

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 235 Session of 2011

INTRODUCED BY CLYMER, AUMENT, BAKER, BENNINGHOFF, BISHOP, BOYD, D. COSTA, DAVIS, DAY, DeLUCA, DENLINGER, EVERETT, GEIST, GINGRICH, GODSHALL, GOODMAN, GRELL, HARKINS, HENNESSEY, HICKERNELL, KAUFFMAN, KILLION, KNOWLES, KOTIK, KULA, MAHONEY, McGEEHAN, MILLARD, M. O'BRIEN, PICKETT, RAPP, READSHAW, SANTONI, SONNEY, STERN, TAYLOR, VULAKOVICH, WATSON, YOUNGBLOOD, JOSEPHS, GILLESPIE, SWANGER, PETRARCA, CURRY, MYERS, MICOZZIE, HARHAI, STEVENSON, FLECK, CUTLER, REESE, MIRABITO, PEIFER, REICHLEY, ROCK, BRIGGS, BOBACK, HESS, MURT, COHEN, V. BROWN, ADOLPH, ROEBUCK, CREIGHTON, BEAR, BLOOM, GIBBONS, PRESTON, MALONEY, M. SMITH, MANN, TOOHIL, CALTAGIRONE, GILLEN, M. K. KELLER AND MUNDY, JANUARY 26, 2011

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 2, 2012

AN ACT

1 ~~Providing for the National Human Trafficking Resource Center~~ ←
2 ~~Hotline Notification Act; imposing duties on the Department~~
3 ~~of Labor and Industry; and providing for victim services.~~
4 PROVIDING FOR THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER ←
5 HOTLINE NOTIFICATION ACT; IMPOSING DUTIES ON THE DEPARTMENT
6 OF LABOR AND INDUSTRY; AND PRESCRIBING PENALTIES.

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

9 ~~Section 1. Short title.~~ ←

10 ~~This act shall be known and may be cited as the National~~
11 ~~Human Trafficking Resource Center Hotline Notification Act.~~

12 ~~Section 2. Required posting.~~

13 ~~(a) Sign. An establishment defined under subsection (g)~~
14 ~~shall post a sign containing information regarding the National~~

1 ~~Human Trafficking Resource Center Hotline. Any other~~
2 ~~establishment or business may post a sign.~~

3 ~~(b) Posting. Establishments shall post at least one sign in~~
4 ~~a conspicuous manner clearly visible to the public and employees~~
5 ~~of the establishment.~~

6 ~~(c) Size, information and design. The sign shall be no~~
7 ~~smaller than 8½ by 11 inches.~~

8 ~~(1) The Department of Labor and Industry shall design~~
9 ~~the sign to include the following information:~~

10 ~~(i) The National Human Trafficking Resource Center~~
11 ~~Hotline at 1-888-373-7888.~~

12 ~~(ii) Victims of human trafficking are protected~~
13 ~~under United States and Pennsylvania law.~~

14 ~~(2) The Department of Labor and Industry may consult~~
15 ~~with human trafficking victim advocates to determine other~~
16 ~~information that may be included on the sign.~~

17 ~~(3) The Department of Labor and Industry shall design~~
18 ~~the sign to draw attention to the telephone number of the~~
19 ~~National Human Trafficking Resource Center Hotline by showing~~
20 ~~the number in bold type and large font.~~

21 ~~(4) The sign shall be posted in English, Spanish and any~~
22 ~~other language mandated by the Voting Rights Act of 1965~~
23 ~~(Public Law 89-110, 42 U.S.C. § 1973 et seq.) in the county~~
24 ~~where the sign will be posted.~~

25 ~~(d) Notice.~~

26 ~~(1) The Department of Labor and Industry shall provide~~
27 ~~notice of this section through publication in the~~
28 ~~Pennsylvania Bulletin and as it deems practical.~~

29 ~~(2) The Department of Labor and Industry shall provide~~
30 ~~the sign required by subsection (a) on its Internet website~~

