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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1359 Session of 2010

INTRODUCED BY GREENLEAF, TARTAGLIONE, O'PAKE, FONTANA AND ALLOWAY, MAY 13, 2010

REFERRED TO URBAN AFFAIRS AND HOUSING, MAY 13, 2010

AN ACT

Amending Title 48 (Lodging and Housing) of the Pennsylvania Consolidated Statutes, providing for hotels; making editorial changes; and making repeals.

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

Section 1. Title 48 of the Pennsylvania Consolidated Statutes is amended by adding parts to read:

PART I

PRELIMINARY PROVISIONS (Reserved)

PART II

LODGING

Chapter

11. General Provisions (Reserved)

13. Hotels

CHAPTER 11

GENERAL PROVISIONS (Reserved)

CHAPTER 13

HOTELS

Subchapter

A. General Provisions (Reserved)

B. Rights

C. Protection of Keepers of Hotels, Inns and Boarding Houses

D. (Reserved)

E. Safety

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

1301. Definitions.

§ 1301. Definitions.

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

"Hotelkeeper." Except for time-share arrangements, a person or entity providing lodging, accommodations, facilities or privileges or services at the following places:

(1) hotels, motels, inns, resorts, guest houses or bed and breakfast establishments;

(2) buildings, other than listed under paragraph (1), which are held out by any means, including advertising, license, registration with a hotelkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation;

(3) places advertising to the public that it will provide beds, sanitary facilities or other space for a temporary period to members of the public; or

(4) places recognized as a hostelry, except for portions

of the facility which are devoted to persons who have established permanent residence.

The term shall include the proprietor of a hotel, inn or boardinghouse.

SUBCHAPTER B

RIGHTS

Sec.

1311. Hotelkeepers.

§ 1311. Hotelkeepers.

(a) Refusal of accommodations.--A hotelkeeper shall have the right to refuse or deny accommodations, facilities or privileges of a lodging establishment to any of the following:

(1) A person who is unwilling or unable to pay for the accommodations and services of the lodging establishment. The hotelkeeper shall have the right to require that prospective guests demonstrate their ability to pay by cash, valid credit card or a certified or cashier's check. If a minor is not accompanied by his parent or legal guardian, the hotelkeeper may require the minor's parent or legal guardian to do one of the following:

(i) Accept, in writing, liability for the guest room cost, taxes, all charges by the minor and any damages in excess of normal wear and tear to the guest room or its furnishings caused by the minor while a guest at the lodging establishment. Damages shall be calculated at the cost of labor and materials for repair by the lodging establishment.

(ii) Provide the hotelkeeper with a valid credit card number and authorization to cover the guest room cost, taxes, charges by the minor and any damages to the

guest room or its furnishings caused by the minor.

(iii) Require all of the following, if a credit card authorization is not provided:

(A) An advanced cash payment to cover the guest room cost and taxes for all room nights reserved for the minor.

(B) A cash damage deposit in an amount not to exceed the cost of one night's guest room accommodations, including taxes, for payment of additional charges by the minor or for damages to the guest room or its furniture or furnishings. The hotelkeeper shall refund the cash deposit to the extent that it is not used to cover any reasonable charges or damages, as determined by the hotelkeeper following room inspection at checkout.

(2) A person who is disorderly.

(3) A person who the hotelkeeper reasonably believes is seeking accommodations for an unlawful purpose, including the unlawful possession or use of a controlled substance by the person or the use of the premises for the consumption of alcoholic beverages by any person under 21 years of age.

(4) A person who the hotelkeeper reasonably believes is bringing into the lodging establishment property which may be dangerous to other persons, including explosives or illegal firearms.

(5) A person who exceeds the maximum number of persons allowed to occupy a particular guest room in the lodging establishment, as posted by the lodging establishment.

(b) Civil liability for refusal.--

(1) Except as provided for under paragraph (2), a

hotelkeeper refusing or denying accommodations, facilities or privileges of a lodging establishment for any of the reasons specified under subsection (a) shall not be liable in a civil action or for a fine or penalty based on the refusal or denial.

