

## No. 1988-168

## AN ACT

## SB 26

Amending the act of April 27, 1927 (P.L.465, No.299), entitled, as amended, "An act to provide for the safety of persons employed, housed, or assembled in certain buildings and structures not in cities of the first class, second class, and second class A, by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts," providing for specialized automatic fire detection devices for the deaf and hearing impaired in lodging houses, hotels and motels; requiring automatic fire detection devices in Class IV buildings; requiring that hotels and motels furnish information concerning measures taken for protection from fire; authorizing municipalities to install teletypewriters in certain locations to enable deaf residents to communicate requests for assistance in emergencies; providing for Commonwealth reimbursement of installation expense; regulating smoking in certain public places; and providing a penalty.

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

Section 1. The title of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, amended January 14, 1952 (1951 P.L.1889, No.518), is amended to read:

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To provide for the safety of persons employed, housed, or assembled in certain buildings and structures **[not in cities of the first class, second class, and second class A,]** by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry, *the Department of Health, boards of school directors* and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts.

Section 2. The act is amended by adding sections to read:

*Section 3.1. Automatic Fire Detection Devices for the Hearing Impaired.—(a) In addition to such other rules and regulations as the Department of Labor and Industry shall adopt relating to the locations, types and number of automatic fire detection devices required in the several classes of buildings covered by this act, it shall require that specialized automatic fire detection devices for the deaf or hearing impaired, of a type*

*approved by the department, be made available in public lodging houses, hotels and motels for the use of such guests as shall request and have need of their use. Notice of the availability of specialized automatic fire detection devices for the deaf and hearing impaired shall be posted in the area of guest registration. The lodging house, hotel or motel shall maintain at least one such specialized automatic fire detection device for each fifty dwelling units, with a maximum of ten and a minimum of two specialized automatic fire detection devices for each such lodging house, hotel or motel. Guests shall not be charged for the use of such specialized automatic fire detection devices, but a refundable deposit may be required for their use. The Department of Labor and Industry shall, by regulation, determine the existing and newly constructed lodging houses to which this section shall be applicable.*

*(b) Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city.*

*Section 3.2. Automatic Fire Detection Devices in Class IV Buildings.—*

*(a) The owner of every Class IV building shall install an automatic fire detection device within each dwelling unit and in each hall and stairwell. The Department of Labor and Industry shall, by regulation, determine the type and numbers necessary for adequate fire protection.*

*(b) An owner of a building having one (1) or more apartments who complies with subsection (a) shall not be responsible for any damage or injury to any person or property due or as a result of any misuse or tampering with the automatic detection device caused by a person other than the owner or his agent.*

*(c) Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city.*

*(d) Unless specified otherwise in the lease agreement, it shall be the responsibility of the tenant to inspect and test the operation of the automatic detection device at the beginning of the tenant's occupancy and then monthly thereafter and to replace batteries if needed in order to keep the automatic detection device operable at all times. The tenant shall also be responsible for notifying the owner in case the automatic detection device is not properly functioning. In addition, the owner or his agent shall inspect the automatic fire detection devices on a yearly basis. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city. For the purpose of this section, "tenant" means a person who will occupy a Class IV building for thirty (30) days or longer.*

*Section 3.3. Information Concerning Protection from Fire.—The management of hotels and motels shall, upon the request of travel agents and other persons interested in utilizing their facilities, furnish information concerning the measures which have been taken at the hotel or motel for protection from fire. The information shall be provided in writing, free of charge, and shall be in such detail as the Department of Labor and Industry may prescribe by regulation.*

*Section 3.4. Installation of Teletypewriters.—(a) Any municipality may install in its police headquarters or other location designated by the municipality a teletypewriter which will enable deaf residents of the municipality to communicate requests for assistance in emergencies to the police or other designated emergency response organizations.*

*(b) The Department of Labor and Industry shall reimburse municipalities for the expense of implementing subsection (a), subject to the availability of funds.*

*(c) The Department of Labor and Industry shall promulgate regulations to set standards for teletypewriters eligible for reimbursement under this section to be installed by municipalities, and to establish reimbursement procedure for municipalities within the limitations of subsection (b).*

*(d) Notwithstanding the provisions of section 15, this section shall be applicable throughout this Commonwealth.*

*Section 3.5. School Tobacco Control.—(a) Tobacco use by pupils is prohibited in school buildings and school buses and on school property owned by, leased by or under the control of a school district.*

*(b) (1) The board of school directors may designate smoking areas for employes and shall establish policy to enforce the prohibition of tobacco use under this section.*

*(2) The board of school directors shall notify employes, students and parents of the policy developed in subsection (b)(1) by publishing the information in a student handbook and parent newsletter, and on posters or other efficient means.*

*(c) This section supersedes any municipal ordinance or school board regulation to the contrary.*

*(d) Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth.*

*(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*“School” means a school operated by a joint board, board of directors or school board where pupils are enrolled in compliance with Article XIII of the act of March 10, 1949 (P.L.30, No.14), known as the “Public School Code of 1949.” The term includes area vocational-technical schools and intermediate units.*

