

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

SUNDAY, JULY 15, 2007

SESSION OF 2007

191ST OF THE GENERAL ASSEMBLY

No. 75

HOUSE OF REPRESENTATIVES

The House convened at 4 p.m., e.d.t.

**THE SPEAKER (DENNIS M. O'BRIEN)
PRESIDING**

PRAYER

HON. FRANK SHIMKUS, member of the House of Representatives, offered the following prayer:

Let us bow our heads in prayer:

Heavenly Father, we gather in this place today to do Your work. We acknowledge You as the creator and the author of wisdom. We pray, Lord, that by the power of Your spirit, that You would inspire us, You would give us clarity of mind, You would give us clarity of speech, and You would help us to honor each other in all that we do.

We pray, Lord, as these important issues come before us that we might be able to see clearly the importance of them and how they will affect Your people. We ask, Lord, that You bless all of our leaders, all of our negotiators, and all of us that gather in this place to do Your bidding. In Your name we pray. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Saturday, July 14, 2007, will be postponed until printed. The Chair hears no objection.

JOURNALS APPROVED

The SPEAKER. The Journals of Monday, May 7; Tuesday, May 8; and Wednesday, May 9 of 2007 are now in print. Will the House approve those Journals?

On the question,
Will the House agree to the motion?
Motion was agreed to.

LEAVES OF ABSENCE

The SPEAKER. Turning to leaves of absence, the Chair recognizes the majority whip. Are there any leaves on the Democratic side? The gentleman indicates a request for leave for the day for Representatives WOJNAROSKI from Cambria County and TANGRETTI from Westmoreland County. The Chair hears no objection. The leaves will be granted.

The Chair turns to the minority whip, who requests that Representative BASTIAN from Somerset and Representative O'NEILL from Bucks County be placed on leave for today. The Chair hears no objection. The leaves will be granted.

MOTION INSISTING UPON NONCONCURRENCE IN SENATE AMENDMENTS

The SPEAKER. The Chair recognizes Representative Dwight Evans, who moves that the House must insist on its nonconcurrency in the amendments made by the Senate to HB 1286, PN 1983, and that a committee of conference on the part of the House be appointed.

On the question,
Will the House agree to the motion?
Motion was agreed to.

CONFERENCE COMMITTEE APPOINTED

The SPEAKER. The Chair appoints as a committee of conference on the part of the House on HB 1286, PN 1983:

The gentleman, Representative DeWEESE; the gentleman, Representative Dwight EVANS; and the gentleman, Representative CIVERA.

Ordered, That the clerk inform the Senate accordingly.

SENATE MESSAGE

HOUSE AMENDMENTS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 968, PN 1298**.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

SB 968, PN 1298

An Act amending the act of March 20, 2002 (P.L.154, No.13), known as the Medical Care Availability and Reduction of Error (Mcare) Act, providing for reduction and prevention of health care-associated infection and for long-term care nursing facilities.

Whereupon, the Speaker, in the presence of the House, signed the same.

LEAVE OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative O'Neill on the floor.

Members will report to the floor.

MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll. Members will proceed to vote.

(Members proceeded to vote.)

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative PERZEL be placed on leave for the day. The Chair hears no objection. The leave will be granted.

MASTER ROLL CALL CONTINUED

The following roll call was recorded:

PRESENT—199

Adolph	Gabig	Mantz	Roebuck
Argall	Galloway	Markosek	Rohrer
Baker	Geist	Marshall	Ross
Barrar	George	Marsico	Rubley
Bear	Gerber	McCall	Sabatina
Belfanti	Gergely	McGeehan	Sainato
Benninghoff	Gibbons	McI. Smith	Samuelson
Bennington	Gillespie	McIlhattan	Santoni
Beyer	Gingrich	Melio	Saylor
Biancucci	Godshall	Mensch	Scavello
Bishop	Goodman	Metcalfe	Schroder
Blackwell	Grell	Micozzie	Seip
Boback	Grucela	Millard	Shapiro
Boyd	Haluska	Miller	Shimkus
Brennan	Hanna	Milne	Siptroth
Brooks	Harhai	Moul	Smith, K.
Buxton	Harhart	Moyer	Smith, M.
Caltagirone	Harkins	Mundy	Smith, S.
Cappelli	Harper	Murt	Solobay
Carroll	Harris	Mustio	Sonney
Casorio	Helm	Myers	Staback
Causer	Hennessey	Nailor	Stairs
Civera	Hershey	Nickol	Steil

Clymer	Hess	O'Brien, M.	Stern
Cohen	Hickernell	O'Neill	Stevenson
Conklin	Hornaman	Oliver	Sturla
Costa	Hutchinson	Pallone	Surra
Cox	James	Parker	Swanger
Creighton	Josephs	Pashinski	Taylor, J.
Cruz	Kauffman	Payne	Taylor, R.
Curry	Keller, M.	Payton	Thomas
Cutler	Keller, W.	Peifer	True
Daley	Kenney	Perry	Turzai
Dally	Kessler	Petrarca	Vereb
DeLuca	Killion	Petri	Vitali
Denlinger	King	Petrone	Vulakovich
DePasquale	Kirkland	Phillips	Wagner
Dermody	Kortz	Pickett	Walko
DeWeese	Kotik	Preston	Wansacz
DiGirolamo	Kula	Pyle	Waters
Donatucci	Leach	Quigley	Watson
Eachus	Lentz	Quinn	Wheatley
Ellis	Levdansky	Ramaley	White
Evans, D.	Longiotti	Rapp	Williams
Evans, J.	Mackereth	Raymond	Yewcic
Everett	Maher	Readshaw	Youngblood
Fabrizio	Mahoney	Reed	Yudichak
Fairchild	Major	Reichley	
Fleck	Manderino	Roae	O'Brien, D., Speaker
Frankel	Mann	Rock	
Freeman			

ADDITIONS—0

NOT VOTING—0

EXCUSED—4

Bastian	Perzel	Tangretti	Wojnaroski
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LEAVES ADDED—1

Roae

LEAVES CANCELED—2

Roae Tangretti

The SPEAKER. A quorum being present, the House will proceed to conduct business.

CALENDAR

RESOLUTION PURSUANT TO RULE 35

Mr. BAKER called up **HR 376, PN 2328**, entitled:

A Resolution commending Pennsylvania Industries for the Blind and Handicapped (PIBH) and its President and CEO, Alfred W. Baker, upon PIBH's receipt of a Stevie Award.

On the question,
Will the House adopt the resolution?

(Members proceeded to vote.)

LEAVE OF ABSENCE

The SPEAKER. The Chair returns to requests for leaves of absence. The Chair recognizes the minority whip, who requests that Representative ROAE be placed on leave. Without

objection, the leave will be granted. The Chair sees no objection.

CONSIDERATION OF HR 376 CONTINUED

On the question recurring,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

Adolph	Freeman	Mann	Roebuck
Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Rubley
Bear	George	Marsico	Sabatina
Belfanti	Gerber	McCall	Sainato
Benninghoff	Gergely	McGeehan	Samuelson
Bennington	Gibbons	McI. Smith	Santoni
Beyer	Gillespie	McIlhattan	Saylor
Biancucci	Gingrich	Melio	Scavello
Bishop	Godshall	Mensch	Schroder
Blackwell	Goodman	Metcalfe	Seip
Boback	Grell	Micozzie	Shapiro
Boyd	Grucela	Millard	Shimkus
Brennan	Haluska	Miller	Siptroth
Brooks	Hanna	Milne	Smith, K.
Buxton	Harhai	Moul	Smith, M.
Caltagirone	Harhart	Moyer	Smith, S.
Cappelli	Harkins	Mundy	Solobay
Carroll	Harper	Murt	Sonney
Casorio	Harris	Mustio	Staback
Causar	Helm	Myers	Stairs
Civera	Hennessey	Nailor	Steil
Clymer	Hershey	Nickol	Stern
Cohen	Hess	O'Brien, M.	Stevenson
Conklin	Hickernell	O'Neill	Sturla
Costa	Hornaman	Oliver	Surra
Cox	Hutchinson	Pallone	Swanger
Creighton	James	Parker	Taylor, J.
Cruz	Josephs	Pashinski	Taylor, R.
Curry	Kauffman	Payne	Thomas
Cutler	Keller, M.	Payton	True
Daley	Keller, W.	Peifer	Turzai
Dally	Kenney	Perry	Vereb
DeLuca	Kessler	Petrarca	Vitali
Denlinger	Killion	Petri	Vulakovich
DePasquale	King	Petrone	Wagner
Dermody	Kirkland	Phillips	Walko
DeWeese	Kortz	Pickett	Wansacz
DiGirolamo	Kotik	Preston	Waters
Donatucci	Kula	Pyle	Watson
Eachus	Leach	Quigley	Wheatley
Ellis	Lentz	Quinn	White
Evans, D.	Levdansky	Ramaley	Williams
Evans, J.	Longietti	Rapp	Yewcic
Everett	Mackereth	Raymond	Youngblood
Fabrizio	Maher	Readshaw	Yudichak
Fairchild	Mahoney	Reed	
Fleck	Major	Reichley	O'Brien, D.,
Frankel	Manderino	Rock	Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Bastian	Roae	Tangretti	Wojnaroski
Perzel			

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

RESOLUTION

Mr. GEORGE called up **HR 122, PN 824**, entitled:

A Resolution petitioning the President and Congress of the United States to increase funding for the Low-Income Home Energy Assistance Program (LIHEAP).

On the question,
Will the House adopt the resolution?

The SPEAKER. On the resolution, the Chair recognizes Representative George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, I will ask my colleagues to join with me on this resolution to the President of the United States to propose a budget. He has proposed a budget with a cut of 18 percent to LIHEAP (Low-Income Home Energy Assistance Program) funding, and I think we should let our President know that for the Commonwealth of Pennsylvania, this proposal represents a 25-percent cut, or almost a \$33 million cut from last year, and for the LIHEAP recipient's household, the resident energy burden was 17.2 percent, nearly 2 1/2 times the average burden.

With growing applications to LIHEAP and almost 80 percent of LIHEAP households having at least one senior citizen, we must petition the President and the Congress of the United States to increase vital funding to LIHEAP.

I ask for your support for this resolution. Thank you.

The SPEAKER. Representative Gabig.

Mr. GABIG. Thank you, Mr. Speaker.

Is this the resolution on LIHEAP, if I understood the gentleman correctly. Is that correct? I wonder if he would mind standing for interrogation, just briefly on the issue about the recent reports about—

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. GABIG. Thank you, Mr. Speaker.

I think this House, as a whole, has been very supportive of the LIHEAP program, and I think as the gentleman mentioned, it helps lower income people, especially during the winter here in Pennsylvania, take care of their heating needs. But as I understand, there was a recent report about fraud in the LIHEAP program, and I just wondered if the gentleman could tell me whether this resolution speaks of that, about the problem about fraud in the LIHEAP program?

Mr. GEORGE. Mr. Speaker, I would be less than honest if I could affirm your question with a probable or at least a possible answer on target. I know nothing about it. What I do know is that you and I and all of our colleagues, we understand even with the rise or the cost escalation of the material needed for these seniors to heat their homes, it would take extra money, and the fact remains that you are absolutely right, you and every colleague that we have is to be given due credit for what we have tried to do for the citizens that are not as fortunate as we are.

I know nothing about it, but I do know that I can read almost as well as most, and I know that the cut is coming. And all I believe is that with this resolution, that we attempt to let

especially our own Congressman know, where they are talking about earmark benches in the Congress of multimillion-dollar favorite programs, to let them know that one of our favorite programs is taking care of our senior citizens. That is all I can tell you.

Mr. GABIG. I want to thank the gentleman. If I could just make some comments, Mr. Speaker?

The SPEAKER. The gentleman is in order and may proceed.