(2) Accommodations, facilities or privileges of a lodging establishment may not be refused or denied based upon the factors under section 3 of the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act.

(c) Restitution and damages permitted.--

(1) In addition to any penalties provided under any other statute, a court may order a person to do all of the following:

(i) Pay restitution for any damages suffered by the hotelkeeper of the lodging establishment, including the lodging establishment's loss of revenue resulting from the lodging establishment's inability to rent or lease the room during the period of time the lodging establishment room is being repaired.

(ii) Pay damages or restitution to a person or his property that is injured.

(2) The parents or guardians of a minor shall be liable for the acts of the minor which cause damages to the lodging establishment room or furnishings or cause injury to persons or property.

(3) This subsection shall not prohibit the prosecution of any person for any other violation of law which occurred on the property of the lodging establishment.

(d) Guest register requirement.--

(1) The hotelkeeper of a lodging establishment shall maintain, for a period of three years, a guest register which shows the name, residence, date of arrival and departure of guests of the lodging establishment.

(2) (i) Every guest shall register. A registering guest may be required by the hotelkeeper to produce a valid driver's license or other identification, satisfactory to the hotelkeeper, containing a photograph of the guest and setting forth the name and residence address of the guest.

(ii) In addition to the provisions of subparagraph (i), if the guest is a minor, the hotelkeeper may also require a parent of the guest to register, accepting in writing liability for the guest room cost, taxes, all charges by the minor and any damages to the guest room or its furnishings caused by the minor while a guest at the lodging establishment.

(3) The guest register shall be maintained in its original form or may be reproduced on any photographic, photostatic, microfilm, microcard, miniature photographic or other process which actually reproduces the original record.

(e) Right to eject from premises.--A hotelkeeper may immediately eject a person from the lodging establishment premises for violating this chapter if a copy of the chapter is posted in a conspicuous place and manner in the lodging establishment in accordance with subsection (f).

(f) Posting notice to guests.--This chapter shall not apply to a hotelkeeper unless the hotelkeeper posts a copy of this chapter at or near the guest registration desk.

(g) Definitions.--As used in this section, the following

words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Alcohol." The term as defined in section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

"Controlled substance." The term as defined in section 2 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Disorderly." A person is disorderly if, with intent to cause or recklessly create a risk of public inconvenience, annoyance or alarm, the person does any of the following:

(1) Engages in fighting or threatening or in violent or tumultuous behavior.

(2) Makes unreasonable noise.

(3) Uses obscene language or makes an obscene gesture.

(4) Creates a hazard or physically offensive condition by an act which serves no legitimate purpose of the actor.

"Lodging establishment." Except for time-share arrangements, any of the following:

(1) A hotel, motel, inn, resort, guest house, bed and breakfast establishment, regardless of size.

(2) A building, other than listed under paragraph (1), which is held out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation.

(3) A place which advertises to the public at large or a segment of the public that it will provide beds, sanitary facilities or other space for a temporary period to members

of the public at large.

(4) A place recognized as a hostelry, except for portions of the facility which are devoted to persons who have established permanent residence.

"Minor." An unemancipated person under 18 years of age.

"Person." Any individual, corporation, association, partnership, joint stock company, business trust, syndicate, joint venture or other combination or group of individuals.

"Temporary." Occupancy or the right to occupancy of a lodging establishment for less than 30 days or on a day-to-day basis if for more than 30 days.

SUBCHAPTER C

PROTECTION OF KEEPERS OF HOTELS, INNS AND BOARDING HOUSES

Sec.

1321. Notice to boarders to lock rooms.
1322. Lien, warrant, sale and right of redemption.
1323. Liability for property loss or damage.
1324. Special arrangements for safe deposit of valuables.
1325. Duty of guest.
1326. Other liability.
1327. Exemption from levy or sale.
1328. Baggage.
1329. Baggage sale requirements.
1330. Sale proceeds.

