

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 338 Session of 2011

INTRODUCED BY LEACH, FONTANA, STACK, TARTAGLIONE, WILLIAMS, WASHINGTON, VANCE, BRUBAKER, FARNESE AND SCHWANK, JANUARY 28, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 11, 2012

AN ACT

1 Providing for the National Human Trafficking Resource Center
2 Hotline Notification Act; and imposing duties on the
3 Department of Labor and Industry; AND PRESCRIBING PENALTIES.



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 National
8 Human Trafficking Resource Center Hotline Notification Act.

9 SECTION 2. DEFINITIONS.



10 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
11 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
12 CONTEXT CLEARLY INDICATES OTHERWISE:

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

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

1 (2) HAS TOTAL ANNUAL SALES OF FOOD SOLD FOR ON-PREMISES  
2 CONSUMPTION OF LESS THAN OR EQUAL TO 20% OF THE COMBINED  
3 GROSS SALES OF THE ESTABLISHMENT.

4 "ESTABLISHMENT." INCLUDES:

5 (1) A PERSONAL SERVICE ESTABLISHMENT.

6 (2) A DRINKING ESTABLISHMENT.

7 (3) AN ADULT ENTERTAINMENT ENTERPRISE FEATURING NUDE OR  
8 PARTIALLY NUDE DANCING OR PROVIDING LIVE ADULT ENTERTAINMENT.

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

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

20 (6) A WELCOME CENTER OR REST AREA OPERATED BY THE  
21 DEPARTMENT OF TRANSPORTATION.

22 (7) A FULL-SERVICE COMMERCIAL TRUCK STOP.

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

25 "PERSONAL SERVICE ESTABLISHMENT." A PLACE WHERE SERVICES ARE  
26 PROVIDED BY AN INDIVIDUAL LICENSED UNDER THE ACT OF OCTOBER 9,  
27 2008 (P.L.1438, NO.118), KNOWN AS THE MASSAGE THERAPY LAW.

28 Section 2 3. Required posting.

29 (a) Sign.--An establishment defined under subsection (g)  
30 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 LICENSING authority ~~responsible for licensing~~ ←  
27 ~~the establishments as defined in subsection (g)~~ shall provide  
28 notice of this section.

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 licensing authority for the establishment may assess a civil~~  
5 ~~penalty upon a person for a violation of this section. In~~  
6 ~~assessing a civil penalty, the licensing authority shall give~~  
7 ~~notice to the person and shall provide an opportunity for a~~  
8 ~~hearing. The civil penalty assessed shall not exceed \$500. The~~  
9 ~~civil penalty shall be payable to the Department of Labor and~~  
10 ~~Industry and shall be collectible in a manner provided by law~~  
11 ~~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 ~~(7) A full service commercial truck stop.~~

10 SECTION 4. ENFORCEMENT. ←

11 (A) COMPLAINTS.--A COMPLAINT REGARDING A POSSIBLE VIOLATION  
12 OF THIS ACT SHALL BE MADE TO THE APPROPRIATE LAW ENFORCEMENT  
13 AGENCY OR THE LICENSING AUTHORITY. A COMPLAINT TO THE LICENSING  
14 AUTHORITY SHALL BE MADE IN ONE OF THE FOLLOWING MANNERS:

15 (1) IN WRITING.

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

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

20 (B) RESPONSIBILITIES.--

21 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), UPON RECEIPT  
22 OF A COMPLAINT BY THE LICENSING AUTHORITY, THE FOLLOWING  
23 APPLY:

24 (I) EXCEPT AS SET FORTH UNDER SUBPARAGRAPH (II), THE  
25 LICENSING AUTHORITY SHALL INVESTIGATE THE COMPLAINT AND  
26 ENFORCE THIS ACT.

27 (II) IF THE ESTABLISHMENT IS SUBJECT TO LICENSURE BY  
28 THE COMMONWEALTH, THE LICENSING AUTHORITY SHALL REFER THE  
29 COMPLAINT TO THE APPROPRIATE LICENSING AGENCY FOR  
30 INVESTIGATION AND ENFORCEMENT OF THIS ACT.

1 (2) IF THE COMPLAINT IS MADE TO A LAW ENFORCEMENT AGENCY  
2 REGARDING AN ESTABLISHMENT, THE AGENCY SHALL INVESTIGATE THE  
3 COMPLAINT AND ENFORCE THIS ACT.

