
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 888 Session of
2017

INTRODUCED BY MURT, FRANKEL, FREEMAN, MADDEN AND RABB,
MARCH 17, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 17, 2017

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 for prohibition and for enforcement.

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

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

13 Section 2. Definitions.

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

17 * * *

18 "Drinking establishment." [Any of the following:

19 (1) An establishment which:

1 (i) operates pursuant to an eating place retail
2 dispenser's license, restaurant liquor license or retail
3 dispenser's license under the act of April 12, 1951
4 (P.L.90, No.21), known as the Liquor Code;

5 (ii) has total annual sales of food sold for on-
6 premises consumption of less than or equal to 20% of the
7 combined gross sales of the establishment; and

8 (iii) does not permit individuals under 18 years of
9 age.

10 (2) An enclosed area within an establishment which, on
11 the effective date of this section:

12 (i) operates pursuant to an eating place retail
13 dispenser's license, restaurant liquor license or retail
14 dispenser's license under the Liquor Code;

15 (ii) is a physically connected or directly adjacent
16 enclosed area which is separate from the eating area, has
17 a separate air system and has a separate outside
18 entrance;

19 (iii) has total annual sales of food sold for on-
20 premises consumption of less than or equal to 20% of the
21 combined gross sales within the permitted smoking area of
22 the establishment; and

23 (iv) does not permit individuals under 18 years of
24 age.

25 The term does not include a nightclub.] An establishment that
26 operates pursuant to an eating place retail dispenser's license,
27 restaurant liquor license or retail dispenser's license under
28 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor
29 Code. The term also includes a night club.

30 * * *

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

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

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

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

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

14 (5) A sports or recreational facility, theater or
15 performance establishment.

16 (6) A licensed drinking establishment.

17 * * *

18 Section 2. Sections 3(b)(10) and (c) and 5(d) of the act are
19 amended to read:

20 Section 3. Prohibition.

21 * * *

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

24 * * *

25 [(10) A drinking establishment.]

26 * * *

27 (c) Conditions and qualifications for exceptions.--

28 (1) In order to be excepted under subsection (b), a
29 [drinking establishment,] cigar bar or tobacco shop must
30 submit a letter, accompanied by verifiable supporting

1 documentation, to the department claiming an exception under
2 subsection (b). Exception shall be based upon the
3 establishment's books, accounts, revenues or receipts,
4 including those reported to the Department of Revenue for
5 sales tax purposes, from the previous year or stated
6 projected annual revenues, which shall be verified within six
7 months.

8 (2) In order to qualify for the exception under
9 subsection (b)(6), a private club must take and record a vote
10 of its officers under the bylaws to address smoking in the
11 private club's facilities.

12 Section 5. Enforcement.

13 * * *

14 (d) Access to records.--A [drinking establishment,] cigar
15 bar and tobacco shop shall make available all books, accounts,
16 revenues, receipts and other information to the department, the
17 Department of Revenue, the State licensing agency or a county
18 board of health as necessary to enforce this act. All
19 information submitted to the Department of Health, a county
20 board or other Commonwealth agency with enforcement duties under
21 this act, including information to verify the on-site food
22 consumption of a drinking establishment, shall be confidential
23 and shall not be subject to the act of [June 21, 1957 (P.L.390,
24 No.212), referred to] February 14, 2008 (P.L.6, No.3), known as
25 the Right-to-Know Law.

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