1 ~~for establishments to print as needed.~~

2 ~~(e) Civil penalty. In addition to any other remedy~~
3 ~~available at law or in equity for a violation of this section,~~
4 ~~the Department of Labor and Industry may assess a civil penalty~~
5 ~~upon an establishment for a violation of this section. In~~
6 ~~assessing a civil penalty, the Department of Labor and Industry~~
7 ~~shall give notice to the person and shall provide an opportunity~~
8 ~~for a hearing. The civil penalty assessed shall not exceed \$500.~~
9 ~~The civil penalty shall be payable to the Department of Labor~~
10 ~~and Industry and shall be collectible in a manner provided by~~
11 ~~law for the collection of debt.~~

12 ~~(f) Hearing. A hearing regarding a civil penalty imposed~~
13 ~~under subsection (e) shall be conducted under 2 Pa.C.S.~~
14 ~~(relating to administrative law and procedure).~~

15 ~~(g) Definitions. As used in this section, the term~~
16 ~~"establishment" means the following places:~~

17 ~~(1) A massage parlor, spa or a similar enterprise,~~
18 ~~regardless of whether it is required to obtain a license or~~
19 ~~permit from the Commonwealth for its operation.~~

20 ~~(2) A restaurant, bar, tavern, hotel or club that has a~~
21 ~~valid liquor or malt or brewed beverage license under Article~~
22 ~~IV of the act of April 12, 1951 (P.L.90, No.21), known as the~~
23 ~~Liquor Code.~~

24 ~~(3) An adult entertainment enterprise featuring nude or~~
25 ~~partially nude dancing or providing live adult entertainment.~~

26 ~~(4) A hotel or motel found to be a drug related nuisance~~
27 ~~under 42 Pa.C.S. Ch. 83 Subch. H (relating to drug nuisances)~~
28 ~~or declared a common nuisance under section 1 of the act of~~
29 ~~June 23, 1931 (P.L.1178, No.319), entitled "An act declaring~~
30 ~~buildings and parts of buildings used for purposes of~~

1 ~~fornication, lewdness, assignation, and prostitution to be~~
2 ~~nuisances; providing a method of abating same; establishing a~~
3 ~~method of procedure against those who use said buildings, or~~
4 ~~parts thereof, for such purposes; and providing penalties for~~
5 ~~violations of this act."~~

6 ~~(5) An airport, train station or bus station.~~

7 ~~(6) A welcome center or rest area operated by the~~
8 ~~Department of Transportation.~~

9 SECTION 1. SHORT TITLE. ←

10 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE NATIONAL
11 HUMAN TRAFFICKING RESOURCE CENTER HOTLINE NOTIFICATION ACT.

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 "DRINKING ESTABLISHMENT." ANY BAR, TAVERN OR CLUB WHICH:

17 (1) OPERATES PURSUANT TO AN EATING PLACE RETAIL
18 DISPENSER'S LICENSE, RESTAURANT LIQUOR LICENSE OR RETAIL
19 DISPENSER'S LICENSE UNDER THE ACT OF APRIL 12, 1951 (P.L.90,
20 NO.21), KNOWN AS THE LIQUOR CODE; AND

21 (2) HAS BEEN FOUND TO BE A DRUG-RELATED NUISANCE UNDER
22 42 PA.C.S. CH. 83 SUBCH. H (RELATING TO DRUG NUISANCES) OR
23 DECLARED A COMMON NUISANCE UNDER SECTION 1 OF THE ACT OF JUNE
24 23, 1931 (P.L.1178, NO.319), ENTITLED "AN ACT DECLARING
25 BUILDINGS AND PARTS OF BUILDINGS USED FOR PURPOSES OF
26 FORNICATION, LEWDNESS, ASSIGNATION, AND PROSTITUTION TO BE
27 NUISANCES; PROVIDING A METHOD OF ABATING SAME; ESTABLISHING A
28 METHOD OF PROCEDURE AGAINST THOSE WHO USE SAID BUILDINGS, OR
29 PARTS THEREOF, FOR SUCH PURPOSES; AND PROVIDING PENALTIES FOR
30 VIOLATIONS OF THIS ACT."

