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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 246**      Session of  
2007

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INTRODUCED BY GREENLEAF, ERICKSON, O'PAKE, CORMAN, WASHINGTON,  
C. WILLIAMS, LOGAN AND ORIE, JANUARY 29, 2007

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REFERRED TO PUBLIC HEALTH AND WELFARE, JANUARY 29, 2007

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AN ACT

1 Establishing the Clean Indoor Air Act; imposing duties upon the  
2 Department of Health; imposing penalties; and repealing a  
3 related provision of the Fire and Panic Act.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Clean Indoor  
8 Air Act.

9 Section 2. Legislative findings and purpose.

10 (a) Findings.--The General Assembly finds as follows:

11 (1) The use of tobacco products is dangerous not only to  
12 the person smoking, but also to nonsmokers who must breathe  
13 the contaminated air.

14 (2) The Environmental Protection Agency has classified  
15 second-hand tobacco smoke as a Class A carcinogen, a  
16 classification reserved for the most lethal environmental  
17 hazards, such as asbestos, benzene, formaldehyde and radon.

18 (3) Approximately 53,000 nonsmokers in the United States

1 die annually from lung and heart disease due to exposure to  
2 passive smoke.

3 (4) Three hundred thousand children exposed to tobacco  
4 smoke have increased frequency of lower respiratory  
5 infections, such as pneumonia and bronchitis.

6 (5) Tobacco smoke is also responsible for up to  
7 1,000,000 attacks of asthma, 8,000 to 26,000 new cases of  
8 asthma and significant reduction in lung function, and causes  
9 serious middle ear infections among children each year.

10 (b) Purpose.--By enactment of this legislation, the General  
11 Assembly intends to protect the public health, the comfort of  
12 all persons and the environment by prohibiting smoking in public  
13 places and workplaces.

14 Section 3. Definitions.

15 The following words and phrases when used in this act shall  
16 have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Department." The Department of Health of the Commonwealth.

19 "Public meeting." A meeting open to the public including any  
20 meeting open to the public pursuant to 65 Pa.C.S. Ch. 7  
21 (relating to open meetings).

22 "Public place." An enclosed area to which the public is  
23 invited or in which the public is permitted, including any place  
24 listed in section 5.

25 "Restaurant." An eating establishment that offers food for  
26 sale to the public.

27 "Service line." A line at which one or more persons are  
28 waiting for or receiving service of any kind, whether or not  
29 such service involves the exchange of money.

30 "Smoking." The carrying by a person of a lighted cigar,

1 cigarette, pipe or other lighted smoking device.

2 "Sports arena." A sports stadium, sports pavilion,  
3 exhibition hall, gymnasium, health spa, boxing arena, swimming  
4 pool, roller or ice rink, bowling alley or similar place where  
5 members of the general public assemble to engage in physical  
6 exercise, participate in athletic competition or witness sports  
7 events.

8 "Tobacco shop." A business establishment the main purpose of  
9 which is the sale of tobacco products including cigars, pipe  
10 tobacco and smoking accessories.

11 "Workplace." An indoor area serving as a place of  
12 employment, occupation, business, trade, craft, profession or  
13 volunteer activity.

14 Section 4. Prohibition.

15 No person shall smoke in a public place or in a workplace.

16 Section 5. Public place.

17 The following enclosed areas are examples of public places:

18 (1) A place in which a public meeting is held.

19 (2) An educational facility.

20 (3) A school bus.

21 (4) A health facility.

22 (5) An auditorium.

23 (6) An arena.

24 (7) A theater.

25 (8) A museum.

26 (9) A restaurant.

27 (10) A bar or tavern.

28 (11) A concert hall.

29 (12) A commercial establishment.

30 (13) A retail store.

- 1 (14) A service line.
- 2 (15) A grocery store.
- 3 (16) A bingo hall.
- 4 (17) A waiting room or area.
- 5 (18) A hallway.
- 6 (19) A polling place.
- 7 (20) A restroom.
- 8 (21) A sports arena.
- 9 (22) A convention hall.
- 10 (23) An elevator.
- 11 (24) Public transit.
- 12 (25) A public food assistance program and facility.
- 13 (26) A shopping mall.
- 14 (27) An exhibition hall.
- 15 (28) A rotunda or lobby.
- 16 (29) A licensed gaming facility.
- 17 (30) At least 75% of the total number of sleeping
- 18 quarters that are available for rent to guests within any
- 19 single lodging establishment.

20 Section 6. Exception.

21 This act shall not apply to the following places:

- 22 (1) A private residence, except when used as a
- 23 childcare, adult daycare or health care facility.
- 24 (2) Designated sleeping quarters within a lodging
- 25 establishment that are available for rent to guests
- 26 accounting for no more than 25% of the total number of
- 27 lodging units within a single lodging establishment.
- 28 (3) A wholesale or retail tobacco shop whose sales of
- 29 tobacco products comprise 85% or more of gross sales on an
- 30 annual basis.

1 (4) All workplaces of any manufacturer, importer or  
2 wholesaler of tobacco products, of any tobacco leaf dealer or  
3 processor, and all tobacco storage facilities.

4 Section 7. Retaliation prohibited.

5 No person or employer shall discharge, refuse to hire or in  
6 any manner retaliate against any employee or applicant for  
7 employment because the employee or applicant exercises any right  
8 to a smoke-free environment required by this act.

9 Section 8. Enforcement.

10 The Department of Health, a local board or department of  
11 health or any affected party may institute an action in any  
12 court with jurisdiction to enjoin a violation of the provisions  
13 of this act.

14 Section 9. Penalty.

15 Any person who smokes in a public place or in a workplace or  
16 violates any other provision of this act commits a summary  
17 offense and shall pay:

18 (1) A fine not exceeding \$100 for a first violation.

19 (2) A fine not exceeding \$200 for a second violation  
20 that occurs within one year.

21 (3) A fine not exceeding \$500 for each additional  
22 violation that occurs within one year.

23 Section 10. Rules and regulations.

24 The Department of Health shall promulgate and adopt rules and  
25 regulations as are necessary and reasonable to implement the  
26 provisions of this act. The department shall also engage in a  
27 continuing program to explain and clarify the purposes and  
28 requirements of this act to persons affected by it and to guide  
29 owners, operators and managers in their compliance with it. The  
30 programs may include publication of a brochure for affected

1 businesses and individuals explaining the provisions of this  
2 act.

3 Section 11. Construction.

4 In any dispute arising under the provisions of this act, the  
5 authority adjudicating the dispute shall construe the provisions  
6 of this act in favor of the health concerns of persons who do  
7 not engage in smoking and whose concerns shall represent the  
8 public interest.

9 Section 12. Effect on local rules and ordinances.

10 This act shall not be construed to restrict the power of any  
11 political subdivision to adopt and enforce any rule or ordinance  
12 which complies with at least the minimum applicable standards  
13 set forth in this act.

14 Section 13. Repeal.

15 Repeals are as follows:

16 (1) The General Assembly declares that the repeal under  
17 paragraph (2) is necessary to effectuate this act.

18 (2) Section 10.1 of the act of April 27, 1927 (P.L.465,  
19 No.299), referred to as the Fire and Panic Act, is repealed.

20 Section 14. Effective date.

21 This act shall take effect in 90 days.