

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 314 Session of
2007

INTRODUCED BY RAFFERTY, ERICKSON, FERLO AND C. WILLIAMS,
MARCH 9, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, MARCH 9, 2007

AN ACT

1 Amending the act of April 27, 1927 (P.L.465, No.299), entitled,
2 as amended, "An act to provide for the safety of persons
3 employed, housed, or assembled in certain buildings and
4 structures by requiring certain construction and ways of
5 egress, equipment, and maintenance; providing for the
6 licensing of projectionists, except in cities of the first
7 class and second class; requiring the submission of plans for
8 examination and approval; providing for the promulgation of
9 rules and regulations for the enforcement of this act;
10 providing for the enforcement of this act by the Department
11 of Labor and Industry, the Department of Health, boards of
12 school directors and, in certain cases, by the chiefs of fire
13 departments in cities of the third class; providing penalties
14 for violations of the provisions of this act; and repealing
15 certain acts," further providing for clean indoor air.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 10.1 of the act of April 27, 1927
19 (P.L.465, No.299), referred to as the Fire and Panic Act, added
20 December 21, 1988 (P.L.1315, No.168), is amended to read:

21 Section 10.1. Clean Indoor Air.--(a) The purpose of this
22 section is to protect the public health and to provide for the
23 comfort of all parties by [regulating and controlling]
24 prohibiting smoking in [certain] public places and at public

1 meetings and in certain workplaces. Smoking shall also be
2 prohibited in any private business which either employs persons
3 under eighteen (18) years of age or is a licensed child day-care
4 operation.

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

7 "Bar areas" means those areas which are devoted to the
8 serving of alcoholic beverages for consumption by guests on the
9 premises and in which the serving of food is only incidental to
10 the consumption of such beverages.

11 "Child day care" means care in lieu of parental care given
12 for part of the twenty-four (24) hour day to children under
13 sixteen (16) years of age, away from their own homes, but does
14 not include child day care furnished in places of worship during
15 religious services.

16 "Indoor public area" means an enclosed area which is owned or
17 operated by a private individual, which is used by the general
18 public and which is any of the following:

19 (1) A workplace.

20 (2) An educational facility.

21 (3) A health facility.

22 (4) An auditorium.

23 (5) An arena.

24 (6) A theater.

25 (7) A museum.

26 (8) Any other facility during the period of its use for a
27 performance or exhibit of the arts.

28 (9) A restaurant.

29 (10) A bar or tavern.

30 (11) A restroom.

- 1 (12) A shopping mall.
- 2 (13) A commercial establishment.
- 3 (14) An exhibition hall.
- 4 (15) A bingo hall.
- 5 (16) A concert hall.
- 6 (17) A polling place.

7 "Public meetings" means all meetings open to the public
8 pursuant to the act of July 3, 1986 (P.L.388, No.84), known as
9 the "Sunshine Act."

10 "Public place" means [either of the following:

11 (1) An] an enclosed, indoor area owned or operated by a
12 State or local governmental agency and used by the general
13 public or serving as a place of work for public employes or a
14 meeting place for a public body, including an office,
15 educational facility, health facility, auditorium, arena,
16 meeting room or public conveyance.

17 [(2) An enclosed, indoor area which is not owned or operated
18 by a State or local governmental agency, which is used by the
19 general public and which is any of the following:

- 20 (i) A workplace.
- 21 (ii) An educational facility.
- 22 (iii) A health facility.
- 23 (iv) An auditorium.
- 24 (v) An arena.
- 25 (vi) A theater.
- 26 (vii) A museum.
- 27 (viii) A restaurant.
- 28 (ix) A concert hall.
- 29 (x) Any other facility during the period of its use for a
30 performance or exhibit of the arts.]

1 "Restaurant" means any eating establishment which offers food
2 for sale to the public.

3 "Smoking" means the carrying by a person of a lighted cigar,
4 cigarette, pipe or other lighted smoking device.