4 SECTION 5. VIOLATION.

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

7 SECTION 6. AFFIRMATIVE DEFENSES.

8 (A) GENERAL RULE.--ANY OF THE FOLLOWING SHALL BE AN  
9 AFFIRMATIVE DEFENSE TO A PROSECUTION OR IMPOSITION OF AN  
10 ADMINISTRATIVE PENALTY UNDER THIS ACT:

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

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

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

20 SECTION 7. ADMINISTRATIVE PENALTIES.

21 (A) PENALTY.--IN ADDITION TO ANOTHER REMEDY AVAILABLE AT LAW  
22 OR IN EQUITY FOR A VIOLATION UNDER SECTION 5, THE LICENSING  
23 AUTHORITY MAY, UNDER SUBSECTION (B), ASSESS AN ADMINISTRATIVE  
24 PENALTY UPON A PERSON FOR THE VIOLATION. IN ASSESSING THE  
25 PENALTY, THE LICENSING AUTHORITY MUST GIVE NOTICE TO THE PERSON  
26 AND PROVIDE AN OPPORTUNITY FOR A HEARING. THE PENALTY SHALL BE  
27 PAYABLE TO THE LICENSING AUTHORITY AND SHALL BE COLLECTIBLE IN A  
28 MANNER PROVIDED BY LAW FOR THE COLLECTION OF DEBT.

29 (B) SCHEDULE OF SANCTIONS.--

30 (1) IF THE LICENSING AUTHORITY OR A STATE LICENSING

1 AGENCY DETERMINES THAT A PERSON HAS VIOLATED SECTION 5, THE  
2 PERSON SHALL BE GIVEN A WARNING.

3 (2) IF THE LICENSING AUTHORITY OR STATE LICENSING AGENCY  
4 DETERMINES THAT A PERSON HAS VIOLATED SECTION 5 WITHIN ONE  
5 YEAR OF RECEIVING A WARNING UNDER PARAGRAPH (1), THE PERSON  
6 SHALL BE SUBJECT TO A PENALTY NOT TO EXCEED \$250.

7 (3) IF THE LICENSING AUTHORITY OR STATE LICENSING AGENCY  
8 DETERMINES THAT A PERSON HAS VIOLATED SECTION 5 WITHIN ONE  
9 YEAR OF RECEIVING A PENALTY UNDER PARAGRAPH (2), THE PERSON  
10 SHALL BE SUBJECT TO A PENALTY NOT TO EXCEED \$500.

11 (C) PENALTIES COLLECTED.--THE PENALTIES COLLECTED UNDER THIS  
12 SECTION SHALL BE RETAINED BY THE LICENSING AUTHORITY OR STATE  
13 LICENSING AGENCY INITIATING THE ENFORCEMENT ACTION.

14 (D) PROCEDURE.--THIS SECTION IS SUBJECT TO 2 PA.C.S. CH. 5  
15 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH  
16 AGENCIES) AND CH. 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF  
17 COMMONWEALTH AGENCY ACTION).

18 SECTION 8. CRIMINAL PENALTIES.

19 (A) FIRST OFFENSE.--A PERSON THAT VIOLATES SECTION 5 COMMITS  
20 A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE GIVEN A  
21 WARNING.

22 (B) OFFENSE FOLLOWING WARNING.--A PERSON THAT VIOLATES  
23 SECTION 5 WITHIN ONE YEAR OF BEING WARNED UNDER SUBSECTION (A)  
24 COMMITS A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE  
25 SENTENCED TO PAY A FINE OF NOT MORE THAN \$250.

26 (C) MISDEMEANOR.--A PERSON THAT VIOLATES SECTION 5 WITHIN  
27 ONE YEAR OF BEING SENTENCED UNDER SUBSECTION (B) COMMITS A  
28 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A  
29 FINE OF NOT MORE THAN \$500.

30 (D) MUNICIPAL ENFORCEMENT.--EXCEPT AS SET FORTH IN

1 SUBSECTION (E), THE PENALTIES COLLECTED UNDER THIS SECTION SHALL  
2 BE RETAINED BY THE MUNICIPALITY IN WHICH THE LAW ENFORCEMENT  
3 AGENCY INITIATING THE ENFORCEMENT ACTION IS LOCATED.

4 (E) PENNSYLVANIA STATE POLICE ENFORCEMENT.--IF AN  
5 ENFORCEMENT ACTION IS INITIATED BY THE PENNSYLVANIA STATE  
6 POLICE, THE PENNSYLVANIA STATE POLICE SHALL RETAIN THE PENALTIES  
7 COLLECTED UNDER THIS SECTION.

8 Section 3 20. Effective date.



9 This act shall take effect in 60 days.