns	Gruitza	Moehlmann	Steighner
Bush	Haluska	Mowery	Stevens
Caltagirone	Harper	Mrkonic	Taylor, F.
Carlson	Hayes	Noye	Taylor, J.
Cawley	Herman	O'Brien	Telek
Cessar	Hess	Olasz	Trello
Clark	Honaman	Perzel	Vroon
Coy	Howlett	Petrone	Weston
DeVerter	Jackson	Phillips	Wogan
Davies	Jadlowiec	Pievsy	Wozniak
Dempsey	Johnson	Preston	Wright, J. L.

NAYS—107

Acosta	Evans	Levdansky	Rieger
Argall	Fattah	Linton	Ritter
Arty	Fee	Livengood	Roebuck
Baldwin	Fischer	Lucyk	Rudy
Battisto	Fox	McCall	Rybak
Belardi	Freeman	McClatchy	Saurman
Birmelin	Gamble	McHale	Schuler
Blaum	Gannon	Maine	Semmel
Bortner	Geist	Manderino	Showers
Bowley	George	Manmiller	Smith, B.
Broujos	Gladeck	Markosek	Snyder, G.
Cappabianca	Gruppo	Mayernik	Staback
Carn	Hagarty	Melio	Stuban
Chadwick	Hasay	Michlovic	Sweet
Civera	Hayden	Morris	Taylor, E. Z.
Clymer	Hershey	Murphy	Tigue
Cohen	Hughes	Nahill	Truman
Cole	Itkin	O'Donnell	Van Horne
Cornell	Jarolin	Oliver	Veon
Corrigan	Josephs	Petrarca	Wambach
Cowell	Kitchen	Piccola	Wass
DeLuca	Kosinski	Pistella	Wilson
Daley	Kukovich	Pitts	Wright, D. R.
Dawida	LaGrotta	Pressmann	Yandrisevits
Dininni	Laughlin	Raymond	

Dombrowski	Leh	Reber	Irvis,
Donatucci	Lescovitz	Reinard	Speaker
Dorr			

NOT VOTING—7

Colafella	Heckler	Micozzie	Wiggins
DeWeese	Hutchinson	Richardson	

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The question was determined in the negative, and the motion was not agreed to.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—152

Acosta	Dorr	Leh	Rudy
Argall	Duffy	Lescovitz	Ryan
Arty	Durham	Linton	Rybak
Baldwin	Evans	Livengood	Saloom
Barley	Fee	McCall	Saurman
Battisto	Foster	McClatchy	Schuler
Belardi	Fox	McHale	Semmel
Birmelin	Freeman	McVerry	Serafini
Black	Gamble	Maiale	Showers
Blaum	Gannon	Maine	Smith, B.
Bortner	Geist	Manmiller	Smith, S. H.
Bowley	George	Markosek	Snyder, D. W.
Broujos	Gladeck	Mayernik	Snyder, G.
Bunt	Godshall	Melio	Staback
Burns	Gruppo	Merry	Stairs
Bush	Hagarty	Michlovic	Steighner
Cappabianca	Harper	Miller	Stevens
Carlson	Hasay	Morris	Stuban
Carn	Hayden	Mowery	Sweet
Cawley	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Tigue
Clark	Hershey	O'Donnell	Trello
Clymer	Hess	Olasz	Truman
Cohen	Howlett	Oliver	Van Horne
Colafella	Itkin	Petrarca	Veon
Cole	Jackson	Petrone	Vroon
Cornell	Jadlowiec	Phillips	Wambach
Corrigan	Jarolin	Piccola	Wass
Cowell	Johnson	Pitts	Wiggins
DeLuca	Josephs	Pressmann	Wilson
Daley	Kasunic	Raymond	Wogan
Dawida	Kitchen	Reber	Wright, D. R.
Dempsey	Kosinski	Reinard	Wright, J. L.
Dietterick	Kukovich	Rieger	Yandrisevits
Dininni	LaGrotta	Ritter	
Distler	Langtry	Robbins	Irvis,
Dombrowski	Lashinger	Roebuck	Speaker
Donatucci	Laughlin		

NAYS—40

Angstadt	DeVerter	Hutchinson	Pievsy
Billow	DeWeese	Kennedy	Pistella
Book	Davies	Kenney	Preston
Bowser	Farmer	Lloyd	Punt
Boyes	Fischer	Lucyk	Seventy
Brandt	Flick	Manderino	Sirianni
Burd	Gallen	Moehlmann	Taylor, J.
Caltagirone	Gruitza	Noye	Telek
Cessar	Haluska	O'Brien	Weston
Coy	Honaman	Perzel	Wozniak

NOT VOTING—6

Fargo	Hughes	Micozzie	Richardson
Fattah	Levdansky		

EXCUSED—5

Belfanti	Letterman	Scheetz	Wright, R. C.
Freind			

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Pievsky.

Mr. PIEVSKY. Mr. Speaker, at the call of the recess—and I would ask that the desk be open—the Appropriations Committee will meet at the rear of the chamber, and on the agenda are regular session bills and special session bills.

The SPEAKER. The Chair will remain open.

AGRICULTURE AND RURAL AFFAIRS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Morris.