5 "Workplace" means an enclosed, indoor area serving as a place
6 of employment, occupation, business, trade, craft or profession.

7 (c) No person shall smoke [in an area designated nonsmoking
8 by the proprietor or person in charge] in a public place or at a
9 public meeting. Persons in charge of indoor public areas may
10 permit smoking in designated areas, but smoking shall not be
11 permitted through the entire indoor public area if the business
12 or entity either:

13 (1) employs a person under eighteen (18) years of age; or
14 (2) is an operation licensed under section 1007 of the act
15 of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare
16 Code," that furnishes child day care.

17 (d) The following places shall be exempt from this section
18 provided that persons under eighteen (18) years of age are not
19 permitted to enter the premises:

20 (1) Private social functions where the area utilized is
21 under the control of the sponsor and not the proprietor.

22 (2) Factories, warehouses and similar places of work not
23 frequented by the general public.

24 (3) Restaurants seating fewer than seventy-five (75)
25 persons.

26 (4) Bar areas in a liquor licensee establishment.

27 (5) Areas in public places commonly referred to as lobbies
28 and hallways.

29 (6) Hotel and motel rooms.

30 (7) Retail stores, the primary business of which is the sale

1 of tobacco or tobacco-related products.

2 (d.1) Places specified in subsection (d) which permit
3 smoking shall post a sign in a conspicuous place near the
4 building entrance indicating that smoking is permitted and
5 persons under eighteen (18) years of age are not permitted to
6 enter the premises. The color, size and placement of the signs
7 shall be left to the discretion of the proprietor or person in
8 charge in keeping with the decor or aesthetics of the
9 establishment.

10 (e) The regulation of smoking in restaurants with seventy-
11 five (75) or more seats shall be governed by the following:

12 (1) Restaurants shall provide for their patrons smoking and
13 nonsmoking areas reasonably calculated to address the needs of
14 their clientele, the size of which may be increased or
15 decreased, by the proprietor or person in charge, according to
16 need.

17 (2) Restaurants shall make reasonable efforts to prevent
18 smoking in the designated nonsmoking section by:

19 (i) Posting appropriate signs which are readily visible. The
20 color, size and placement of the signs shall be left to the
21 discretion of the proprietor or person in charge in keeping with
22 the decor or aesthetics of the establishment.

23 (ii) Arranging seating so that smokers and nonsmokers are
24 placed in contiguous groupings.

25 (iii) Asking smokers to refrain from smoking in the
26 nonsmoking areas.

27 (f) The regulation of smoking in restaurants with fewer than
28 seventy-five (75) seats shall be left to the discretion of the
29 proprietor, provided that:

30 (1) Restaurants which choose not to provide a nonsmoking

1 area nor develop a no-smoking policy based upon customer
2 preference shall post notice of such lack of policy at each
3 entranceway.

4 (2) Restaurants which choose to provide a nonsmoking area
5 shall develop a policy in accordance with subsection (e).

6 (g) Except as otherwise provided in this section, employers
7 shall develop, post and implement a policy to regulate smoking
8 in the workplace, provided that nothing in this section or any
9 local law, rule or regulation shall be construed as to impair or
10 diminish or otherwise affect any contractual agreement,
11 collective bargaining agreement, collective bargaining rights or
12 collective bargaining procedures. The employer shall provide a
13 copy of the policy to any employe upon request.

14 (h) No proprietor or person in charge of [a public place] an
15 indoor public area who establishes a policy or designates areas
16 pursuant to this section shall be subject to any action in any
17 court by any party other than the Department of Health or local
18 board or department of health under this section.

19 (i) A violation of this section shall be punishable by a
20 civil fine of not more than [fifty dollars (\$50.00)] one hundred
21 dollars (\$100.00).

22 (j) The Department of Health shall promulgate and adopt
23 rules and regulations as are necessary and reasonable to
24 implement the provisions of this section.

25 Section 2. This act shall take effect in 60 days.