Mr. GABIG. I am certainly going to support the gentleman. He has been a leader on this issue, and as I said, I think this House, on both sides, has been very supportive of this program, again, which is designed to give assistance to those in lower-income brackets during the winter months to help ensure that they have heat. But I just am very concerned. I think it was the Auditor General's report, Jack Wagner – is his daughter now a member? I think his daughter is a colleague of ours now; cousin, cousin; a relative; Wagner, Representative Wagner from Allegheny County – but I am very concerned about the report that came out. I think there was a figure of \$800 million used here in Pennsylvania, and I think the report indicated that it was, was it June, the fund was very vulnerable to fraud, I think is what the report said; reading, yes, here from the Auditor General: "...Jack Wagner Finds Deficiencies In Department of Public Welfare's Administration of LIHEAP." This is a June 27, 2007, news release. "Inadequate policies and procedures, insufficient supervision, and inadequate oversight resulted in potential applicant and employee fraud and abuse in all six counties (Philadelphia, Allegheny, Lancaster, Lehigh, Perry and York) examined during the audit period of July 1, 2000 through June 30, 2006...."

The Auditor General Jack Wagner, I think he is a former Democratic Senator from Allegheny County.

So we are very, very concerned on this side of the aisle that we need to address these deficiencies in the Department of Public Welfare regarding the fraud, potential fraud, in the LIHEAP program.

So I again want to congratulate the gentleman on his leadership on this, and I am sure we will be able to work together in a bipartisan manner to ensure that we can root out this fraud, waste, and abuse that is going on here in Pennsylvania in the LIHEAP program.

Thank you very much, Mr. Speaker.

On the question recurring, Will the House adopt the resolution?

The following roll call was recorded:

YEAS—198

Table with 4 columns of names: Adolph, Argall, Baker, Barrar, Bear, Belfanti, Benninghoff, Bennington, Beyer, Bianucci, Bishop, Blackwell, Boback, Boyd, Brennan, Freeman, Gabig, Galloway, Geist, George, Gerber, Gergely, Gibbons, Gillespie, Gingrich, Godshall, Goodman, Grell, Grucela, Haluska, Mann, Mantz, Markosek, Marshall, Marsico, McCall, McGeehan, McI. Smith, McIlhattan, Melio, Mensch, Metcalfe, Micozzie, Millard, Miller, Roebuck, Rohrer, Ross, Rubley, Sabatina, Sainato, Samuelson, Santoni, Saylor, Scavello, Schroder, Seip, Shapiro, Shimkus, Siptroth

Table with 4 columns of names: Brooks, Buxton, Caltagirone, Cappelli, Carroll, Casorio, Causer, Civera, Clymer, Cohen, Conklin, Costa, Cox, Creighton, Cruz, Curry, Cutler, Daley, Dally, DeLuca, Denlinger, DePasquale, Dermody, DeWeese, DiGirolamo, Donatucci, Eachus, Ellis, Evans, D., Evans, J., Everett, Fabrizio, Fairchild, Fleck, Frankel, Hanna, Harhai, Harhart, Harkins, Harper, Harris, Helm, Hennessey, Hershey, Hess, Hickernell, Hornaman, Hutchinson, James, Josephs, Kauffman, Keller, M., Keller, W., Kenney, Kessler, Killion, King, Kirkland, Kortz, Kotik, Kula, Leach, Lentz, Levdansky, Longiotti, Mackereth, Maher, Mahoney, Major, Manderino, Milne, Moul, Moyer, Mundy, Murt, Mustio, Myers, Nailor, Nickol, O'Brien, M., O'Neill, Oliver, Pallone, Parker, Pashinski, Payne, Payton, Peifer, Perry, Petrarca, Petri, Petrone, Phillips, Pickett, Preston, Pyle, Quigley, Quinn, Ramaley, Rapp, Raymond, Readshaw, Reed, Reichley, Rock, Smith, K., Smith, M., Smith, S., Solobay, Sonney, Staback, Stairs, Steil, Stern, Stevenson, Sturla, Surra, Swanger, Taylor, J., Taylor, R., Thomas, True, Turzai, Vereb, Vitali, Vulakovich, Wagner, Walko, Wansacz, Waters, Watson, Wheatley, White, Williams, Yewcic, Youngblood, Yudichak, O'Brien, D., Speaker

NAYS—0

NOT VOTING—0

EXCUSED—5

Table with 4 columns of names: Bastian, Perzel, Roae, Tangretti, Wojnaroski

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of HB 1320, PN 1625, entitled:

An Act providing for a program for the disposal of home-generated medical sharps, and for powers and duties of the Department of Environmental Protection.

On the question, Will the House agree to the bill on second consideration? Bill was agreed to.

BILL ON SECOND CONSIDERATION POSTPONED

The House proceeded to second consideration of SB 246, PN 1286, on second consideration postponed, entitled:

An Act establishing the Smoke Free Pennsylvania Act; prohibiting smoking in enclosed and substantially enclosed areas; imposing duties upon the Department of Health; imposing penalties; and making a related repeal.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The SPEAKER. May I have the attention of the members, please.

Last evening as we were debating SB 246, the Chair imposed a voluntary clock on the board of 3 minutes. Members, when they speak on an amendment, are not bound by that. That is simply a guide for members to look at so that they will be mindful of how long they are speaking. It is not mandatory. It is simply a guide, and the Chair intends to use the clock again today, as a suggestive measure.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. SOLOBAY offered the following amendment No. **A03013**:

Amend Sec. 3, page 12, by inserting between lines 6 and 7

"Conduct of gaming." The licensed placement and operation of games of chance under 4 Pa.C.S. Pt. II (relating to gaming) and approved by the Pennsylvania Gaming Control Board at a licensed facility.

Amend Sec. 3, page 12, by inserting between lines 26 and 27

"Licensed facility." As defined in 4 Pa.C.S. § 1103 (relating to definitions).

"Licensed gaming entity." A person that holds a license to engage in the conduct of gaming pursuant to 4 Pa.C.S. Pt. II (relating to gaming).

Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) The physical gaming area of a licensed facility.

On the question,

Will the House agree to the amendment?

The SPEAKER. For what purpose does the gentleman, Representative Reichley, rise?

Mr. REICHLEY. A point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. REICHLEY. And I apologize. I was a few minutes late getting back to the floor.

Did the Speaker actually name the conferees to the conference committee for the appropriation bill 1286?

The SPEAKER. Yes.

Mr. REICHLEY. And am I correct, Mr. Speaker, that the conference committee cannot meet while the House is in an actual voting session. Is that correct?

The SPEAKER. If the gentleman will postpone, the Chair will check that.

Mr. REICHLEY. Well, the only reason I ask, Mr. Speaker, is that I think all four caucus leaders were provided a letter from the State Treasurer indicating that if the budget was not signed by 12 noon tomorrow, the State Treasurer would have to

withhold payment to State employees, and it would seem to me—

The SPEAKER. Will the gentleman suspend. That is not a point of parliamentary inquiry.

Mr. REICHLEY. The point of parliamentary inquiry is, Mr. Speaker, if we have more pressing business to do, such as keeping business of the government operating, why is the House not in recess?

The SPEAKER. That is not a point of parliamentary inquiry. The gentleman will suspend.

Mr. REICHLEY. All right. Mr. Speaker—

The SPEAKER. The Chair intends to break when the conference committees do meet.

Mr. REICHLEY. Well, Mr. Speaker, with all due respect, I would urge the House would break—

The SPEAKER. The gentleman will suspend.

Mr. REICHLEY. Well, I will move to recess then, Mr. Speaker, so the conference committees can meet.

The SPEAKER. There is no requirement that the House break for conference committee meetings. It is the Chair's intention to do so.

The Chair recognizes Representative Solobay on the amendment. Representative Solobay.

Mr. SOLOBAY. Thank you, Mr. Speaker.

The SPEAKER. For what purpose does the gentleman rise?

Mr. REICHLEY. Mr. Speaker, I believe that I in my last statement said, I move to recess, and under rule 55, "Privileged Motions," "When a question is under debate or before the House, no motion shall be received but the following, which shall take precedence in the order named:

"(1) To adjourn, or recess."

I believe that would take priority over the gentleman's amendment, and I am supportive of his amendment, but I think the budget matter is the most pressing matter at hand.

The SPEAKER. The gentleman's motion is not in order.

The Chair recognized Representative Solobay on the amendment, and that is the only— The gentleman was recognized as a point of parliamentary inquiry.

The Chair returns to Representative Solobay on the amendment.

Mr. DeWEESE. Mr. Speaker?

Mr. SOLOBAY. Thank you, Mr. Speaker.

STATEMENT BY MAJORITY LEADER

Mr. DeWEESE. Mr. Speaker, if I might interrupt—

The SPEAKER. The majority leader, Representative DeWeese.

Mr. DeWEESE. —using the prerogative of the floor leader to address the honorable gentleman from Lehigh and the membership in general, it might allay some of the incipient apprehensions here at the beginning of session.

There are still some Fiscal Code issues that we are working on. We are going to be meeting with the Senate in a few minutes. There are some tweaks and nuances in the Education Code that we will be applying ourselves to. These are collateral with the budget. In anticipation of the best-case scenario, the conference committee that has been appointed by the Chair will be aiming at trying to meet tonight, and I am

highly confident that there will not be any more movements in the direction of furlough.

Nobody can guarantee anything in a big, sprawling democracy, but nevertheless, I think that as we try to finalize this debate currently ongoing with the Solobay language, we are still striving to work on the budget simultaneously. It is not as if this is on the back, back burner. It is on the front, front burner, and I would respectfully request that our deliberations go forward here today. I am very confident that we are making progress and wanted to share that with my honorable friend, Mr. Reichley.

The SPEAKER. For what purpose does the gentleman, Representative Reichley, rise?

Mr. REICHLEY. Mr. Speaker, am I allowed to address a question to the majority leader?

The SPEAKER. The gentleman is not in order.

Mr. REICHLEY. May I address a question to the Chair?

The SPEAKER. If he has a point of parliamentary inquiry.

Mr. REICHLEY. Mr. Speaker, does it not require under rule 21(e) that the members have at least 24 hours prior to the adoption of all conference committee reports, and that even as we stand here right now, that would take us past the noon deadline as identified by the State Treasurer's Office by which they could not make the payroll for the State employees. So I am curious as to why there is not all due haste being applied to get the conference committees meeting.

The SPEAKER. The gentleman did not state a point of parliamentary inquiry.

Representative Solobay.

Mr. SOLOBAY. Thank you, Mr. Speaker.

Amendment 3013 would give the flexibility or the allowance of the gaming operators to, on their gaming floor only, be allowed to make the determination of smokeless, smoke-free, or if they would allow smoking. When we passed the gaming bill several years ago, we have 5 of our 14 casinos that are up and running right now. The whole idea behind that, that the revenues would help create property tax reductions for the residents of this Commonwealth. We have seen across the board that the competition around us with the surrounding States that still do allow smoking, any facility that has gone smoke-free around that has seen anywhere from a 20- to 30-percent decrease of revenues as well as a 20-, 30-percent decrease of employees.

We are just getting started on this, on the infancy of this program. Our goal is to try to strive to get moneys for property tax reduction by allowing these facilities, which, by the way, allow only those individuals who are 21 years of age or older to be on the floor, to be in the presence, to utilize the machines, and to do their gaming, also allowing them, whether again, whether or not the competition would dictate it, that they would allow for smoking on the floor. This is not saying that they may decide not to be smoke-free, and it may not even be an issue, but instead of us trying to make a cookie-cutter presentation on what we should do with our gaming facilities across the Commonwealth, we should let them have the local control of determining whether or not it is something that they need to have to be competitive within their particular area.

I would ask for an affirmative vote on amendment 3013.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker. I will be brief.

As I said on previous occasions, we should not be protecting some workers and not others. We should make this legislation apply as broadly as possible, and so therefore, I am urging a "no" vote on the Solobay amendment.

The SPEAKER. Representative Frankel.

