

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1419 Session of
2007

INTRODUCED BY R. MILLER, PETRARCA, BELFANTI, BRENNAN,
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KIRKLAND, KOTIK, MACKERETH, MARSICO, MOUL, O'NEILL, PICKETT,
REICHLEY, SAINATO, SANTONI, SCHRODER, R. STEVENSON, THOMAS
AND YOUNGBLOOD, JUNE 5, 2007

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, JUNE 5, 2007

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 purpose.

10 The purpose of this act is to protect the public health and
11 to provide for the comfort of all parties by regulating and
12 controlling smoking in certain public places and at public
13 meetings and in certain 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

1 context clearly indicates otherwise:

2 "Adult-only establishment." Any public place or workplace in
3 which the proprietor or the proprietor's agent or employee
4 restricts access and refuses service or accommodation of any
5 kind to persons under 18 years of age who are not accompanied by
6 a parent or legal guardian.

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

8 "Public meeting." A meeting open to the public including any
9 meeting open to the public pursuant to 65 Pa.C.S. Ch. 7
10 (relating to open meetings).

11 "Public place." An enclosed area to which the public is
12 invited or in which the public is permitted, including any place
13 listed in section 5.

14 "Restaurant." An eating establishment that offers food for
15 sale to the public.

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

19 "Smoking." The carrying by a person of a lighted cigar,
20 cigarette, pipe or other lighted smoking device.

21 "Sports arena." A sports stadium, sports pavilion,
22 exhibition hall, gymnasium, health spa, boxing arena, swimming
23 pool, roller or ice rink, bowling alley or similar place where
24 members of the general public assemble to engage in physical
25 exercise, participate in athletic competition or witness sports
26 events.

27 "Tobacco shop." A business establishment the main purpose of
28 which is the sale of tobacco products including cigars, pipe
29 tobacco and smoking accessories.

30 "Workplace." An indoor area serving as a place of

1 employment, occupation, business, trade, craft, profession or
2 volunteer activity.

3 Section 4. Prohibition.

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

5 Section 5. Public place.

6 The following enclosed areas are examples of public places:

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

8 (2) An educational facility.

9 (3) A school bus.

10 (4) A health facility.

11 (5) An auditorium.

12 (6) An arena.

13 (7) A theater.

14 (8) A museum.

15 (9) A restaurant.

16 (10) A bar or tavern.

17 (11) A concert hall.

18 (12) A commercial establishment.

19 (13) A retail store.

20 (14) A service line.

21 (15) A grocery store.

22 (16) A bingo hall.

23 (17) A waiting room or area.

24 (18) A hallway.

25 (19) A polling place.

26 (20) A restroom.

27 (21) A sports arena.

28 (22) A convention hall.

29 (23) An elevator.

30 (24) Public transit.

1 (25) A public food assistance program and facility.

2 (26) A shopping mall.

3 (27) An exhibition hall.

4 (28) A rotunda or lobby.

5 (29) A licensed gaming facility.

6 (30) At least 75% of the total number of sleeping
7 quarters that are available for rent to guests within any
8 single lodging establishment.

9 Section 6. Exception.

10 This act shall not apply to the following places:

11 (1) A private residence, except when used as a child-
12 care, adult day-care or health care facility.

13 (2) Designated sleeping quarters within a lodging
14 establishment that are available for rent to guests
15 accounting for no more than 25% of the total number of
16 lodging units within a single lodging establishment.

17 (3) An adult-only establishment in which the proprietor
18 of such establishment has complied with the requirements of
19 section 7.

20 (4) A wholesale or retail tobacco shop whose sales of
21 tobacco products comprise 85% or more of gross sales on an
22 annual basis.

23 (5) All workplaces of any manufacturer, importer or
24 wholesaler of tobacco products, of any tobacco leaf dealer or
25 processor, and all tobacco storage facilities.

26 Section 7. Posting of notice.

27 The proprietor of an adult-only establishment who permits
28 smoking on the premises shall post a notice on the exterior of
29 each entrance to the establishment identifying it as an
30 establishment in which smoking is permitted and persons under 18

1 years of age are not permitted without parental or adult
2 supervision. The notice shall be of sufficient size as to be
3 readable from a distance of 15 feet from the entrance of the
4 establishment.

5 Section 8. Retaliation prohibited.

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

10 Section 9. Eligibility for unemployment compensation.

11 An employee of an adult-only establishment that permits
12 smoking on premises may leave employment within 60 days of the
13 proprietor posting the notice required under section 7 and such
14 action shall be deemed as leaving employment with cause of a
15 necessitous and compelling nature under the act of December 5,
16 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
17 Unemployment Compensation Law.

18 Section 10. Enforcement.

19 The Department of Health, a local board or department of
20 health or any affected party may institute an action in any
21 court with jurisdiction to enjoin a violation of the provisions
22 of this act.

23 Section 11. Penalty.

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

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

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

30 (3) A fine not exceeding \$500 for each additional

violation that occurs within one year.

Section 12. Rules and regulations.

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

Section 13. Effect on local rules and ordinances.

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

Section 14. Repeal.

Repeals are as follows:

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

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

Section 15. Effective date.

This act shall take effect January 1, 2008, or immediately, whichever is later.