§ 1321. Notice to boarders to lock rooms.

If a hotelkeeper posts in a conspicuous place notice requiring the guest or boarder to bolt the door of the room occupied by the guest or boarder, or in leaving the room, to lock the door and to deposit the key with the hotelkeeper or the

clerk at the office, the hotelkeeper shall not be liable for any baggage of the guest or boarder which may be stolen from the room, if the guest or boarder shall neglect to do so. In order to avoid liability, the hotelkeeper must clearly establish the fact of the room having been left unbolted or unlocked by the guest or boarder at the time of the loss of the baggage.

§ 1322. Lien, warrant, sale and right of redemption.

(a) Lien.--A hotelkeeper within this Commonwealth shall have a lien upon the goods and baggage belonging to a guest or boarder for the amount of indebtedness contracted for boarding and lodging for a period of time not exceeding two weeks. The hotelkeeper may detain the goods and baggage until the amount of indebtedness is paid.

(b) Public sale.--

(1) Except as provided under paragraph (2), after the detention of goods under subsection (a) for three months, the hotelkeeper may apply to a magisterial district judge to publicly sell the goods and baggage. At least ten days' notice of the public sale must be placed in at least three public places in the ward of the city or borough or in the township where the inn, hotel or boardinghouse is located. The owner of the goods and baggage shall receive the balance of the proceeds of the public sale, minus all costs and the amount of indebtedness.

(2) Notwithstanding paragraph (1), the owner of the goods and baggage shall have the right to redeem the goods and baggage as follows:

(i) At any time within the three months of detention, upon paying the amount of the indebtedness.

(ii) At any time previous to the public sale, upon

paying the amount of the indebtedness and any additional costs established under law.

§ 1323. Liability for property loss or damage.

(a) General rule.--Except as provided in subsection (b) and section 1324 (relating to special arrangements for safe deposit of valuables), no hotelkeeper, whether individual, partnership or corporation, shall be liable for loss or damage to property suffered by a guest, unless the hotelkeeper fails to constantly maintain any of the following:

(1) A metal safe or vault in good order and fit for custody of money, bank notes, jewelry, gold or silver articles, precious stones, personal ornaments, railroad mileage books or tickets, negotiable or valuable papers and bullion.

(2) Suitable locks, bolts and fastening on the doors, transoms and windows of the sleeping rooms used by guests.

(3) A copy of this section, posted and printed in distinct type in not fewer than ten conspicuous places throughout the hotel or inn.

(b) Exception.--Notwithstanding compliance with subsection (a), a hotelkeeper is liable for property loss or damage if a guest offers to deliver it for custody in the safe or vault and the hotelkeeper omits or refuses to accept it, deposit it in the safe or vault or provide the guest with a receipt, except that a hotelkeeper is not:

(1) obliged to receive from any one guest property exceeding a total value of $300; or

(2) liable for an amount in excess of $300, whether or not the property was actually received.

(c) Definitions.--The following words and phrases when used

in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Hotel." The term includes apartment hotels.

"Hotelkeeper." The term includes apartment hotelkeepers.

§ 1324. Special arrangements for safe deposit of valuables.

Notwithstanding section 1323 (relating to liability for property loss or damage), a hotelkeeper may, by special arrangement with a guest, receive any property for deposit in the safe or vault upon terms as to which the parties agree in writing, but the hotelkeeper shall be liable for property loss or damage after the articles have been accepted for deposit, if the loss or damage is caused by theft or negligence of the hotelkeeper.

§ 1325. Duty of guest.

It shall be the duty of every guest, and of anyone intending to be a guest, of any hotel or inn, upon delivering to the hotelkeeper of the hotel or inn, or a servant or employee, baggage or other property of the guest for safekeeping elsewhere than in the room assigned to the guest, to demand of the hotelkeeper a check or receipt for the property to evidence the fact of delivery.

§ 1326. Other liability.

