

No. 1992-104

AN ACT

HB 2801

Amending the act of April 6, 1956 (1955 P.L.1414, No.465), entitled, as amended, "An act to promote the welfare of the people of this Commonwealth; creating Port Authorities to function in counties of the second class as bodies corporate and politic, with power to plan, acquire, construct, maintain and operate facilities and projects for the improvement and development of the port district and to borrow money and issue bonds therefor; providing for the payment of such bonds and prescribing the rights of the holders thereof; conferring the right of eminent domain on the authorities; authorizing the authorities to enter into contracts with and to accept grants from the Federal government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates and services; and authorizing the authorities to collect tolls, fares, fees, rentals and charges for the use of facilities; defining the authorities' powers and duties, and defining the port districts; granting Port Authorities the exclusive right to engage in the business of owning, operating, and maintaining a transportation system for the transportation of persons in counties of the second class, providing, when necessary, for extension of transportation systems into adjoining counties and outside of said counties as provided in the act; limiting the jurisdiction of the Public Utility Commission over Port Authorities; authorizing municipalities to make loans and grants and to transfer existing facilities; authorizing Port Authorities to enter into contracts with and to accept grants from State and local governments or agencies thereof; exempting the property and facilities of such Port Authorities from taxation and limiting the time to commence civil action against said Authorities," further providing for the powers of the authority; prohibiting smoking, eating and drinking in certain public conveyances owned or operated by a port authority created under the act; and providing a penalty.

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

Section 1. Section 3(b) of the act of April 6, 1956 (1955 P.L.1414, No.465), known as the Second Class County Port Authority Act, is amended by adding clauses to read:

Section 3. * * *

(b) Each authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights or powers:

* * *

(6.1) To construct, improve, maintain, repair and operate high-occupancy vehicle lanes that are incorporated into and are made part of an authority facility.

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(27) Notwithstanding any other provision of law, to contract with any third party for the allocation of liability for any and all claims, actions, suits or damages, whether for compensatory or punitive damages, arising against a third party or the authority in connection with any accident or incident

related to the operations conducted by or on behalf of or authorized by the authority or a third party, on property owned by the authority or on property owned by a third party and adjacent to the authority's property. If a third party asserts against the authority any claim relating to liability that the authority, pursuant to contract, has assumed, such claim may, to the extent provided in this clause, result in the imposition of liability on the authority, and the defense of sovereign immunity as provided in 42 Pa.C.S. Ch. 85 Subch. B (relating to actions against Commonwealth parties) shall not be raised by the authority in connection therewith. The aggregate of liability for all claims, actions, suits or damages, whether for compensatory or punitive damages, that may be asserted against and imposed upon such third party and which the authority, pursuant to such contract, has assumed shall not exceed the limits of the liability insurance coverage maintained by the authority in connection with such assumed obligations, which insurance coverage shall not be less than ten million dollars. The authority shall be entitled to obtain and maintain insurance coverage in amounts deemed by the authority to be necessary or desirable and to name such third party as an additional named insured on any insurance policies relating thereto.

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

Section 10.1. (a) Except as otherwise provided in subsection (b), it shall be unlawful for any person to smoke a cigar, pipe, cigarette or other device used to smoke or to eat or drink anything on a public conveyance owned or operated by the authority, including, but not limited to, a bus, street railway car, light rail vehicle, a commuter rail train or incline.

(b) Subsection (a) shall not apply to: (i) passengers on a commuter rail car which comprises part of a commuter rail train and which car is specifically designated as an area on the train where smoking, eating or drinking is permitted; or (ii) passengers on a bus, street railway car or light rail vehicle which is being used to transport groups or parties of persons, the charge for which is based upon the transportation of a group and not upon the number of persons carried and for which payment is made by a single person or organization and not by the passengers as individuals.

(c) The authority shall post a notice of any prohibitions or restrictions against smoking, eating and drinking and the penalty imposed by this section on the inside front of all public conveyances referred to in subsection (a).

(d) A person who violates the provisions of subsection (a) shall, upon conviction in a summary proceeding, be sentenced to pay a fine of fifty dollars and the costs of prosecution and, in default of the payment of the fine and costs, shall be sentenced to imprisonment for a period of not more than ten days.

Section 3. This act shall take effect immediately.

APPROVED—The 9th day of July, A. D. 1992.

ROBERT P. CASEY