1 "ESTABLISHMENT." INCLUDES:

2 (1) A PERSONAL SERVICE ESTABLISHMENT.

3 (2) A DRINKING ESTABLISHMENT.

4 (3) AN ADULT ENTERTAINMENT ENTERPRISE FEATURING NUDE OR
5 PARTIALLY NUDE DANCING OR PROVIDING LIVE ADULT ENTERTAINMENT.

6 (4) A HOTEL OR MOTEL FOUND TO BE A DRUG-RELATED NUISANCE
7 UNDER 42 PA.C.S. CH. 83 SUBCH. H (RELATING TO DRUG NUISANCES)
8 OR DECLARED A COMMON NUISANCE UNDER SECTION 1 OF THE ACT OF
9 JUNE 23, 1931 (P.L.1178, NO.319), ENTITLED "AN ACT DECLARING
10 BUILDINGS AND PARTS OF BUILDINGS USED FOR PURPOSES OF
11 FORNICATION, LEWDNESS, ASSIGNATION, AND PROSTITUTION TO BE
12 NUISANCES; PROVIDING A METHOD OF ABATING SAME; ESTABLISHING A
13 METHOD OF PROCEDURE AGAINST THOSE WHO USE SAID BUILDINGS, OR
14 PARTS THEREOF, FOR SUCH PURPOSES; AND PROVIDING PENALTIES FOR
15 VIOLATIONS OF THIS ACT."

16 (5) AN AIRPORT, TRAIN STATION OR BUS STATION.

17 (6) A WELCOME CENTER OR REST AREA OPERATED BY THE
18 DEPARTMENT OF TRANSPORTATION OR THE PENNSYLVANIA TURNPIKE
19 COMMISSION.

20 (7) A FULL-SERVICE TRUCK STOP AS DEFINED IN SECTION 2 OF
21 THE ACT OF JUNE 13, 2008 (P.L.182, NO.27), KNOWN AS THE CLEAN
22 INDOOR AIR ACT.

23 "LICENSING AUTHORITY." THE GOVERNMENTAL AGENCY AUTHORIZED BY
24 LAW TO LICENSE ANY ASPECT OF THE BUSINESS OF AN ESTABLISHMENT.

25 "PERSONAL SERVICE ESTABLISHMENT." A PLACE WHICH:

26 (1) ALLOWS PHYSICAL CONTACT WITH ANOTHER INDIVIDUAL IN A
27 CLOSED DOOR SETTING FOR THE PURPOSE OF, BUT NOT LIMITED TO,
28 MAINTAINING GOOD HEALTH AND ESTABLISHING AND MAINTAINING GOOD
29 PHYSICAL CONDITION THROUGH THE PHYSICAL CONTACT REGARDLESS OF
30 WHETHER THE PLACE IS REQUIRED TO OBTAIN A LICENSE OR PERMIT

1 FROM THE COMMONWEALTH FOR ITS OPERATION; AND

2 (2) HAS BEEN FOUND TO BE A DRUG-RELATED NUISANCE UNDER
3 42 PA.C.S. CH. 83 SUBCH. H (RELATING TO DRUG NUISANCES) OR
4 DECLARED A COMMON NUISANCE UNDER SECTION 1 OF THE ACT OF JUNE
5 23, 1931 (P.L.1178, NO.319), ENTITLED "AN ACT DECLARING
6 BUILDINGS AND PARTS OF BUILDINGS USED FOR PURPOSES OF
7 FORNICATION, LEWDNESS, ASSIGNATION, AND PROSTITUTION TO BE
8 NUISANCES; PROVIDING A METHOD OF ABATING SAME; ESTABLISHING A
9 METHOD OF PROCEDURE AGAINST THOSE WHO USE SAID BUILDINGS, OR
10 PARTS THEREOF, FOR SUCH PURPOSES; AND PROVIDING PENALTIES FOR
11 VIOLATIONS OF THIS ACT."