Mr. FRANKEL. Mr. Speaker, let me put this in context: In Pennsylvania when all the casinos are up and running, we expect to have nearly 12,000 full-time employees and thousands of part-time employees at these casinos. We will have hundreds of thousands of guests. And again, as my colleague, Representative Ross, said, we are trying to carve out another piece here, and we are going to be talking about this all night because everybody wants to carve out some group, some entity, that we are going to say deserves a less healthy workplace than the rest of Pennsylvania.

Now, let me also put this in context to what the competition is. My colleague from Washington County talked about the competition. Well, 20 States that already banned smoking in gaming venues, including States that are direct competitors of the State of Pennsylvania – New York, Delaware, and most recently New Jersey – 35 to nothing their State Senate voted to ban smoking in their gaming venues. Are our gaming employees any less worthy of the protections that this smoking ban as originally proposed would provide? I say no. They are deserving of equal protection, those employees and those guests, as in any other venue that we are going to ban smoking in. Clean indoor air is a right that everybody in Pennsylvania deserves. This amendment and the others that we will talk about this evening try and carve out and make exceptions and poison Pennsylvania employees and Pennsylvania guests.

So I ask you again, we should not make an exception for casinos, as we should not make any other exceptions, and treat these employees and guests of the State of Pennsylvania with the equal respect and equal protection under the law as guaranteed by the Constitution.

Thank you.

The SPEAKER. Representative Lentz.

Mr. LENTZ. Thank you, Mr. Speaker.

I rise also to oppose this amendment. I have great respect for the amendment's sponsor, and I understand the focus and the interest in making our casinos competitive, but I would ask all the members to take a historic view of the two interests that we are balancing here.

You know, my great-grandfather, I know many of the ancestors of people in this House were in the coal mines years ago, and my great-grandfather went in the coal mines when he was 12 years old. He died in his forties, leaving nine children behind, and he died because he spent day in and day out in that bad air in the mines. And when called to task for the treatment of their workers, the coal mine companies had no defense except for profit. If we had treated our workers better, if we had given them more protections, we would have made less money, and that has been repeated time and again in our State and our nation's history.

You can talk about the workers exposed to asbestos. When those lawsuits – which are still going on – were litigated, the only defense that the companies that subjected their workers to those hazardous materials without protection, their only defense was profit, and now here today we are being asked to make the same choice. We are being asked to choose profit over the health of thousands of workers in our State. What are we going

to say in 10 years or 20 years when the tests come out – and they will come out – that those people that work in the casinos have a greater incidence of pulmonary disease, that those people that work in the casinos are dying at a higher rate than people that work in smoke-free environments? What will our defense as a body be? Profit.

I ask you to choose the health of the workers over making more money at the casinos. They will do just fine. Look around the country. They do just fine where they are smoke-free. They will do just fine in Pennsylvania.

And finally, we have been in the habit in recent days of treating these casinos as some sort of sacred cow, elevating them in status over all other entities in our Commonwealth. We should not do that. They should be treated as every other business, bar, restaurant, and institution in this State.

So I urge the members to reject this amendment.

The SPEAKER. Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

And some of my remarks are going to dovetail into the former speaker from Delaware County.

July 4 in 2004, almost 3 years ago, a little over 3 years ago, this General Assembly created the law to have these 14 casinos here in the Commonwealth of Pennsylvania. Twelve of them are what we call a class 1 or class 2, and those licenses, as I had mentioned in my previous remarks, they are worth anywhere between \$250 million to \$550 million, so when they pay that one-time fee of \$50 million, they extract an enormous profit. So it is not as though we have not been fair to these casinos.

We also created them in a form of a monopoly. So here again, what company can you point to that has a monopoly where you know that they are going to have a clientele that is just going to cater to them because of the restricted area that we have placed them?

And then also, again, to show that the casinos are profiting very favorably, we, that is, when the bill was passed, there was no referendum in the bill itself, so the people could not choose as to whether or not they wanted that casino in their territory or not, again, saving the casinos literally hundreds of thousands of dollars in advertising fees trying to convince the populace that they are a great industry for their particular neighborhood.

Also, Mr. Speaker—

The SPEAKER. The gentleman will suspend.

Members will take their seats. The Chair requests that members hold their conversations and their noise level to a minimum. The gentleman cannot be heard. The aisles will be cleared.

The gentleman is in order.

Mr. CLYMER. Thank you very much, Mr. Speaker.

Mr. Speaker, here is an industry that they never lose, the house never loses. The slot machines are so calculated that they are always going to win. So to have an argument saying that somehow by having no smoking this is going to hurt them financially, I do not quite understand that.

Also, 24 hours a day, they are open 24 hours a day, 365 days a year, and we are saying by not having a smoking ban in the gambling area, it is going to impact not only on the employees but on the patrons who go there as well. They are also going to be impacted by this secondhand smoke.

Mr. Speaker, I believe the last presenter made a very valid point when he said that we should not put profits, we should not put dollars before the lives of people. He is absolutely correct,

and I would encourage the members of this House to vote "no" on this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Seip.

Mr. SEIP. Thank you, Mr. Speaker.

Mr. Speaker, I rise to concur with my colleague from Washington County. I think this is a good amendment and it should pass. We are talking about adults doing adult things, making adult choices here. I submit to you that our citizens and guests are not any less able to make their own informed choices on this issue than any other adults or anybody else as citizens.

Also, Mr. Speaker, as I have stated before, our businesses should be able to make their own business choices, especially our casinos. In my district, much like many other districts across the Commonwealth, the number one issue is property taxes. We are counting on these casinos. This was the whole reason for approving the gaming, was so that we could provide our citizens with property tax relief. I would submit to you, Mr. Speaker, that the best way to deliver property tax relief for all of our citizens and all of our constituents is to allow the casinos to operate whatever way they see best. I am not a casino operator; I never ran a casino in my life, and I would guess that many of the members have not run a casino either.

So, Mr. Speaker, I urge all the members to vote with my colleague from Washington County to pass this amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative Sainato.

Mr. SAINATO. Thank you, Mr. Speaker.

Will the maker of this amendment stand for a brief interrogation?

Mr. Speaker, is there anywhere in this amendment that you are requiring the casinos to have a smoking area?

Mr. SOLOBAY. Mr. Speaker, no. This gives them the free ability to decide if they want to do it, if they do not want to do it, and how much of a percentage that they would want, and it is only on the gaming floor.

Mr. SAINATO. Okay. Mr. Speaker, will this allow them, say, if they wanted to make 50 percent nonsmoking, 50 percent smoking, this will not have any effect on the percentages. That is leaving it up to them?

Mr. SOLOBAY. That is correct. They will have that freedom of choice.

Mr. SAINATO. Okay. That is my interrogation.

I would like to speak on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SAINATO. Mr. Speaker, I must support my colleague from Washington County's amendment. This amazes me, Mr. Speaker, that we have people that are speaking against this amendment and many of those people have never stepped foot into a casino. For those of my colleagues that never stepped foot into a casino, in a casino things happen. People drink alcohol in a casino; people smoke cigarettes in a casino; people gamble in a casino. I know, it is a shock to many that these activities are occurring in a casino. But I want to make that point, Mr. Speaker. It sounds funny, I know it does, but these things happen in a casino.

Mr. Speaker, as I made the emphasis yesterday about a private business making a private decision, that is what it is about, Mr. Speaker. We offered and welcomed people to come into Pennsylvania to invest millions and millions and millions of dollars to operate slot parlors in Pennsylvania, racetracks in Pennsylvania. It is their job to do it in a way that makes money

and protects their workers, Mr. Speaker, but what I am saying is, most casinos have nonsmoking areas. They base that on their customer base. Some studies have shown that 75 percent of their customer base smokes; 75 percent of their customer base smokes. So how do we tell that 75 percent, sorry, but Big Brother in Harrisburg does not think you should be allowed to smoke in our facility?

I have been to one of the parlors with the Gaming Committee. They have a floor where there is no smoking. They have a floor which is smoking. They determine, through their studies, the percentage of people that smoke versus the percentage of those who do not smoke, and they are trying to accommodate their customer base, Mr. Speaker; customer base. What business do we as a legislature have trying to tell them how they manage their customer base and how they are supposed to run their business?

I am sorry, Mr. Speaker, this is a business decision. That is our responsibility to let them do it. And as my good friend, Representative Seip, said earlier, let businesses make a business decision. They are casinos, Mr. Speaker. There is gambling going on and there are activities that maybe by many people are objected to and they have a right to object, but do not go. Nobody is forcing people to go into a slot parlor and casino. It is not like they are dragging you in to breathe this smoke that so many here are so upset and worried about.

Mr. Speaker, support the Solobay amendment. It is common sense, Mr. Speaker; common sense.

LEAVES OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representatives Roae and Tangretti on the floor. Their names will be added to the master roll.

CONSIDERATION OF SB 246 CONTINUED

The SPEAKER. The Chair recognizes Representative Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose amendment 3013, and the reason I do this is because I have received many, many phone calls and letters from my constituents who went down to a beautiful facility that was built in Delaware County, for the many reasons why I voted to bring casino gambling to Pennsylvania, for the economic benefit of Delaware County and the city of Chester, the jobs, et cetera. However, I find it very strange when the residents of Pennsylvania want to enjoy such a facility and they go to visit the racetrack, which is a beautiful facility overlooking the Delaware River, go into the casino and the casino is so filled with smoke that they have to leave within minutes. The smoke-filled casino ruins people's clothes and it ruins people's lives.

We regulate the casino industry here in Pennsylvania. That is why we have a right to regulate that it should be smoke-free. I have many constituents that work at Harrah's casinos, and their biggest complaint to me is the smoke-filled casino. It is not, it is not like a restaurant where there is a smoking facility and a nonsmoking facility. Where there are slot machines in that casino, there is smoking. I heard the people say here today that 75 percent of the people playing the slot machines smoke.

Well, why do you not give the other people that would like to go into those slot machines an opportunity to enjoy a clean-air facility?

I think we should not give this industry any special privileges. I think the employees of the casinos deserve to work in a clean-air facility, and I think the people that want to enjoy gambling and the racetrack at these beautiful facilities deserve to have a smoke-free environment.

I ask my colleagues to vote "no" on this amendment. Thank you.

The SPEAKER. Representative Pallone.

Mr. PALLONE. Thank you, Mr. Speaker.

Will the maker of the amendment stand for a brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. PALLONE. Thank you, Mr. Speaker.

Does the proposed amendment in any way allow for any limited smoking environments in any licensed liquor establishment that also holds a small games of chance license, like our clubs and other nonprofit organizations that have small games of chance licenses?

Mr. SOLOBAY. This amendment does not address that.

Mr. PALLONE. It only addresses the casinos in Pennsylvania?

Mr. SOLOBAY. That is correct; that is correct.

Mr. PALLONE. Have any of the organizations that otherwise would normally share their thoughts with us on this, the Tavern Association, the Restaurant Association, has anybody rung in on this to say whether they are in favor or against it?

Mr. SOLOBAY. Well, the other day, I believe yesterday, we passed an amendment that covered them, that allowed for them to have smoking at their facilities. So they obviously approve of that because the amendment was passed.

Mr. PALLONE. Who, who approves of it?

Mr. SOLOBAY. You would have to ask the gentleman, Representative Reichley, who presented that amendment. I am not sure of all the details he got, but that amendment passed on this floor yesterday 114 to something.

Mr. PALLONE. Thank you, Mr. Speaker.

One more question: Has the administration, has the Governor's Office said whether or not the Governor's Office approves or supports this amendment?

Mr. SOLOBAY. I have not heard either way from the Governor's Office on this amendment.

Mr. PALLONE. So we do not know if he would sign the bill with this or not?

Mr. SOLOBAY. I have not heard in the negative, so I am assuming that that is a good sign.

Mr. PALLONE. Thank you, Mr. Speaker; thank you, Mr. Speaker.

