
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1304 Session of
2020

INTRODUCED BY FONTANA, MUTH, TARTAGLIONE, COSTA, SCHWANK AND
BLAKE, SEPTEMBER 18, 2020

REFERRED TO HEALTH AND HUMAN SERVICES, SEPTEMBER 18, 2020

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 "drinking establishment,"
10 "gaming floor," "night club" and "smoking" in section 2 of the
11 act of June 13, 2008 (P.L.182, No.27), known as the Clean Indoor
12 Air Act, are amended 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:

20 (i) operates pursuant to an eating place retail

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

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

7 (iii) does not permit individuals under 18 years of
8 age[.]; and

9 (iv) is not located in a licensed facility.

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.

26 * * *

27 ["Gaming floor." Any portion of a licensed facility where
28 slot machines have been installed for use or play as approved by
29 the Pennsylvania Gaming Control Board. The term does not include
30 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 "Night club." A public hall or hall for which admission is
5 generally charged and which is primarily or predominantly
6 devoted to dancing or to shows or cabarets as opposed to a
7 facility that is primarily a bar, tavern or dining facility and
8 is not located in a licensed facility.

9 * * *

10 "Smoking." The carrying by a person of a lighted cigar,
11 cigarette, pipe or other lighted smoking device, including an
12 electronic cigarette.

13 * * *

14 Section 2. Section 3(b)(11) and (12) of the act are amended
15 to read:

16 Section 3. Prohibition.

17 * * *

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

20 * * *

21 (11) [Unless otherwise increased under this paragraph,
22 25% of the gaming floor at a licensed facility. No earlier
23 than 90 days following the effective date of this section or
24 the date of commencement of slot machine operations at a
25 licensed facility, whichever is later, a licensed facility
26 shall request a report from the Department of Revenue that
27 analyzes the gross terminal revenue per slot machine unit in
28 operation at the licensed facility within the 90-day period
29 preceding the request. If the report shows that the average
30 gross terminal revenue per slot machine unit in the

1 designated smoking area equals or exceeds the average gross
2 terminal revenue per slot machine unit in the designated
3 nonsmoking area, the licensed facility may increase the
4 designated smoking area of the gaming floor in proportion to
5 the percentage difference in revenue. A licensed facility may
6 request this report from the Department of Revenue on a
7 quarterly basis and may increase the designated smoking area
8 of the gaming floor accordingly. At no time may the
9 designated smoking area exceed 50% of the gaming floor. The
10 board shall have jurisdiction to verify the gross terminal
11 revenues included in the report to ensure compliance with the
12 requirements under this paragraph. Movement of the licensed
13 facility from a temporary facility to a permanent facility
14 shall not require the licensed facility to revert to the
15 minimum percentage set forth under this paragraph.]

16 (Reserved).

17 (12) A designated outdoor smoking area within the
18 confines of a sports or recreational facility, theater [or],
19 performance establishment or licensed facility.

20 * * *

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