12 SECTION 3. REQUIRED POSTING.

13 (A) SIGN.--AN ESTABLISHMENT SHALL POST A SIGN CONTAINING
14 INFORMATION REGARDING THE NATIONAL HUMAN TRAFFICKING RESOURCE
15 CENTER HOTLINE. ANY OTHER ESTABLISHMENT OR BUSINESS MAY POST A
16 SIGN.

17 (B) POSTING.--ESTABLISHMENTS SHALL POST AT LEAST ONE SIGN IN
18 A CONSPICUOUS MANNER CLEARLY VISIBLE TO THE PUBLIC AND EMPLOYEES
19 OF THE ESTABLISHMENT.

20 (C) SIZE, INFORMATION AND DESIGN.--THE SIGN SHALL BE NO
21 SMALLER THAN 8 1/2 BY 11 INCHES.

22 (1) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DESIGN
23 THE SIGN TO INCLUDE THE FOLLOWING INFORMATION:

24 (I) THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER
25 HOTLINE AT 1-888-373-7888.

26 (II) VICTIMS OF HUMAN TRAFFICKING ARE PROTECTED
27 UNDER UNITED STATES AND PENNSYLVANIA LAW.

28 (2) THE DEPARTMENT OF LABOR AND INDUSTRY MAY CONSULT
29 WITH HUMAN TRAFFICKING VICTIM ADVOCATES TO DETERMINE OTHER
30 INFORMATION THAT MAY BE INCLUDED ON THE SIGN.

1 (3) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL DESIGN
2 THE SIGN TO DRAW ATTENTION TO THE TELEPHONE NUMBER OF THE
3 NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE BY SHOWING
4 THE NUMBER IN BOLD TYPE AND LARGE FONT.

5 (4) THE SIGN SHALL BE POSTED IN ENGLISH, SPANISH AND ANY
6 OTHER LANGUAGE MANDATED BY THE VOTING RIGHTS ACT OF 1965
7 (PUBLIC LAW 89-110, 42 U.S.C. § 1973 ET SEQ.) IN THE COUNTY
8 WHERE THE SIGN WILL BE POSTED.

9 (D) NOTICE.--

10 (1) THE LICENSING AUTHORITY SHALL PROVIDE NOTICE OF THIS
11 SECTION TO AN ESTABLISHMENT WHOSE BUSINESS IT HAS AUTHORITY
12 TO LICENSE.

13 (2) THE DEPARTMENT OF LABOR AND INDUSTRY SHALL PROVIDE
14 THE SIGN REQUIRED BY SUBSECTION (A) ON ITS INTERNET WEBSITE
15 FOR ESTABLISHMENTS TO PRINT AS NEEDED.

16 SECTION 4. ENFORCEMENT.

17 (A) COMPLAINTS.--A COMPLAINT REGARDING A POSSIBLE VIOLATION
18 OF THIS ACT MAY BE MADE TO THE APPROPRIATE LAW ENFORCEMENT
19 AGENCY OR THE LICENSING AUTHORITY IF THE ESTABLISHMENT IS
20 SUBJECT TO LICENSURE. A COMPLAINT TO THE LICENSING AUTHORITY
21 SHALL BE MADE IN ONE OF THE FOLLOWING MANNERS:

22 (1) IN WRITING.

23 (2) BY TELEPHONE CALL TO THE LICENSING AUTHORITY'S TOLL-
24 FREE TELEPHONE NUMBER.

25 (3) BY AN ELECTRONIC SUBMISSION TO THE LICENSING
26 AUTHORITY'S REGULARLY MAINTAINED INTERNET WEBSITE.

27 (B) RESPONSIBILITIES.--

28 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), UPON RECEIPT
29 OF A COMPLAINT BY THE LICENSING AUTHORITY, THE FOLLOWING
30 APPLY:

1 (I) EXCEPT AS SET FORTH UNDER SUBPARAGRAPH (II), THE
2 LICENSING AUTHORITY SHALL INVESTIGATE THE COMPLAINT AND
3 ENFORCE THIS ACT.