THE SPEAKER PRO TEMPORE (MICHAEL P. MCGEEHAN) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the amendment, the Chair recognizes the gentlelady from Philadelphia, Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

Two facts: In Atlantic City before they went from smoke-free, there was a split, you know, like that old pool, 25-75 smoking to nonsmoking. Workers would not go to the smoking floor, so they had to arbitrarily assign people there. This is not good for workers. They will not go to the smoking floor if they have a chance. They have spoken.

There was also a study done of gamblers by the University of Nevada, people who gamble in Las Vegas. Just like the regular nongamblers in the adult population, 80 percent of gamblers do not smoke. Let us just remember that.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentlelady.

On the amendment, the Chair recognizes the gentleman from Philadelphia, Representative Payton. The gentleman waives off.

On the amendment, the Chair recognizes the gentleman, Chairman Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker. I will be brief.

One thing that I wanted to correct was, one of the first speakers in opposition to this amendment stood at a microphone and, whether intentionally or unintentionally, misled this chamber into thinking that New Jersey has now banned smoking in casinos. That is not correct. There was a Senate vote, and it was unanimous, and it was promoted by both the tavern and restaurant industries, who, by the way, opposed the ban of smoking in New Jersey, but when it was foisted upon them, people were flocking to the casinos. There is a 25-percent usage of the casino by smokers at this point in New Jersey. The State Assembly did not take the measure up, and I would like to remind the people here that dozens if not hundreds of bills pass the House and move to the Senate in any given session and are not taken up and dozens if not many dozens of Senate bills travel to this House and are not taken up. So for an individual to mislead anyone, unintentionally or intentionally, that New Jersey has now banned cigarette smoking on casino floors is simply something that needs to be corrected.

Secondly, the same gentleman stated that New York casinos have banned smoking. Mr. Speaker, that is also a very misleading statement. The vast majority of casinos in New York are owned by Indians, by Indian tribes, and they are open 100 percent, smokers 100 percent of the casino.

Now, the casinos on their own may designate and do designate smoking and nonsmoking areas. Friends of mine just came back from New York, Mr. Speaker, and they are smokers, and the reason they went there was because there were not enough tables for them to gamble at in New Jersey at the Hilton because arbitrarily they reduced it to 25 percent.

Now, you know, the final point that I would like to make, if you are going to talk apples, let us talk apples. Let us talk oranges if we are talking oranges. We have two States adjacent to us that do allow a certain portion of a casino to allow for smoking. In New Jersey since they reduced it from smoking anywhere to a 25-percent percentile range, their gross profits are off, according to the New York Times, by 11 to 19 percent, depending on what casino you frequent. Their gross revenues are off 11 to 19 percent simply by reducing the percentage to 25 percent, not banning cigarettes in their entirety.

I think those points had to be made in order for the members on this floor to at least know the true facts and not something that someone would like you to believe, whether it was found on some site or if it was just made up. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Solobay amendment, the Chair recognizes the gentleman from Lackawanna, Representative Shimkus.

Mr. SHIMKUS. Thank you, Mr. Speaker.

I rise to ask that my colleagues oppose this amendment, and I will just quote some science.

In an October 2004 report by the Associated Press, after surveying several casino workers, they concluded that casino workers have a 50 percent greater risk of heart disease and lung cancer because of secondhand smoke.

The United States Surgeon General reported that casino workers in well-ventilated casinos, well-ventilated casinos, had higher cotinine levels, as much as 3 to 600 percent higher, than people not exposed to secondhand smoke. Cotinine, for your information, is metabolized nicotine, which is the prime cause of lung cancer.

The average level of the carcinogen NNAL increased 112 percent in casino workers who were exposed to secondhand smoke in an 8-hour shift. Now, NNAL is the abbreviation for nitrosamines, which cause lung cancer, and N-Nitrosornicotine, which also causes lung cancer and pulmonary disease.

They also reported in the Surgeon General report that there was 50 percent more cancer-causing particles in well-ventilated casinos where the workers were exposed to secondhand smoke than in a traffic jam where there was diesel fuel spilling into the smog.

So for all these scientific reasons, I ask that we oppose this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The House will come to order.

On the amendment, the Chair recognizes the gentleman from Luzerne, Representative Pashinski.

Mr. PASHINSKI. Thank you, Mr. Speaker.

A moment of interrogation, please?

The SPEAKER pro tempore. The gentleman agrees to be interrogated. The gentleman is in order.

Mr. PASHINSKI. Thank you, Mr. Speaker.

Could you tell me what is the fee that the casinos have to pay in order to get a license?

Mr. SOLOBAY. If memory serves me correctly, Mr. Speaker, they paid \$50 million to the Commonwealth to have a license.

Mr. PASHINSKI. \$50 million?

Mr. SOLOBAY. Yes, Mr. Speaker.

Mr. PASHINSKI. And is it also correct that they have to invest a minimum of \$250 million in their facility?

Mr. SOLOBAY. In most cases, again, to my recollection, they all that are up and operating have spent a minimum of that much, in both temporary facilities as well as permanent.

Mr. PASHINSKI. Could you tell me whether, when these deals were consummated, the idea that no smoking in these facilities would become law?

Mr. SOLOBAY. Considering, Mr. Speaker, and this is just a personal thought, since there was no type of law in existence at that time 2 years ago, it probably was not an issue brought up during the negotiations.

Mr. PASHINSKI. Thank you, Mr. Speaker.

On the motion, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. PASHINSKI. Thank you, Mr. Speaker.

There is no doubt that this issue is not only emotional, it is based upon fact that smoking is indeed unhealthy and that secondhand smoke does indeed cause problems. However, we all do have our own personal choices: to smoke, not to smoke, to enter a facility that has it or not.

My good friend and colleague from the Delaware Valley, just to clarify things, there is no doubt that the coal industry played a major role in the development of this country and they also played a role in the health disaster of many people, but to compare the coal industry to the casino industry I believe needs to be clarified and corrected. The casino industry is willing to spend whatever it takes to provide for the health and welfare of their workers as well as for the people that attend there, and I think it is an unfair comparison. I would like that made clear.

And I would like to support the maker of this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question, the Chair recognizes the gentleman from York, Representative DePasquale.

Mr. DePASQUALE. Thank you, Mr. Speaker.

Two points: First of all, I do oppose this amendment, but I want to make a different point. There is a lot of talk about the New Jersey casinos losing revenue, and the argument is that that is only because of the smoking ban. There is also an additional point that needs to be made, and that is, that loss of revenue directly coincided with the opening of the Pennsylvania casinos. So we need to look at it in the context, this is not just about smoking. When Pennsylvania opened up their slots parlors, that also contributed to the loss of revenue for New Jersey.

This is not just about smoking, and for that reason I rise, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

For the second time, the Chair recognizes the gentleman from Monroe, Representative Scavello.

Mr. SCAVELLO. Mr. Speaker, this was the first time. I was not recognized the first time. I thought we saved the baldheaded guy for last. That is why—

The SPEAKER pro tempore. The Chair apologizes.

Mr. SCAVELLO. That is quite all right.

The SPEAKER pro tempore. The Chair is in error.

Mr. SCAVELLO. Would the maker of the amendment please stand for a brief interrogation?

Mr. Speaker, I have heard conflicting comments here regarding casinos surrounding—

The SPEAKER pro tempore. The gentleman will suspend.

May we have some order in the House. Conferences in the side aisles will discontinue.

The gentleman is in order and may proceed.

Mr. SCAVELLO. Thank you, Mr. Speaker.

Mr. Speaker, I have heard conflicting comments from various Representatives in regard to casinos surrounding the State of Pennsylvania that have, the States have adopted— Mr. Speaker, is it possible to quiet the noise, because it is a little bit noisy.

The SPEAKER pro tempore. The gentleman is correct. This debate has been long-lived. This is the third day of this debate, and the debate will continue much longer if these

interruptions happen. The gentleman is correct. The hall is entirely too noisy. Will the clerks clear the aisles. Discontinue your conversations. If you have conversations, take them to the back of the House.

The gentleman may proceed.

Mr. SCAVELLO. Thank you, Mr. Speaker.

Mr. Speaker, I have heard conflicting comments of States that have adopted no smoking that have allowed or have not allowed, and I would like the maker of the amendment, if he can tell me if the casinos in the States that have adopted a no-smoking ban are allowed to have smoking within their casinos?

Mr. SOLOBAY. Thank you, Mr. Speaker.

To the best of my knowledge, the State of Delaware is the only State out of the four States, five States surrounding Pennsylvania that have gaming that has a complete ban on smoking. New Jersey, New York, West Virginia all still allow for both, a mixed floor.

Mr. SCAVELLO. Thank you, Mr. Speaker.

Mr. Speaker, how is the air quality within the casinos, because I have heard conflicting comments as well on air quality within those casinos that allow smoking. Could you speak on that?

Mr. SOLOBAY. Yes. Thank you, Mr. Speaker.

I was going to save that for my closing comments, but since you asked, you know, there have been several comments made dealing with the way things have been in the industry and how things have hurt workers. Well, the one nice thing about technology is it continues to improve as time goes along. I know the facility that I have located out in the southwestern part of Pennsylvania, in Washington County, has an air-handling system that completely changes the entire air in the entire facility every 10 minutes. Six times an hour the entire air has been exchanged and changed in that room. Now, is there still an odor? Sure, there is always going to be an odor. There will be an odor in here or anywhere after any type of a substance has been put in place. The issue, though, is the concern of where the smoke and where the particles go. They are brought up and absorbed into the ventilation system.

Trust me, for 30 years I have followed how smoke operates and how things are dissipated in my time as a firefighter. I understand the movement of smoke, the movement of the contaminants of smoke. So when the technology that is in place now and the technology that is being administered into these facilities, these companies are spending literally hundreds of thousands of dollars to put in the best type of system that is going to clear out these contaminants. It is in place. They have learned; they know. They have heard all the arguments that we have heard today about secondhand smoke, and they have done everything possible to correct that.

The odor, it is just no different than someone sitting beside them with a lot of perfume on or somebody who has not taken a bath for 6 months. Odors are going to be present because of the initial contact. The concern should be whether the smoke and the particles are removed, and thanks to technology and thanks to things that have improved over the years, that is much better than has been stated on this floor.

Mr. SCAVELLO. Thank you, Mr. Speaker.

May I comment on the amendment?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. SCAVELLO. Mr. Speaker, I just first want to point out to the members of this body that I did not support gaming. Gaming was here, put in front of us that it was going to save our economic development projects. It was going to also help us fund our schools and reduce school property tax. I did not support it.

I am also not a smoker, but here we are with an industry that has come into Pennsylvania, and we are told that our citizens are leaving the Commonwealth to gamble in the facilities around us. Now, here we are trying to adopt a piece of legislation that will tell our citizens that smoke, go to those other States because we are not going to allow them here. I think it sends a bad message, and it is a mixed message. If we have allowed these casinos to come into our State, we should give them every opportunity to be successful, because if they are successful, in the long run school property tax relief, whatever it might be, will be effected.

So I urge the members, the ones that supported gaming and the ones that did not, I urge the members to support this amendment. I think it is vital to the casinos.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Solobay amendment, the Chair recognizes the gentleman from Northampton, Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

I made the point yesterday that the Declaration of Independence contains the line, "We hold these truths to be self-evident, that all men are created equal..." and that we should be treating all Pennsylvanians equally as we discuss the benefits of a clean indoor air act.

Today I am hearing a lot of arguments from my colleagues about the need to allow smoking in order to allow the casinos to make more money or in order to not put them at a competitive disadvantage. One of my colleagues even said, this is a business decision. I think we should be looking at clean indoor air as a statewide, a statewide issue, and I am kind of surprised to hear these arguments that the profit of a casino comes ahead of the health of a worker in that casino.

