

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 996 Session of 2015

INTRODUCED BY MURT, BAKER, COHEN, FRANKEL, FREEMAN, KAUFFMAN, McCARTER AND SCHLOSSBERG, APRIL 20, 2015

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, APRIL 20, 2015

AN ACT

1 Amending the act of June 13, 2008 (P.L.182, No.27), entitled "An
 2 act regulating smoking in this Commonwealth; imposing powers
 3 and duties on the Department of Health and local boards of
 4 health; providing penalties; preempting local action; and
 5 making a related repeal," further providing for definitions
 6 and for prohibition.

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

9 Section 1. The definitions of "gaming floor" and "public
 10 place" in section 2 of the act of June 13, 2008 (P.L.182,
 11 No.27), known as the Clean Indoor Air Act, are amended to read:

12 Section 2. Definitions.

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

16 * * *

17 ["Gaming floor." Any portion of a licensed facility where
 18 slot machines have been installed for use or play as approved by
 19 the Pennsylvania Gaming Control Board. The term does not include
 20 an area adjacent to the gaming floor, including any hallway,

1 reception area, retail space, bar, nightclub, restaurant, hotel,
2 entertainment venue or office space.]

3 * * *

4 "Public place." An enclosed area which serves as a
5 workplace, commercial establishment or an area where the public
6 is invited or permitted. The term includes:

7 (1) A facility which provides education, food or health
8 care-related services.

9 (2) A vehicle used for mass transportation. This
10 paragraph includes a train, subway, bus, including a
11 chartered bus, plane, taxicab and limousine.

12 (3) A train station, subway station or bus station.

13 (4) A public facility. This paragraph includes a
14 facility to which the public is invited or in which the
15 public is permitted and a private home which provides child-
16 care or adult day-care services.

17 (5) A sports or recreational facility, theater or
18 performance establishment.

19 (6) A licensed facility.

20 * * *

21 Section 2. Section 3(b) of the act is amended to read:

22 Section 3. Prohibition.

23 * * *

24 (b) Exceptions.--Subsection (a) shall not apply to any of
25 the following:

26 (1) A private home, private residence or private vehicle
27 unless the private home, private residence or private vehicle
28 is being used at the time for the provision of child-care
29 services, adult day-care services or services related to the
30 care of children and youth in State or county custody.

- 1 (2) Designated quarters:
- 2 (i) within a lodging establishment which are
- 3 available for rent to guests accounting for no more than
- 4 25% of the total number of lodging units within a single
- 5 lodging establishment; or
- 6 (ii) within a full-service truck stop.
- 7 (3) A tobacco shop.
- 8 (4) A workplace of a manufacturer, importer or
- 9 wholesaler of tobacco products; a manufacturer of tobacco-
- 10 related products, including lighters; a tobacco leaf dealer
- 11 or processor; or a tobacco storage facility.
- 12 (5) Any of the following residential facilities:
- 13 (i) A long-term care facility regulated under 42 CFR
- 14 483.15 (relating to quality of life). This subparagraph
- 15 shall not apply if 42 CFR 483.15 is abrogated or expires.
- 16 (ii) A separate enclosed room or designated smoking
- 17 room in a residential adult care facility, community
- 18 mental health care facility, drug and alcohol facility or
- 19 other residential health care facility not covered under
- 20 subparagraph (i).
- 21 (iii) A designated smoking room in a facility which
- 22 provides day treatment programs.
- 23 (6) Subject to subsection (c)(2), a private club, except
- 24 where the club is:
- 25 (i) open to the public through general advertisement
- 26 for a club-sponsored event; or
- 27 (ii) leased or used for a private event which is not
- 28 club sponsored.
- 29 (7) A place where a fundraiser is conducted by a
- 30 nonprofit and charitable organization one time per year if

1 all of the following apply:

2 (i) The place is separate from other public areas
3 during the event.

4 (ii) Food and beverages are available to attendees.

5 (iii) Individuals under 18 years of age are not
6 permitted to attend.

7 (iv) Cigars are sold, auctioned or given as gifts,
8 and cigars are a feature of the event.

9 (8) An exhibition hall, conference room, catering hall
10 or similar facility used exclusively for an event to which
11 the public is invited for the primary purpose of promoting or
12 sampling tobacco products, subject to the following:

13 (i) All of the following must be met:

14 (A) Service of food and drink is incidental.

15 (B) The sponsor or organizer gives notice in all
16 advertisements and other promotional materials that
17 smoking will not be restricted.

18 (C) At least 75% of all products displayed or
19 distributed at the event are tobacco or tobacco-
20 related products.

21 (D) Notice that smoking will not be restricted
22 is prominently posted at the entrance to the
23 facility.

24 (ii) A single retailer, manufacturer or distributor
25 of tobacco may not conduct more than six days of a
26 promotional event under this paragraph in any calendar
27 year.

28 (9) A cigar bar.

29 (10) A drinking establishment.

30 [(11) Unless otherwise increased under this paragraph,

1 25% of the gaming floor at a licensed facility. No earlier
2 than 90 days following the effective date of this section or
3 the date of commencement of slot machine operations at a
4 licensed facility, whichever is later, a licensed facility
5 shall request a report from the Department of Revenue that
6 analyzes the gross terminal revenue per slot machine unit in
7 operation at the licensed facility within the 90-day period
8 preceding the request. If the report shows that the average
9 gross terminal revenue per slot machine unit in the
10 designated smoking area equals or exceeds the average gross
11 terminal revenue per slot machine unit in the designated
12 nonsmoking area, the licensed facility may increase the
13 designated smoking area of the gaming floor in proportion to
14 the percentage difference in revenue. A licensed facility may
15 request this report from the Department of Revenue on a
16 quarterly basis and may increase the designated smoking area
17 of the gaming floor accordingly. At no time may the
18 designated smoking area exceed 50% of the gaming floor. The
19 board shall have jurisdiction to verify the gross terminal
20 revenues included in the report to ensure compliance with the
21 requirements under this paragraph. Movement of the licensed
22 facility from a temporary facility to a permanent facility
23 shall not require the licensed facility to revert to the
24 minimum percentage set forth under this paragraph.]

25 (12) A designated outdoor smoking area within the
26 confines of a sports or recreational facility, theater or
27 performance establishment.

28 * * *

29 Section 3. This act shall take effect in 60 days.