*“Smoking” includes possession of a lighted cigarette, cigar, pipe or other lighted smoking equipment.*

*“Tobacco use” includes smoking and the use of smokeless tobacco in any form.*

*Section 10.1. Clean Indoor Air.—(a) The purpose of this section is to protect the public health and to provide for the comfort of all parties by regulating and controlling smoking in certain public places and at public meetings and in certain workplaces.*

*(b) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*“Bar areas” means those areas which are devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.*

**“Public meetings”** means all meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the “Sunshine Act.”

**“Public place”** means either of the following:

(1) *An enclosed, indoor area owned or operated by a State or local governmental agency and used by the general public or serving as a place of work for public employes or a meeting place for a public body, including an office, educational facility, health facility, auditorium, arena, meeting room or public conveyance.*

(2) *An enclosed, indoor area which is not owned or operated by a State or local governmental agency, which is used by the general public and which is any of the following:*

(i) *A workplace.*

(ii) *An educational facility.*

(iii) *A health facility.*

(iv) *An auditorium.*

(v) *An arena.*

(vi) *A theater.*

(vii) *A museum.*

(viii) *A restaurant.*

(ix) *A concert hall.*

(x) *Any other facility during the period of its use for a performance or exhibit of the arts.*

**“Restaurant”** means any eating establishment which offers food for sale to the public.

**“Smoking”** means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

**“Workplace”** means an enclosed, indoor area serving as a place of employment, occupation, business, trade, craft or profession.

(c) *No person shall smoke in an area designated nonsmoking by the proprietor or person in charge in a public place or at a public meeting.*

(d) *The following places shall be exempt from this section:*

(1) *Private social functions where the area utilized is under the control of the sponsor and not the proprietor.*

(2) *Factories, warehouses and similar places of work not frequented by the general public.*

(3) *Restaurants seating fewer than seventy-five (75) persons.*

(4) *Bar areas in a liquor licensee establishment.*

(5) *Areas in public places commonly referred to as lobbies and hallways.*

(6) *Hotel and motel rooms.*

(7) *Retail stores, the primary business of which is the sale of tobacco or tobacco-related products.*

(e) *The regulation of smoking in restaurants with seventy-five (75) or more seats shall be governed by the following:*

(1) *Restaurants shall provide for their patrons smoking and nonsmoking areas reasonably calculated to address the needs of their clientele, the size of which may be increased or decreased, by the proprietor or person in charge, according to need.*

**(2) Restaurants shall make reasonable efforts to prevent smoking in the designated nonsmoking section by:**

**(i) Posting appropriate signs which are readily visible. The color, size and placement of the signs shall be left to the discretion of the proprietor or person in charge in keeping with the decor or aesthetics of the establishment.**

**(ii) Arranging seating so that smokers and nonsmokers are placed in contiguous groupings.**

**(iii) Asking smokers to refrain from smoking in the nonsmoking areas.**

**(f) The regulation of smoking in restaurants with fewer than seventy-five (75) seats shall be left to the discretion of the proprietor, provided that:**

**(1) Restaurants which choose not to provide a nonsmoking area nor develop a no-smoking policy based upon customer preference shall post notice of such lack of policy at each entranceway.**

**(2) Restaurants which choose to provide a nonsmoking area shall develop a policy in accordance with subsection (e).**

**(g) Except as otherwise provided in this section, employers shall develop, post and implement a policy to regulate smoking in the workplace, provided that nothing in this section or any local law, rule or regulation shall be construed as to impair or diminish or otherwise affect any contractual agreement, collective bargaining agreement, collective bargaining rights or collective bargaining procedures. The employer shall provide a copy of the policy to any employe upon request.**

**(h) No proprietor or person in charge of a public place who establishes a policy or designates areas pursuant to this section shall be subject to any action in any court by any party other than the Department of Health or local board or department of health under this section.**

**(i) A violation of this section shall be punishable by a civil fine of not more than fifty dollars (\$50.00).**

**(j) The Department of Health shall promulgate and adopt rules and regulations as are necessary and reasonable to implement the provisions of this section.**

**Section 15.1. Preemption.—(a) This act shall preempt and supersede any local ordinance or rule concerning the subject matter of sections 3.5 and 10.1 of this act.**

**(b) This act shall preempt and supersede any local ordinance or rule concerning the subject matter of section 10.1 of this act except that:**

**(1) The provisions of section 10.1 of this act shall not apply to local rules or ordinances concerning the subject matter of section 10.1 of this act which have been adopted by cities of the second class and were in effect prior to September 1, 1988.**

**(2) In the event that the local rule or ordinance is amended, suspended, rescinded or rendered, in whole or in part, ineffective by a court decision, the**

*exemption shall not apply; and the city of the second class shall be subject to the provisions of section 10.1 of this act.*

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

APPROVED—The 21st day of December, A. D. 1988.

ROBERT P. CASEY