And as I listen to these arguments being made today, I know there is not a single member of this House who would stand on this floor and say that we should exempt the casinos from building codes in order to let them make additional profit. I know there is not a single Representative in this House who would say, let us let the casinos not worry about food safety laws in order to maximize their profit. There is not a single Representative who would stand at the microphone and say, you know what? We have a minimum-wage law throughout Pennsylvania, but let us exempt the casinos because that would allow them to make more profit. There is a drinking age of 21. I am surprised— I know there is not a single Representative who would say, you know what? We should lower the drinking age only at the casinos because that would allow them to get more customers and make more profit. No one would say that we should waive the child labor laws for the casinos, and no one would say that we should waive the fire safety laws for the casinos.

So today we are talking about a clean indoor air act. The dangers of secondhand smoke affect all people. The benefits of clean indoor air would benefit all Pennsylvanians. I think we should treat all Pennsylvanians equally. I think we

should care about the citizens who visit the casinos and the workers who work there. We should not exempt casinos from a clean indoor air law.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the amendment, the Chair recognizes the gentleman from Lehigh, Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Very briefly, I think this really goes in line with a lot of what our discussion was in the last few days.

The people who are operating these enterprises are going to realize what is in their own best financial interest. I believe the Solobay amendment would create discretion on the part of the operators. I know the one at the Meadows facility structurally is almost sort of like a dome enclosure, and therefore creating a wall between a nonsmoking and a smoking facility may be very difficult in fact; but while not impossible, could be difficult. And I think that these enterprises will realize on their own part if they are going to retain people who are interested in slot machine gambling, they will create the conditions which are the most conducive for those customers to come here.

So I would urge support for the Solobay amendment. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

For the second time, the Chair recognizes the gentleman from Allegheny, Representative Frankel.

Mr. FRANKEL. Thanks.

Briefly I want to respond to my colleague from Northumberland County, and I will correct, New Jersey has not adopted the legislation but they have adopted, as I said, 35 to nothing in the State Senate with good prospects of passing the House and being signed and endorsed by the Governor a smoke-free casino bill.

And in New York, all casinos other than tribal ones, and when you are dealing with tribal casinos, you are dealing with separate jurisdictions and independence that the rest of the State does not have, but across the country, across the country, 20 other States have smoke-free nontribal casinos, and that is what we are talking about here, and that is where we have jurisdiction and that is where we should be protecting our employees.

My colleague earlier talked about, you know, businesses and making decisions. He is absolutely right. I mean, why are we picking and choosing here? If it makes business sense, let us exempt somebody from fire safety laws, and we do not do that. Why do we not do that? Because everybody, everybody who enters a building should have the same level of protection that they would have in another facility. The same thing goes for smoking.

Again, we need to stand up here today and join the 20 other States who are leading the way, and soon to be New Jersey, in saying we are going to stand and protect every employee in the State of Pennsylvania and every guest of those facilities.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the Solobay amendment, the Chair recognizes the gentleman from Philadelphia, Representative Roebuck.

Mr. ROEBUCK. Thank you, Mr. Speaker.

I want to just share a personal observation about this amendment. About two weekends ago or three weekends ago, I had relatives visit me, my family, from North Carolina, and they wanted to go to a gambling, a gaming facility, and they wanted to go to Atlantic City. I convinced them that in fact since we now had gaming in Pennsylvania, it made more sense since we live in Philadelphia to go to Harrah's in Chester. It is only 20 minutes away. We do not have to drive and we do not have to engage in all the weekend traffic, and they agreed, and so we went to Harrah's. The thing that struck me as soon as I walked into that facility was that there was a haze, a tobacco smoke that hit you, and understand, Mr. Speaker, what made that particularly poignant to me is that my wife suffers from pulmonary fibrosis. My wife has had a lung transplant, and so it was especially toxic to her.

So to me, Mr. Speaker, it is an issue of basic public health that is at stake. It made the experience not enjoyable. It made it one that made me say that probably I will not go back to that facility because Harrah's does not care about people who do not smoke. They do not care about the quality of air. We talk about air quality. Let me tell you, I do not care what you talk about filtering air, the quality of air in that facility was not good.

Now, if we want to accept that, Mr. Speaker, let us at least then say, okay; it is okay to have carcinogenic air in a facility, but let us not somehow seem to justify that by saying that there is an elaborate system of filtering air and it is really no problem. It is a problem. I can say that from personal experience, and I hope that we will defeat this amendment.

Thank you, Mr. Speaker.

THE SPEAKER (DENNIS M. O'BRIEN) PRESIDING

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

You know, I was thinking about this amendment and the wisdom of excluding smokers from casinos, and I was thinking, who would be the ideal candidate? Who would be the ideal gaming customer? And I was thinking, well, if I was a casino owner, I would want someone who had an addictive personality. Smokers, right? I mean, perfect. Another characteristic was, I would want people who would be willing to engage in self-destructive conduct. Smokers, right? If I was a casino owner, I would want someone who really did not think through the consequences of their actions. Smokers, right? I mean, they are just the perfect, they are just the perfect people to be in casinos – addictive personalities, self-destructive conduct, shortsighted. That is who you want.

So if you really care about your middle-class tax cut more than you care about human beings, this is a great amendment for you.

Thank you, Mr. Speaker.

The SPEAKER. Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

I think this debate very clearly has boiled down to this conversation about whether or not we want to put casino profits before the public health, and while I stand before you certainly desiring to put the public health before casino profits, let us just focus very briefly on the economics, because I would argue the economics support a ban.

Earlier you heard about a University of Nevada, Las Vegas, report that shows 80 percent of gamblers are nonsmokers; 80 percent.

In addition to that, I will read to you from the Master Settlement Agreement between the tobacco industry and the States. A document from Philip Morris read, "...the economic arguments often used by the industry to scare off smoking ban activity were no longer working, if indeed they ever did. These arguments simply had no credibility...." These arguments simply had no credibility.

Mr. Speaker, I care about property tax relief. I care about our casinos helping us provide property tax relief, and that is why I oppose this amendment. The economics suggest a smoking ban in casinos is good economics.

I urge a "no" vote on this amendment. Thank you, Mr. Speaker.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Solobay.

Mr. SOLOBAY. Thank you, Mr. Speaker.

I will be very brief in finalizing my comments.

I think in part we may have missed the point where we started out, and we are giving a choice. We are not saying that the floors are all going to be smoking. We are not going to say half of them are, or whatever. They have a choice. We are giving the business owners, the person that is taking the risk, the chance. We are giving him the opportunity to make a determination based on location and the competitiveness of his particular area.

Many industries cause issues and problems with employee health. We could be in danger standing in this room from the fibers coming up off the carpet or the fibers in the air that is exchanged here. There is always a risk that is imposed on things. You make that determination and you make that decision when you make your choice of where you are going to be.

We continually talk on this floor of the importance of property tax and how and why. We all hear that from our individuals back in our own home areas that want it eliminated, want it reduced, want it changed from the way it is. This is an industry that we made base decisions on to try to help make that a possibility. Now we are trying to cause them an issue or a problem that they will not be able to provide the financial revenue that we have asked them to do.

It is a choice. It is not a demand. It is not a mandate. We are giving them the opportunity, the same way we gave the private clubs, the fire department clubs, all the other entities that we did the other day in an amendment that passed on this floor with 114 votes.

I ask for your consideration and your affirmative vote on this amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—62

Belfanti	Gibbons	Metcalfe	Scavello
Benninghoff	Goodman	Millard	Seip
Beyer	Grell	Miller	Siprotho

Bishop	Hanna	Moul	Smith, S.
Buxton	Harhai	Mustio	Solobay
Caltagirone	Harkins	Pallone	Sonney
Casorio	Hennessey	Pashinski	Staback
Costa	Hershey	Petrarca	Sturla
Cruz	Keller, W.	Petri	Surra
Daley	Kortz	Petrone	Taylor, J.
Dally	Kotik	Pyle	White
Dermody	Kula	Readshaw	Williams
DeWeese	Mahoney	Reichley	Yewcic
Evans, D.	Marsico	Sabatina	Youngblood
Fabrizio	McCall	Sainato	Yudichak
Gergely	Mensch		

NAYS—137

Adolph	Freeman	Mann	Roebuck
Argall	Gabig	Mantz	Rohrer
Baker	Galloway	Markosek	Ross
Barrar	Geist	Marshall	Rubley
Bear	George	McGeehan	Samuelson
Bennington	Gerber	McI. Smith	Santoni
Bianucci	Gillespie	McIlhattan	Saylor
Blackwell	Gingrich	Melio	Schroder
Boback	Godshall	Micozzie	Shapiro
Boyd	Grucela	Milne	Shimkus
Brennan	Haluska	Moyer	Smith, K.
Brooks	Harhart	Mundy	Smith, M.
Cappelli	Harper	Murt	Stairs
Carroll	Harris	Myers	Steil
Causer	Helm	Nailor	Stern
Civera	Hickernell	Nickol	Stevenson
Clymer	Hornaman	O'Brien, M.	Swanger
Cohen	Hutchinson	O'Neill	Tangretti
Conklin	James	Oliver	Taylor, R.
Cox	Josephs	Parker	Thomas
Creighton	Kauffman	Payne	True
Curry	Keller, M.	Payton	Turzai
Cutler	Kenney	Peifer	Vereb
DeLuca	Kessler	Perry	Vitali
Denlinger	Killion	Phillips	Vulakovich
DePasquale	King	Pickett	Wagner
DiGirolamo	Kirkland	Preston	Walko
Donatucci	Leach	Quigley	Wansacz
Eachus	Lentz	Quinn	Waters
Ellis	Levdansky	Ramaley	Watson
Evans, J.	Longietti	Rapp	Wheatley
Everett	Mackereth	Raymond	
Fairchild	Maher	Reed	O'Brien, D.,
Fleck	Major	Roae	Speaker
Frankel	Manderino	Rock	

NOT VOTING—1

Hess

EXCUSED—3

Bastian	Perzel	Wojnaroski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **WHEATLEY** offered the following amendment No. **A02863:**

Amend Title, page 1, line 4, by striking out "PREEMPTING LOCAL REGULATIONS;"

Amend Sec. 13, page 10, line 6, by striking out "PREEMPTION OF LOCAL" and inserting

Local

Amend Sec. 13, page 10, line 7, by inserting after "SHALL"

not

Amend Sec. 13, page 10, line 9, by striking out "NO" and inserting

Any

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair thanks the gentleman. He is withdrawing his amendment.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **WATERS** offered the following amendment No. **A02864:**

Amend Bill, page 8, by inserting between lines 21 and 22 Section 8.1. Violation.

No person may sell less than a full package of cigarettes to any other person.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Waters on the amendment.

Mr. **WATERS**. Thank you, Mr. Speaker.

Mr. Speaker, at the present time I believe that the amendment does not go as far as I would like for it to go, so I will withdraw it for this time.

The **SPEAKER**. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **GOODMAN** offered the following amendment No. **A02886:**

Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) A restaurant or bar where smoking patrons are separated from nonsmoking patrons by a floor-to-ceiling wall, which may include a door or swinging door, and have in place a ventilation system to alleviate smoke in that section of the restaurant.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair is informed that the gentleman withdraws this amendment? The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. MILLER offered the following amendment No. **A02890**:

Amend Title, page 1, lines 5 through 8, by striking out all of said lines and inserting

Establishing the Clean Indoor Air Act; imposing duties upon the Department of Health; imposing penalties; and repealing a related provision of the Fire and Panic Act.

Amend Bill, page 10, lines 19 through 30; pages 11 through 17, lines 1 through 30, page 18, lines 1 through 25, by striking out all of said lines on said pages and inserting

Section 1. Short title.

This act shall be known and may be cited as the Clean Indoor Air Act.

Section 2. Legislative purpose.

The purpose of this act 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.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adult-only establishment." Any public place or workplace in which the proprietor or the proprietor's agent or employee restricts access and refuses service or accommodation of any kind to persons under 18 years of age who are not accompanied by a parent or legal guardian.