(a) Depository liability.--Except as provided in subsection (b), the liability of the hotelkeeper, whether individual, partnership or corporation, for property loss or damage to a guest other than that described in sections 1323 (relating to liability for property loss or damage) and 1324 (relating to special arrangements for safe deposit of valuables) shall be that of a depository for hire.

(b) Exception.--Notwithstanding subsection (a), the

hotelkeeper shall not be liable in the case of loss or damage caused by a fire not intentionally produced by the hotelkeeper.

(c) Limitation of liability.--Unless the hotelkeeper has consented in writing to assume a greater liability, in no case shall liability under this section exceed $150 for each trunk and its contents, $50 for each valise and its contents, $10 for each box, bundle or package and its contents and $50 for all other miscellaneous effects, including wearing apparel and personal belongings.

(d) Persons other than guests.--A hotelkeeper may hold baggage or property at the risk of the owner if:

(1) The owner has forwarded the baggage or property to the inn or hotel before becoming a guest and the baggage or property has been received into the inn or hotel.

(2) The owner has allowed baggage or property to remain in the inn or hotel after leaving as a guest and after the relationship between the hotelkeeper and the guest has ceased.

§ 1327. Exemption from levy or sale.

The personal property of a guest at an inn or hotel, or of a boarder at a boarding house where the property is in the exclusive use of the boarder, when located on premises occupied by the guest or border, shall be exempt from levy and sale on distress for rent.

§ 1328. Baggage.

(a) Hotelkeeper lien.--A hotelkeeper, whether individual, partnership or corporation, shall have a lien on baggage and other property located in and about the inn or hotel and belonging to or under the control of a guest or boarder, for the proper charges due for accommodation, board and lodging and for

all money paid for or advanced to the guest or boarder.

(b) Limitation.--The amount of a lien under subsection (a) shall not exceed $200.

(c) Right of hotelkeeper.--The hotelkeeper may detain the baggage and other property until the amount of any charges due has been paid.

(d) Exemption from attachment and execution.--Baggage and other property shall be exempt from attachment or execution until the hotelkeeper's lien and the cost of satisfying it are satisfied.

§ 1329. Baggage sale requirements.

(a) Public auction.--The hotelkeeper shall retain the baggage or other property upon which a lien exists for a period of 30 days, after which, if the lien is not satisfied, the baggage or other property may be sold at public auction.

(b) Notice.--Notice of the public auction under subsection (a) shall be provided by:

(1) providing a minimum of ten days' notice in a newspaper of general circulation in the county where the inn or hotel is situated; and

(2) mailing a copy of the notice, addressed to the guest or boarder at the place of residence recorded in the register of the inn or hotel.

§ 1330. Sale proceeds.

(a) Duty of hotelkeeper.--After satisfying the lien and any costs that may accrue, any residue remaining shall be paid to the guest or border:

(1) on demand within six months; or

(2) if there is no demand, within six months from date of the sale.

(b) Deposit of residual funds.--The residue shall be deposited by the hotelkeeper with the treasurer of the county in which the inn or hotel is situated, together with a statement of the claim of the hotelkeeper, the costs of enforcing the claim, a copy of the published public auction notice and a report of amounts received for the goods sold at the auction.

(c) Duty of county treasurer.--The county treasurer shall credit the residue to the general revenue fund of the county, subject to the right of the guest or boarder to reclaim it within three years of the date of deposit with the treasurer.

SUBCHAPTER D

(RESERVED)

SUBCHAPTER E

SAFETY

Sec.

1351. Tourist camp heater safety.

1352. Crib safety.

1353. Information concerning protection from fire.

§ 1351. Tourist camp heater safety.

(a) General requirements.--The owner or operator of a tourist camp where cabins or trailers are heated by stoves, gas burners or any other heating device, except electrical appliances, radiators and electric water heaters, shall install adequate chimneys or other vents or outlets for escape of carbon monoxide gas and other harmful or injurious gases generated by the heating devices.

(b) Penalty.--Upon conviction in a summary proceeding, a person who violates this section shall be sentenced to pay a fine of not less than $10 or more than $25 or to imprisonment for a term of not more than 30 days, or both, in the discretion

of the court.