4 (II) IF THE ESTABLISHMENT IS SUBJECT TO LICENSURE BY
5 AN AGENCY OF THE COMMONWEALTH, THE LICENSING AUTHORITY
6 SHALL REFER THE COMPLAINT TO THE APPROPRIATE COMMONWEALTH
7 LICENSING AGENCY FOR INVESTIGATION AND ENFORCEMENT OF
8 THIS ACT.

9 (2) IF THE COMPLAINT IS MADE TO A LAW ENFORCEMENT
10 AGENCY, THE AGENCY SHALL INVESTIGATE THE COMPLAINT AND
11 ENFORCE THIS ACT.

12 SECTION 5. VIOLATION.

13 IT IS A VIOLATION OF THIS ACT TO FAIL TO POST A SIGN AS
14 REQUIRED BY SECTION 3.

15 SECTION 6. AFFIRMATIVE DEFENSES.

16 (A) GENERAL RULE.--ANY OF THE FOLLOWING SHALL BE AN
17 AFFIRMATIVE DEFENSE BY AN OWNER, OPERATOR OR MANAGER TO A
18 PROSECUTION OR IMPOSITION OF AN ADMINISTRATIVE PENALTY UNDER
19 THIS ACT:

20 (1) WHEN THE VIOLATION OCCURRED, THE ACTUAL CONTROL OF
21 THE ESTABLISHMENT WAS NOT EXERCISED BY THE OWNER, OPERATOR OR
22 MANAGER, BUT BY A LESSEE.

23 (2) THE OWNER, OPERATOR OR MANAGER MADE A GOOD FAITH
24 EFFORT TO POST THE REQUIRED SIGNS.

25 (B) AFFIDAVIT.--AN OWNER, OPERATOR OR MANAGER ASSERTING AN
26 AFFIRMATIVE DEFENSE SHALL DO SO IN THE FORM OF A SWORN AFFIDAVIT
27 SETTING FORTH THE RELEVANT INFORMATION UNDER SUBSECTION (A) (1)
28 OR (2).

29 SECTION 7. ADMINISTRATIVE PENALTIES.

30 (A) PENALTY.--IN ADDITION TO ANOTHER REMEDY AVAILABLE AT LAW

1 OR IN EQUITY FOR A VIOLATION OF THE POSTING REQUIREMENTS OF
2 SECTION 3, THE LICENSING AUTHORITY MAY, UNDER SUBSECTION (B),
3 ASSESS AN ADMINISTRATIVE PENALTY UPON A PERSON FOR THE
4 VIOLATION. IN ASSESSING THE PENALTY, THE LICENSING AUTHORITY
5 MUST GIVE NOTICE TO THE PERSON AND PROVIDE AN OPPORTUNITY FOR A
6 HEARING. THE PENALTY SHALL BE PAYABLE TO THE LICENSING AUTHORITY
7 AND SHALL BE COLLECTIBLE IN A MANNER PROVIDED BY LAW FOR THE
8 COLLECTION OF DEBT.

9 (B) SCHEDULE OF SANCTIONS.--

10 (1) IF THE LICENSING AUTHORITY DETERMINES THAT A PERSON
11 HAS VIOLATED THE POSTING REQUIREMENTS OF SECTION 3, THE
12 PERSON SHALL BE GIVEN A WARNING.

13 (2) IF THE LICENSING AUTHORITY DETERMINES THAT A PERSON
14 HAS VIOLATED THE POSTING REQUIREMENTS OF SECTION 3 WITHIN ONE
15 YEAR OF RECEIVING A WARNING UNDER PARAGRAPH (1), THE PERSON
16 SHALL BE SUBJECT TO A PENALTY OF NOT MORE THAN \$250.