"Department." The Department of Health of the Commonwealth.

"Public meeting." A meeting open to the public including any meeting open to the public pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings).

"Public place." An enclosed area to which the public is invited or in which the public is permitted, including any place listed in section 5.

"Restaurant." An eating establishment that offers food for sale to the public.

"Service line." A line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking." The carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

"Sports arena." A sports stadium, sports pavilion, exhibition hall, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley or similar place where members of the general public assemble to engage in physical exercise, participate in athletic competition or witness sports events.

"Tobacco shop." A business establishment the main purpose of which is the sale of tobacco products including cigars, pipe tobacco and smoking accessories.

"Workplace." An indoor area serving as a place of employment, occupation, business, trade, craft, profession or volunteer activity.

Section 4. Prohibition.

No person shall smoke in a public place or in a workplace.

Section 5. Public place.

The following enclosed areas are examples of public places:

- (1) A place in which a public meeting is held.
- (2) An educational facility.

- (3) A school bus.
- (4) A health facility.
- (5) An auditorium.
- (6) An arena.
- (7) A theater.
- (8) A museum.
- (9) A restaurant.
- (10) A bar or tavern.
- (11) A concert hall.
- (12) A commercial establishment.
- (13) A retail store.
- (14) A service line.
- (15) A grocery store.
- (16) A bingo hall.
- (17) A waiting room or area.
- (18) A hallway.
- (19) A polling place.
- (20) A restroom.
- (21) A sports arena.
- (22) A convention hall.
- (23) An elevator.
- (24) Public transit.
- (25) A public food assistance program and facility.
- (26) A shopping mall.
- (27) An exhibition hall.
- (28) A rotunda or lobby.
- (29) A licensed gaming facility.
- (30) At least 75% of the total number of sleeping quarters that are available for rent to guests within any single lodging establishment.

Section 6. Exception.

This act shall not apply to the following places:

(1) A private residence, except when used as a child-care, adult day-care or health care facility.

(2) Designated sleeping quarters within a lodging establishment that are available for rent to guests accounting for no more than 25% of the total number of lodging units within a single lodging establishment.

(3) An adult-only establishment in which the proprietor of such establishment has complied with the requirements of section 7.

(4) A wholesale or retail tobacco shop whose sales of tobacco products comprise 85% or more of gross sales on an annual basis.

(5) All workplaces of any manufacturer, importer or wholesaler of tobacco products, of any tobacco leaf dealer or processor, and all tobacco storage facilities.

Section 7. Posting of notice.

The proprietor of an adult-only establishment who permits smoking on the premises shall post a notice on the exterior of each entrance to the establishment identifying it as an establishment in which smoking is permitted and persons under 18 years of age are not permitted without parental or adult supervision. The notice shall be of sufficient size as to be readable from a distance of 15 feet from the entrance of the establishment.

Section 8. Retaliation prohibited.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because the employee or applicant exercises any right to a smoke-free environment required by this act.

Section 9. Eligibility for unemployment compensation.

An employee of an adult-only establishment that permits smoking on premises may leave employment within 60 days of the proprietor posting the notice required under section 7 and such action shall be deemed as leaving employment with cause of a necessitous and compelling nature under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

Section 10. Enforcement.

The Department of Health, a local board or department of health or any affected party may institute an action in any court with jurisdiction to enjoin a violation of the provisions of this act.

Section 11. Penalty.

Any person who smokes in a public place or in a workplace or violates any other provision of this act commits a summary offense and shall pay:

- (1) A fine not exceeding \$100 for a first violation.
- (2) A fine not exceeding \$200 for a second violation that occurs within one year.
- (3) A fine not exceeding \$500 for each additional violation that occurs within one year.

Section 12. Rules and regulations.

The department shall promulgate and adopt rules and regulations as are necessary and reasonable to implement the provisions of this act. The department shall also engage in a continuing program to explain and clarify the purposes and requirements of this act to persons affected by it and to guide owners, operators and managers in their compliance with it. The programs may include publication of a brochure for affected businesses and individuals explaining the provisions of this act.

Section 13. Effect on local rules and ordinances.

This act shall not be construed to restrict the power of any political subdivision to adopt and enforce any rule or ordinance which complies with at least the minimum applicable standards set forth in this act.

Section 14. Repeal.

Repeals are as follows:

- (1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate this act.
- (2) Section 10.1 of the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act, is repealed.

Section 15. Effective date.

This act shall take effect January 1, 2008, or immediately, whichever is later.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman withdraws his amendment. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **REICHLEY** offered the following amendment No. **A02891**:

Amend Sec. 4, page 15, by inserting between lines 29 and 30

- (6) The private office of the owner or proprietor of a business where the public is not admitted.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Reichley.

Mr. **REICHLEY**. Thank you, Mr. Speaker.

I figure we have to use up all this time waiting for the conference committee to get ready, so we may as well do this. Right?

With all due respect, Mr. Speaker, this is the so-called private office amendment that we considered last week in HB 1541, which passed by a vote of 107 to 90. I have the roll call in case any of you are curious about how you voted on that last week.

This would create a situation which we did identify as allowing the private office of the owner or proprietor of a business where the public is not admitted to be allowed to smoke, and we raised a number of issues where an individual who has built a business with his own blood and sweat and toil and put his own money into it would visit his parent in a nursing home, and under the language which was currently inserted in the Health Committee, the parent who lives in the nursing home would be allowed to smoke in their room. He could go, that business owner could go to visit his child at a college and that child could conceivably smoke in their college dorm room. If the proprietor actually owned a hotel, under the Gerber language 25 percent of the residents of the hotel would be allowed to smoke in their rooms, but theoretically the owner of that same business would not be able to smoke in the privacy of his own office.

So this is just to, more or less, create a balancing of interests. Again I wanted to emphasize, as I did, I believe, yesterday, I understand this is regarded very adversely as a bad habit. It is bad for your health. People should not engage in this, but it is a matter of one's own discretion, an individual matter of choice, and I would ask the members for the same vote they provided last week when the House did pass this amendment.

Thank you.

The SPEAKER. Representative Ross.

Mr. **ROSS**. Thank you, Mr. Speaker.

If this amendment was limited so that only the owner was in the presence of the smoke, I would probably be able to accept it and support it, but there is no limit to the number of employees that could be exposed to smoke in this situation. It is true that the public is excluded, but there could be any number of employees that would be still in the presence of the smoke if this amendment goes through.

I strongly urge a "no" vote on this amendment. I urge members to think carefully about it and to reconsider, because this would create a huge loophole and a great deal of potential discrimination against employees.

Thank you.

The SPEAKER. Representative Eachus.

Mr. **EACHUS**. Thank you, Mr. Speaker.

You know, we sat down in the intervening days – because this has taken more than 1 day to pass, as you know – sat down in the intervening days and taken a good look at this amendment, and I can tell you that I have had some thought about how a private office might relate to, you know, common ventilation. As you know, I opposed in my amendment all smoking in workplaces across the Commonwealth of Pennsylvania, and I do have some concern that this could create some proliferation in workplace smoking.

So in order to be consistent between my amendment and this amendment, I ask the body to oppose the Reichley amendment.

The SPEAKER. Representative Hess.

Mr. **HESS**. Thank you, Mr. Speaker.

I want to correct the record.

The SPEAKER. The Chair will come back to the gentleman.

Mr. **HESS**. Okay. Thank you.

The SPEAKER. Representative Rapp.

Ms. RAPP. Thank you, Mr. Speaker.

I rise to support the Reichley amendment.

I supported this amendment before on the floor due to the fact that there are many small business owners who actually have their business in their home. I gave the example of a bed and breakfast where the proprietor lives in the home where the business is, and usually in a bed-and-breakfast situation or a business that is in the home, the proprietor has an office in that home or even living quarters, and I would urge you to protect that private property owner's right in their own home to choose to smoke or not to smoke in that situation, and I encourage the members to support the Reichley amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

I also rise in opposition to the Reichley amendment.

The last speaker presented some situations that maybe many of us could live with – that is, somebody in a private home without any employees – but unfortunately, this amendment is not drafted that narrowly. This amendment is drafted where there is enormous opportunity for other employees to be exposed, other guests on the premises to be exposed to smoke even though it may be the proprietor.

There still is again the issue of protecting all employees equally in this State. This amendment does not do that. I ask everybody to oppose this amendment as well.

Thank you very much.

The SPEAKER. Representative McIlhattan.

Mr. McILHATTAN. Mr. Speaker, would the maker stand for brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman is in order and may proceed.

Mr. McILHATTAN. There seems to be some misunderstanding here. The way the bill is, if I understand it correctly, if I have an office in my own home, under the normal jurisdiction of the bill we are voting on, I would be exempt. Is that correct?

Mr. REICHLEY. If the member will give me just a moment to look at the exact language of the bill, I believe we went over this the other day, last week, and we found that is not correct, Mr. Speaker.

Mr. McILHATTAN. So you are saying if— I mean, your interpretation—

Mr. REICHLEY. If you will just give me a second.

Mr. McILHATTAN. Go ahead.

I am thinking private homes, private residences, private automobiles are exempt. Is that correct or not correct?

Mr. REICHLEY. Okay. Mr. Speaker, I am taking a look at page 13, section 4, of the bill, "RESTRICTIONS.—SMOKING SHALL NOT BE PERMITTED AND NO INDIVIDUAL SHALL SMOKE IN ANY OF THE FOLLOWING AREAS IF THEY ARE ENCLOSED OR SUBSTANTIALLY ENCLOSED AREAS: (1) WORKPLACES." Now, you have set that off against page 15, paragraph (C), subsection (1), "...THE PROVISIONS OF THIS...SHALL NOT APPLY TO ANY OF THE FOLLOWING: PRIVATE HOMES, PRIVATE RESIDENCES AND PRIVATE AUTOMOBILES UNLESS THE PRIVATE HOME, PRIVATE RESIDENCE OR PRIVATE VEHICLE IS BEING USED...FOR THE PROVISION OF CHILD-CARE SERVICES..." There is nothing within the language of the bill that sets off a

home office as being an area which is entitled to be excluded from the ban on smoking.

And as I am sure the gentleman is aware from his many years of experience here in the House, we must look at the plain language of the statute and thinking ahead of any litigation situations in which an employer would be faced with a fact that because there is not an exclusion for a private office within a home, and one of the scenarios that was raised last week was, well, what if I have a separately detached garage? That is not even addressed in the language of the bill. So I think we do need to be clear that if we have a home-based business or if we have some other situation where a person has a separately even detached area which they want to call their office, unless you create some kind of exclusion for the workplace ban, there would not be an opportunity for the owner or proprietor to smoke within the confines of their own private office.

Mr. McILHATTAN. Your bill does not just address homes. Is that correct though, Mr. Speaker? It is a broad one?

Mr. REICHLEY. No, Mr. Speaker. It is not my bill. It is my amendment.

Mr. McILHATTAN. Your amendment; okay.

Mr. REICHLEY. My amendment, and it does not refer to homes in any way. It says, "The private office of the owner or proprietor of a business where the public is not admitted."

Mr. McILHATTAN. The Representative from Warren mentioned the bed and breakfast, which would be my home, and if I had an office there, under that situation under this bill, would I not be exempt? I am just curious in your interpretation of that, Mr. Speaker.

Mr. REICHLEY. No, Mr. Speaker, you would not, because the definition that bans smoking in the workplace, your office is your workplace within the entity, which is the business you are operating. Unless you create an exclusion such as what I am suggesting, the owner of the B&B would not in fact be entitled to smoke in their own private office, even though under the language of the bill as amended, 25 percent of the patrons would be allowed to smoke in rooms of that same B&B.

Mr. McILHATTAN. Thank you, Mr. Speaker.

That concludes my interrogation.