§ 1352. Crib safety.

(a) Unsafe crib prohibition.--After August 20, 2010, no hotel, motel or similar transient lodging facility shall offer or provide for use or otherwise place in the stream of commerce a full-size or nonfull-size crib that is unsafe for an infant using the crib because it does not conform to section 3(c)(1), (2) or (3) of the act of June 22, 2000 (P.L.339, No.39), known as the Infant Crib Safety Act, or because it has a dangerous feature or characteristic under section 3(d) of the Infant Crib Safety Act.

(b) Penalty.--A hotel, motel or similar transient lodging facility that willfully and knowingly violates subsection (a) commits a summary offense which, upon conviction, shall be punishable by a fine of not more than $1,000.

§ 1353. Information concerning protection from fire.

The management of hotels and motels shall, upon the request of travel agents and other persons interested in utilizing their facilities, furnish information concerning the measures which have been taken at the hotel or motel for protection from fire. The information shall be provided in writing, free of charge, and shall be in such detail as the Department of Labor and Industry may prescribe by regulation.

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the addition of 48 Pa.C.S. Ch. 13.

(2) The following acts and parts of acts are repealed:

(i) The act of May 7, 1855 (P.L.479, No.509), entitled "An act to protect Keepers of Hotels, Inns and

Boarding Houses."

(ii) The act of June 12, 1913 (P.L.481, No.318), entitled "An act relating to inns and hotels; regulating certain rights and liabilities of hotelkeepers and innkeepers; and providing penalties for fraud against innkeepers and hotelkeepers."

(iii) Section 3.3 of act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.

(iv) Section 404(4) of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951.

(v) The act of August 19, 1953 (P.L.1083, No.285), entitled "An act requiring owners and operators of tourist camps having heated cabins to provide adequate chimneys or escape vents for harmful gases, and imposing penalties."

(vi) The act of October 30, 1996 (P.L.732, No.131), known as the Pennsylvania Innkeepers' Rights Act.

(vii) Sections 3(b) and 5 of the act of June 22, 2000 (P.L.339, No.39), known as the Infant Crib Safety Act.

Section 3. The following apply:

(1) The addition of 48 Pa.C.S. Ch. 13 is a continuation of the following:

(i) The act of May 7, 1855 (P.L.479, No.509), entitled "An act to protect Keepers of Hotels, Inns and Boarding Houses."

(ii) The act of June 12, 1913 (P.L.481, No.318), entitled "An act relating to inns and hotels; regulating certain rights and liabilities of hotelkeepers and

innkeepers; and providing penalties for fraud against innkeepers and hotelkeepers."

(iii) Section 3.3 of act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.

(iv) Section 404(4) of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951.

(v) The act of August 19, 1953 (P.L.1083, No.285), entitled "An act requiring owners and operators of tourist camps having heated cabins to provide adequate chimneys or escape vents for harmful gases, and imposing penalties."

(vi) The act of October 30, 1996 (P.L.732, No.131), known as the Pennsylvania Innkeepers' Rights Act.

(vii) Sections 3(b) and 5 of the act of June 22, 2000 (P.L.339, No.39), known as the Infant Crib Safety Act.

(2) Except as otherwise provided in 48 Pa.C.S. Ch. 13, all activities initiated under the statutory provisions referred to in paragraph (1) shall continue and remain in full force and effect and may be completed under 48 Pa.C.S. Ch. 13. Orders, regulations, rules and decisions which were made under the statutory provisions referred to in paragraph (1) and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 48 Pa.C.S. Ch. 13. Contracts, obligations and collective bargaining agreements entered into under the statutory provisions referred to in paragraph (1) are not affected nor impaired by the repeal of the statutory provisions referred to in paragraph (1).

(3) Any difference in language between 48 Pa.C.S. Ch. 13 and the statutory provisions referred to in paragraph (1) is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the statutory provisions referred to in paragraph (1).

Section 4. This act shall take effect in 60 days.