17 (3) IF THE LICENSING AUTHORITY DETERMINES THAT A PERSON
18 HAS VIOLATED THE POSTING REQUIREMENTS OF SECTION 3 WITHIN ONE
19 YEAR OF RECEIVING A PENALTY UNDER PARAGRAPH (2), THE PERSON
20 SHALL BE SUBJECT TO A PENALTY OF NOT MORE THAN \$500.

21 (C) PENALTIES COLLECTED.--THE PENALTIES COLLECTED UNDER THIS
22 SECTION SHALL BE RETAINED BY THE LICENSING AUTHORITY INITIATING
23 THE ENFORCEMENT ACTION.

24 (D) PROCEDURE.--THIS SECTION IS SUBJECT TO 2 PA.C.S. CHS. 5
25 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH
26 AGENCIES) AND 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF
27 COMMONWEALTH AGENCY ACTION).

28 SECTION 8. CRIMINAL PENALTIES.

29 (A) FIRST OFFENSE.--A PERSON THAT VIOLATES THE POSTING
30 REQUIREMENTS OF SECTION 3 COMMITS A SUMMARY OFFENSE AND SHALL,

1 UPON CONVICTION, BE GIVEN A WARNING.

2 (B) OFFENSE FOLLOWING WARNING.--A PERSON THAT VIOLATES THE
3 POSTING REQUIREMENTS OF SECTION 3 WITHIN ONE YEAR OF BEING
4 WARNED UNDER SUBSECTION (A) COMMITS A SUMMARY OFFENSE AND SHALL,
5 UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE THAN
6 \$250.

7 (C) MISDEMEANOR.--A PERSON THAT VIOLATES THE POSTING
8 REQUIREMENTS OF SECTION 3 WITHIN ONE YEAR OF BEING SENTENCED
9 UNDER SUBSECTION (B) COMMITS A MISDEMEANOR AND SHALL, UPON
10 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$500.

11 (D) MUNICIPAL ENFORCEMENT.--EXCEPT AS SET FORTH IN
12 SUBSECTION (E), THE PENALTIES COLLECTED UNDER THIS SECTION SHALL
13 BE RETAINED BY THE MUNICIPALITY IN WHICH THE LAW ENFORCEMENT
14 AGENCY INITIATING THE ENFORCEMENT ACTION IS LOCATED.

15 (E) PENNSYLVANIA STATE POLICE ENFORCEMENT.--IF AN
16 ENFORCEMENT ACTION IS INITIATED BY THE PENNSYLVANIA STATE
17 POLICE, THE PENNSYLVANIA STATE POLICE SHALL RETAIN THE PENALTIES
18 COLLECTED UNDER THIS SECTION.

19 Section ~~3~~ 9. Victim services. 

20 (a) Development of plan.--To the extent that Federal or
21 State funds are available, the Pennsylvania Commission on Crime
22 and Delinquency shall develop a plan for a coordinated response
23 system, in consultation with other appropriate government
24 agencies, including law enforcement, nongovernmental
25 organizations and victim advocacy groups to provide victims of
26 trafficking under 18 Pa.C.S. Ch.30 (relating to trafficking of
27 persons) with the following services:

28 (1) Appropriate housing, taking into account the
29 victim's status as a victim of an offense enumerated under 18
30 Pa.C.S. § 3002 (relating to trafficking of persons) and

1 including safe conditions for sleeping, food and personal
2 hygiene.

3 (2) Psychological counseling.

4 (3) Medical assistance, including confidential testing
5 for sexually transmitted diseases and the human
6 immunodeficiency virus.

7 (4) Substance abuse counseling.

8 (5) Child care.

9 (6) Access to employment, educational and training
10 opportunities.

11 (7) Legal assistance and case management.

12 (8) Social case management, including information about
13 and help with access to victim services.

14 (b) Condition.--Housing services provided under subsection
15 (a) (1) must ensure that, to the extent possible, the victim is
16 not held in a detention facility.

17 Section ~~10~~ 20. Effective date.

18 This act shall take effect in 60 days.