The SPEAKER. Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

I appreciate the gentleman's effort to try to protect people who work out of their home, people who want to smoke in their homes, but unfortunately, the way this language is drafted, it is a massive loophole. If the intent was just to protect people who work in their homes, then the exception would say for home offices, but it does not. It says offices where the public is not invited.

I worked on an equity desk. There were 40 of us in this office building in one room, and under this definition, there could have been smoking on that equity desk in that massive room.

It also does not account for the fact that if I am smoking in my office in a large office building where I share an air system with every other office in that office building, my smoke will be blasted into other offices throughout the office building.

While the gentleman's intent is understandable, the language is too broad. It creates a massive loophole, and I urge a "no" vote on this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Are there any other members seeking recognition on this amendment?

Representative Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker.

I rise to support the Reichley amendment. Let us recall the debate yesterday. We had an amendment proposed which would have banned smoking in an automobile where children under the age of 8 might have been present. The House overwhelmingly defeated that amendment because we were unwilling to go that far onto private property to ban smoking.

This amendment, I think, is a much more commonsense amendment. We are talking about a legal product, once again, tobacco, legal in Pennsylvania. We are talking about a business office owned by a businessperson, purchased, in most cases, by that businessperson, a private office where that person goes to do his private business work, and we are saying that that person who has bought that property, in most cases, many small businesses, owns that property, has paid for it, has a private office, but we are saying he cannot go into that private office, where the public is not invited, once again, the public is not invited, he cannot go into that office and smoke if he chooses to.

This is not a mandate. Nobody has to make their office a smoking office, but if that owner of that business chooses to do that, we are saying he cannot do it. Under this amendment, he would be able to do that. It makes sense to me. We are unwilling to go all the way into a person's private, personal, into their car or their home perhaps, but this is very close to that line, and I would support the Reichley amendment.

Thank you.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor?

Representative Pashinski.

Mr. PASHINSKI. Thank you, Mr. Speaker.

Would the gentleman from Montgomery stand for interrogation, please?

The SPEAKER. Representative Gerber stands for interrogation. The gentleman is in order and may proceed.

Mr. PASHINSKI. Thank you, Mr. Speaker.

My question is, do we have a fiscal note on this, Mr. Speaker?

Mr. GERBER. No. There is no fiscal impact on the State.

Mr. PASHINSKI. There is no fiscal note. How would you enforce this particular amendment if it was passed?

Mr. GERBER. Well, under the language of the bill—

Mr. PASHINSKI. I am sorry. Just so that we are clear, I would like to know, how are we going to enforce any of these things?

Mr. GERBER. Counties' boards of health.

Mr. PASHINSKI. Pardon me?

Mr. GERBER. The bill will be enforced by the 67 county boards of health. If there are any counties that do not have a board of health, the governing body of that county will decide which person within the county government will be responsible for enforcement.

Mr. PASHINSKI. Will they have to hire any new people to do this?

Mr. GERBER. I am sorry, Mr. Speaker?

Mr. PASHINSKI. Will they have to hire any additional staff to do this, to enforce it?

Mr. GERBER. That would depend on the county.

Mr. PASHINSKI. It is my understanding there are quite a few counties and municipalities that do not have sufficient law enforcement at the present time.

Mr. GERBER. I am sorry, Mr. Speaker. Finish.

Mr. PASHINSKI. That is why I asked you about the fiscal note, because I am not quite sure how far we are going to be able to go with this thing.

Mr. GERBER. Again, the underlying bill places the enforcement responsibilities not with law enforcement but with the 67 counties' boards of health.

Mr. PASHINSKI. But we do not have a fiscal note?

Mr. GERBER. Correct, because there is no fiscal impact on the State.

Mr. PASHINSKI. I thank you.

The SPEAKER. Does anyone seek recognition before the Chair recognizes the prime sponsor?

Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

Just to address the gentleman, Mr. Pashinski's comments. Not every county has a county board of health, so it is unclear as to how in fact this may be enforced in some situations. Apparently, the Department of Health, I guess, is going to be in charge of promulgating some regulations, but I did receive a fiscal note, and there would not be any adverse impact on the Commonwealth, the Commonwealth funds, from this amendment.

With regard to some of the comments, while I have a great deal of respect for the gentleman from Montgomery, Mr. Gerber, in his work history working at that equity desk, I daresay he was not an owner or proprietor of that firm, and if you take a look at the language of the amendment, it says that only the office of the owner or proprietor of the business is entitled to be excluded from the smoking ban.

Now, think in your own communities of the insurance agent, the repair garage, a restaurant, these are situations typically of the small business community, 50 employees or less, which time and time again every member in this House gives lip service at least to saying you support small business; you are there for small business. Well, this in fact directly impacts small businesses, and if the members are going to say, no, you, the men and women of Pennsylvania who built up a business on the work and sweat and blood and toil of your own effort and put your children through college and supported your parents all through your own volition, that you want to make the decision, however hazardous it may be to your own health, to smoke within your own office, so be it. That is what the amendment here would do. It says, so be it; that is your choice, but not to have some kind of elitist attitude that says, we disapprove smoking, we think it is dirty, we think it is immoral, we think you are a criminal, invading in every aspect of private life, which is what some of the aspects of this language from the bill do at this time.

The gentleman from Clarion, Mr. McIlhattan, raised a concern or some other people raised a concern about people being called into the office. Well, obviously the employee can talk to the owner to say, look; I do not want to be in the office there where the smoke is; let us talk out here. So there is nothing that prevents that from happening.

And lastly, the gentleman, Mr. Eachus, while I recognize that today he said he is against it, 9 days ago he voted for this amendment. So I would urge the members to be consistent in

your support for the people that you directly addressed when you were talking last week and yesterday and the days before—

The SPEAKER. The gentleman will suspend.

The Chair cautions the gentleman not to use another member's name in the debate.

Mr. REICHLEY. I am sorry. I forgot what county he is from, Mr. Speaker.

The SPEAKER. The gentleman may continue.

Mr. REICHLEY. Well, my point to this gentleman was, Mr. Speaker, was that I think this is an issue, again, of individual choice being at issue here. We are not attempting to force smoking or a smoking ban down the throats of individuals. Respect the rights and the interest of people who have built up their own businesses. Let them decide of their own free will on how it impacts their employees, whether they would be allowed to have a cigarette in their own private office.

Thank you very much, Mr. Speaker.

The SPEAKER. Representative Pashinski.

The House will come to order.

Mr. PASHINSKI. That is okay; that is quite all right.

I apologize to the House for not making it clear. I do support the Representative's amendment. I think all of us in this hall are concerned about the health and welfare of everyone. I think we are going too far, and I think the people that have their own private property and that is being infringed upon, I think we are going too far with this.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—100

Barrar	Gibbons	Major	Reed
Belfanti	Godshall	Marshall	Reichley
Benninghoff	Grell	Marsico	Roae
Beyer	Haluska	Mensch	Rock
Brooks	Harhai	Metcalfe	Rohrer
Buxton	Harhart	Millard	Sabatina
Caltagirone	Harkins	Miller	Sainato
Cappelli	Harper	Moul	Saylor
Casorio	Helm	Mustio	Scavello
Causser	Hennessey	Myers	Schroder
Civera	Hershey	Nailor	Seip
Costa	Hess	Nickol	Siptroth
Cox	Hornaman	O'Neill	Smith, S.
Creighton	Hutchinson	Pallone	Solobay
Cruz	James	Pashinski	Sonney
Daley	Kauffman	Payne	Staback
Dally	Keller, M.	Peifer	Stern
Denlinger	Kessler	Perry	Stevenson
Ellis	Kortz	Petrarca	Taylor, J.
Everett	Kotik	Petri	Thomas
Fabrizio	Kula	Petrone	Turzai
Fairchild	Longietti	Pickett	Wansacz
Fleck	Mackereth	Pyle	Watson
Gabig	Maher	Quinn	Yewcic
Gergely	Mahoney	Rapp	Yudichak

NAYS—100

Adolph	Frankel	McCall	Shapiro
Argall	Freeman	McGeehan	Shimkus
Baker	Galloway	McI. Smith	Smith, K.
Bear	Geist	McIlhattan	Smith, M.
Bennington	George	Melio	Stairs

Bianucci	Gerber	Micozzie	Steil
Bishop	Gillespie	Milne	Sturla
Blackwell	Gingrich	Moyer	Surra
Boback	Goodman	Mundy	Swanger
Boyd	Grucela	Murt	Tangretti
Brennan	Hanna	O'Brien, M.	Taylor, R.
Carroll	Harris	Oliver	True
Clymer	Hickernell	Parker	Vereb
Cohen	Josephs	Payton	Vitali
Conklin	Keller, W.	Phillips	Vulakovich
Curry	Kenney	Preston	Wagner
Cutler	Killion	Quigley	Walko
DeLuca	King	Ramaley	Waters
DePasquale	Kirkland	Raymond	Wheatley
Dermody	Leach	Readshaw	White
DeWeese	Lentz	Roebuck	Williams
DiGirolamo	Levdansky	Ross	Youngblood
Donatucci	Manderino	Rubley	
Eachus	Mann	Samuelson	O'Brien, D., Speaker
Evans, D.	Mantz	Santoni	
Evans, J.	Markosek		

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnaroski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

CONFERENCE COMMITTEE MEETING

The SPEAKER. The Chair will announce the Committee of Conference on HB 1286 will meet at 8 p.m. tonight in the majority caucus room.

The House will come to order. The members will take their seats; members will take their seats.

The Chair will announce again the Committee of Conference on HB 1286 will meet at 8 p.m. tonight in the majority caucus room.

CONSIDERATION OF SB 246 CONTINUED

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. ROSS offered the following amendment No. A02893:

Amend Sec. 3, page 12, lines 2 and 3, by striking out "SERVICE OF FOOD AND ALCOHOLIC BEVERAGES GENERATED 25% OR LESS" and inserting

sales of tobacco and tobacco-related products generated 75% or more

Amend Sec. 3, page 13, lines 2 and 3, by striking out "GOODS GENERATED 25% OR LESS" and inserting

tobacco and tobacco-related products generated 75% or more

Amend Sec. 3, page 13, line 7, by striking out "GROUNDS" and inserting

facilities

Amend Sec. 3, page 13, line 10, by inserting after "VEHICLES" operated directly by the school or under their contract

On the question,
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Ross on the amendment.

Mr. ROSS. Thank you, Mr. Speaker.

After all the excitement, this is a nice, relaxing amendment that everybody should be comfortable with, I hope.

It is really simply designed to clarify and sort out the language relating to the tobacco establishment and also the cigar bar, and at the same time also be clear that in relation to school and school grounds and school property, that we are talking about transportation to and from school by a school bus either owned or operated or operated under a lease by the school and not private automobiles, and I urge a positive vote this time.

The SPEAKER. On the amendment, Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

I just want to clarify for the body this is an agreed-to amendment. It simply cleans up language in the underlying bill, and I urge a "yes" vote, a "yes" vote on the Ross amendment.

Thank you, Mr. Speaker.

PARLIAMENTARY INQUIRY

AMENDMENT DIVIDED

The SPEAKER. Representative Reichley.

Mr. REICHLEY. Mr. Speaker, is this amendment divisible?

The SPEAKER. Will the gentleman advise the Chair where he would like to divide the amendment?

Mr. REICHLEY. I believe, Mr. Speaker, it would be at line 13, from 13 down.

The SPEAKER. The gentleman inquires as to whether the amendment is divisible between lines 12 and 13. Is that correct?

Mr. REICHLEY. Yes, Mr. Speaker.

The SPEAKER. The amendment is divisible.

Mr. REICHLEY. May I so move, Mr. Speaker?

The SPEAKER. The gentleman is in order. The amendment is divisible.

For the information of the members, the Chair has ruled that amendment A02893 is divisible between lines 12 and 13. So amendment A02893-1 is before the House; that is from lines 1 to 12.

On the question,
Will the House agree to part 1 of the amendment?

The SPEAKER. Does anyone want to speak on it?
Representative Samuelson.