Mr. MORRIS. Mr. Speaker, I would like to remind the members of the Agriculture and Rural Affairs Committee that we will have a meeting in room 401 immediately at the call of the recess. The purpose of the meeting, Mr. Speaker, is to consider SB 1072.

JUDICIARY COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Greene, Mr. DeWeese.

Mr. DeWEESE. The House Judiciary Committee will meet, as scheduled, tomorrow at 10 a.m. There is one change, however, Mr. Speaker. The committee will meet in room 302 - room 302 at 10 o'clock tomorrow morning. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Brandt. Why do you rise?

Mr. BRANDT. To comment on legislation I am about to introduce, Mr. Speaker.

The SPEAKER. Would you hold that until the caucus chairs have had a chance to make their announcements.

DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Itkin.

Mr. ITKIN. Mr. Speaker, because of the lateness of the hour this afternoon, the Democrats will not have caucus

today. We will go into caucus tomorrow promptly at 10 a.m. We will be considering bills that will be on the calendar to be voted. I urge everyone to be prompt at 10 o'clock tomorrow so that we can start the floor session promptly at 11. We are going to deal with sunset legislation that we will be voting during the floor session tomorrow.

REPUBLICAN CAUCUS

The SPEAKER. The Chair recognizes the gentleman from Perry, Mr. Noye.

Mr. NOYE. Thank you, Mr. Speaker.

Republicans likewise will caucus at 10 a.m. We have four sunset bills to cover and we should be done in a reasonable period of time.

STATEMENT BY MR. BRANDT

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Brandt.

Mr. BRANDT. Thank you, Mr. Speaker.

Over the past several years it has become a significantly increasing number of situations in basically our rural areas where a permit for an onlot sewage system has been issued by the local township, municipality, or county health office department, through their own sewage enforcement officer, which is later revoked for one or more of a number of reasons, usually given by the Department of Environmental Resources as an interpretation of the law and regulations.

In many of these instances, the issuance and then subsequent revocation of that permit has put the homeowner in a serious financial situation. The homeowner has proceeded on good faith to construct or modify a dwelling, arranged and accepted financing, and prepared for settlement on the property only to find the sewer permit revoked, the occupancy permit denied, and the financing many times in shambles.

Joining with me today there are over 33 other members of the House and I welcome other cosponsors on a bill that would in fact provide that a permit for an onlot septic system, once issued, cannot be revoked for any reason except the falsification of information material to the issuance of the license, and in that case the permittee must be given notice of intent to revoke and an opportunity for a hearing and receive an adjudication of the matter within the set time limits.

Since these sewage enforcement officers, Mr. Speaker, are regulated by the Department of Environmental Resources, it just seems like it is a lot of double work out there that they go out and they inspect and they perc a lot and they pass it only for the bureaucracy to come and review what they have done and then put a question mark onto the validity of that sewage permit. I think it is time that we relieve DER from some of its responsibilities, particularly in these areas, and I hope other members of the House will join us in this proposed legislation. Thank you, Mr. Speaker.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cessar.

Mr. CESSAR. Thank you, Mr. Speaker.

I would just like to change my vote on SB 26 on the Mayernik amendment, which was A4695. I was incorrectly voted in the negative, and I would like to be recorded in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Mercer, Mr. Fargo.

Mr. FARGO. Thank you, Mr. Speaker.

My switch failed to record my vote on the final passage of SB 26. I would like to be recorded in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Bucks, Mr. Heckler.

Mr. HECKLER. Thank you, Mr. Speaker.

On the motion to postpone consideration of SB 26, my vote was not recorded. I would wish to be recorded in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

BILLS REREPORTED FROM COMMITTEE

HB 323, PN 1861

By Rep. PIEVSKY

An Act amending the act of May 2, 1945 (P. L. 382, No. 164), known as the "Municipality Authorities Act of 1945," providing for the membership of a joint sanitary authority created by cities of the second class and counties of the second class, for audits of the joint sanitary authority and for service standards and performance evaluation measures of the joint sanitary authority.

APPROPRIATIONS.

HB 1452, PN 2170

By Rep. PIEVSKY

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for general requirements for school buses and for width of vehicles.

APPROPRIATIONS.

HB 1577, PN 2360

By Rep. PIEVSKY

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), known as "The Second Class Township Code," further providing for the compensation of supervisors and for the purchase of insurance; and making editorial changes.

APPROPRIATIONS.

SENATE MESSAGE

ADJOURNMENT RESOLUTION
FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate, December 1, 1987

RESOLVED, (the House of Representatives concurring), That when the Regular Session of the Senate adjourns this week it reconvene on Monday, December 7, 1987, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the Regular Session of the House of Representatives adjourns this week it reconvene on Monday, December 7, 1987, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

BILL SIGNED BY SPEAKER

The Chair gave notice that he was about to sign the following bill, which was then signed:

SB 356, PN 1581

An Act amending the act of June 23, 1931 (P. L. 932, No. 317), entitled "The Third Class City Code," increasing the fine for ordinance violations.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. There being no further business to be brought before this day's session, the Chair recognizes the lady from Allegheny, Mrs. Farmer.

Mrs. FARMER. Mr. Speaker, I move that this House do now adjourn until Wednesday, December 2, 1987, at 11:10 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:02 p.m., e.s.t., the House adjourned.