Mr. SAMUELSON. I would like to interrogate the maker of the amendment. I would just like him to give a brief explanation of the effect of the first 12 lines, and then later when we vote on the second 3 lines, a brief description of that.

Thank you.

Mr. ROSS. Thank you, Mr. Speaker.

The effect of the first portion is to clarify what is and is not a tobacco-related establishment and a cigar bar, and in particular, I believe that we ought to be focusing in on establishments that are primarily selling tobacco. If it is flipped over and done the other way around where we talk about 25 percent in one case of food and beverage, then that opens up a huge loophole,

because there could be a wide variety of other nonfood or beverage-related items that could be sold at that establishment. There could be relatively little in the way of tobacco, and that facility could still insist that they were covered under this amendment because they simply did not sell more than 25 percent beverage or food. So therefore, my effort here is to try and clarify the true intent of the drafter of the original language, in this case, actually, in a previous amendment.

So I strongly urge the members, if they want to actually have a meaning to the language of "tobacco-related businesses and cigar bars," to approve this first half of my amendment.

PARLIAMENTARY INQUIRY

The SPEAKER. Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

Parliamentary inquiry.

The SPEAKER. The lady will state her point of parliamentary inquiry.

Ms. MANDERINO. Based on the explanation I just heard from the maker of the amendment with regard to where we have divided this, I am confused. The explanation made it sound like we divided between lines 9 and 10, which is the difference between what affects tobacco and cigars and then the other ones that affect school buildings and facilities. Could you just clarify where we have divided so that we can get—

The SPEAKER. The amendment was divided between lines 12 and 13.

Ms. MANDERINO. Okay. So the amendment as divided that we are voting on now is to both clarify the definition of the percentages in the tobacco-related facilities and—

The SPEAKER. Is the lady asking for someone to stand for interrogation?

Ms. MANDERINO. Thank you, Mr. Speaker.

The SPEAKER. Will Representative Reichley approach the rostrum, please.

(Conference held at Speaker's podium.)

PARLIAMENTARY INQUIRY

AMENDMENT DIVIDED

The SPEAKER. The Chair recognizes Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker.

I do appreciate the gentlelady from Philadelphia clarifying that.

Just looking at the language of the amendment on the screen, it is hard to determine where the portion dealing with the definition of "cigar bar" ends and where the portion dealing with the motor vehicles begins. So I would amend my previous request or ask a parliamentary inquiry to the Chair. Is the amendment divisible between lines 9 and 10?

The SPEAKER. The amendment is divisible between lines 9 and 10.

Mr. REICHLEY. Then I would so move to divide the amendment in that respect, Mr. Speaker.

The SPEAKER. For the information of the members, amendment A02893-1 is divided between lines 9 and 10.

The amendment before the House is amendment A02893-1, lines 1 through 9.

On the question recurring,
Will the House agree to part 1 of the amendment?

The SPEAKER. Does Representative Manderino seek recognition? The gentledady waives off.
Does anyone seek recognition on the amendment?

On the question recurring,
Will the House agree to part 1 of the amendment?

The following roll call was recorded:

YEAS—176

Adolph	Frankel	Major	Roebuck
Argall	Freeman	Manderino	Rohrer
Baker	Gabig	Mann	Ross
Barrar	Galloway	Mantz	Rubley
Bear	Geist	Markosek	Sabatina
Belfanti	George	Marshall	Sainato
Benninghoff	Gerber	Marsico	Samuelson
Bennington	Gergely	McCall	Santoni
Bianucci	Gibbons	McGeehan	Saylor
Bishop	Gillespie	McI. Smith	Scavello
Blackwell	Gingrich	McIlhattan	Shapiro
Boback	Godshall	Melio	Shimkus
Boyd	Goodman	Mensch	Siptroth
Brennan	Grell	Micozzie	Smith, K.
Buxton	Grucela	Miller	Smith, M.
Caltagirone	Haluska	Milne	Smith, S.
Cappelli	Hanna	Moul	Solobay
Carroll	Harhai	Moyer	Sonney
Casorio	Harkins	Mundy	Staback
Civera	Harper	Murt	Steil
Clymer	Harris	Mustio	Stern
Cohen	Helm	Myers	Sturla
Conklin	Hennessey	Nailor	Surra
Costa	Hershey	Nickol	Swanger
Cox	Hess	O'Brien, M.	Tangretti
Creighton	Hickernell	Oliver	Taylor, R.
Cruz	Hornaman	Pallone	Thomas
Curry	James	Parker	True
Cutler	Josephs	Pashinski	Turzai
Daley	Kauffman	Payne	Vitali
DeLuca	Keller, W.	Payton	Vulakovich
Denlinger	Kenney	Petrarca	Wagner
DePasquale	Kessler	Petrone	Walko
Dermody	Killion	Phillips	Waters
DeWeese	King	Pickett	Watson
DiGirolamo	Kirkland	Preston	Wheatley
Donatucci	Kortz	Quigley	White
Eachus	Kotik	Quinn	Williams
Ellis	Kula	Ramaley	Yewcic
Evans, D.	Leach	Raymond	Youngblood
Evans, J.	Lentz	Readshaw	Yudichak
Everett	Levdansky	Reed	
Fabrizio	Longietti	Roae	O'Brien, D.,
Fairchild	Mackereth	Rock	Speaker
Fleck	Mahoney		

NAYS—24

Beyer	Keller, M.	Perry	Seip
Brooks	Maher	Petri	Stairs
Causer	Metcalfe	Pyle	Stevenson
Dally	Millard	Rapp	Taylor, J.
Harhart	O'Neill	Reichley	Vereb
Hutchinson	Peifer	Schroder	Wansacz

NOT VOTING—0

EXCUSED—3

Bastian Perzel Wojnaroski

The majority having voted in the affirmative, the question was determined in the affirmative and part 1 of the amendment was agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

The SPEAKER. The Chair recognizes the gentleman, Representative Ross, who offers amendment A02893-2, which is, for the information of the members, the amendment from lines 10 through 15.

On the question,
Will the House agree to part 2 of the amendment?

The SPEAKER. The Chair recognizes Representative Ross on the amendment.

Mr. ROSS. Thank you, Mr. Speaker.

Just for clarification – and there may be a little confusion in the House at this point – this section of my amendment deals with the subject of school buses and clarifies that in fact the smoking ban applies to school buses and not private vehicles, and so therefore I again urge a "yes" vote.

On the question recurring,
Will the House agree to part 2 of the amendment?

The following roll call was recorded:

YEAS—199

Adolph	Galloway	Markosek	Rohrer
Argall	Geist	Marshall	Ross
Baker	George	Marsico	Rubley
Barrar	Gerber	McCall	Sabatina
Bear	Gergely	McGeehan	Sainato
Belfanti	Gibbons	McI. Smith	Samuelson
Benninghoff	Gillespie	McIlhattan	Santoni
Bennington	Gingrich	Melio	Saylor
Beyer	Godshall	Mensch	Scavello
Bianucci	Goodman	Metcalfe	Schroder
Bishop	Grell	Micozzie	Seip
Blackwell	Grucela	Millard	Shapiro
Boback	Haluska	Miller	Shimkus
Boyd	Hanna	Milne	Siptroth
Brennan	Harhai	Moul	Smith, K.
Brooks	Harhart	Moyer	Smith, M.
Buxton	Harkins	Mundy	Smith, S.
Caltagirone	Harper	Murt	Solobay
Cappelli	Harris	Mustio	Sonney
Carroll	Helm	Myers	Staback
Casorio	Hennessey	Nailor	Stairs
Causer	Hershey	Nickol	Steil
Civera	Hess	O'Brien, M.	Stern
Clymer	Hickernell	O'Neill	Stevenson
Cohen	Hornaman	Oliver	Sturla
Conklin	Hutchinson	Pallone	Surra
Costa	James	Parker	Swanger
Cox	Josephs	Pashinski	Tangretti
Creighton	Kauffman	Payne	Taylor, J.

Curry	Keller, M.	Payton	Taylor, R.
Cutler	Keller, W.	Peifer	Thomas
Daley	Kenney	Perry	True
Dally	Kessler	Petrarca	Turzai
DeLuca	Killion	Petri	Vereb
Denlinger	King	Petrone	Vitali
DePasquale	Kirkland	Phillips	Vulakovich
Dermody	Kortz	Pickett	Wagner
DeWeese	Kotik	Preston	Walko
DiGirolamo	Kula	Pyle	Wansacz
Donatucci	Leach	Quigley	Waters
Eachus	Lentz	Quinn	Watson
Ellis	Levdansky	Ramaley	Wheatley
Evans, D.	Longietti	Rapp	White
Evans, J.	Mackereth	Raymond	Williams
Everett	Maher	Readshaw	Yewcic
Fabrizio	Mahoney	Reed	Youngblood
Fairchild	Major	Reichley	Yudichak
Fleck	Manderino	Roae	
Frankel	Mann	Rock	O'Brien, D.,
Freeman	Mantz	Roebuck	Speaker
Gabig			

NAYS—1

Cruz

NOT VOTING—0

EXCUSED—3

Bastian Perzel Wojnaroski

The majority having voted in the affirmative, the question was determined in the affirmative and part 2 of the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **SCHRODER** offered the following amendment No. **A02894**:

Amend Title, page 1, lines 5 through 8, by striking out all of said lines and inserting

Prohibiting the sale, possession and use of tobacco products; and making a repeal.

Amend Sec. 1, page 10, lines 20 and 21, by striking out "SMOKE FREE" in line 20 and all of line 21 and inserting

Tobacco Products Sales, Possession and Use Prohibition Act.

Amend Sec. 2, page 11, line 20, by striking out "SMOKING IN PUBLIC PLACES AND WORKPLACES" and inserting

the sale of tobacco products

Amend Sec. 3, page 11, lines 25 through 30; pages 12 through 17, lines 1 through 30; page 18, lines 1 through 23, by striking out all of said lines on said pages and inserting

"Tobacco product." A product containing tobacco for consumption. The term includes a cigar, a little cigar, a cigarillo, pipe tobacco, smokeless tobacco, roll-your-own, smoking tobacco, bidis or beedies and kretek.

Section 4. Prohibition.

No person shall sell, possess or use tobacco products in this Commonwealth on or after the effective date of this section.

Section 5. Repeals.

(a) Intent.—The General Assembly declares that the repeal under subsection (b) is necessary to effectuate the purposes of this act.

(b) Provisions.—The provisions of 18 Pa.C.S. § 6305 are repealed.

Amend Sec. 9, page 18, line 24, by striking out "9" and inserting 6

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

The SPEAKER. Members will take their seats. Conversations will break up. The House will come to order. The noise level on the floor is entirely too loud. Members will take their conversations to the anterooms if they are necessary. We will wait.

Representative Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, this is, I believe, the third day or so that we have worked on this issue, either this bill or the House version or whatever it is, and during that time we have heard a lot of facts and figures thrown about. We have been told that this is a profound moral issue and a vote with life-or-death consequences. We have been told that we are poisoning people in the workplace and that we cannot allow that poisoning to continue. We heard about the merchants of death operating in our presumably evil capitalistic society. We are told by one member that there is no reason that anyone should ever smoke or use tobacco products, that it is a horrible, filthy habit. We have heard concern for children riding in cars with a parent who smokes. Mr. Speaker, that is all over a bill that will still allow people to smoke and will still have people being victimized by secondhand smoke.

Mr. Speaker, page 10 of this bill states that the DEP (Department of Environmental Protection) has classified secondhand smoke as a class A carcinogen. It states that that is the most lethal environmental hazard and compares it to asbestos, benzene, formaldehyde, and radon.

Now, Mr. Speaker, one thing I know for sure is that you cannot go down to the local 7-Eleven or the Wawa or the Sheetz, depending on what part of the State you are from, and buy a pack of asbestos; you cannot buy a pack of benzene, formaldehyde, or radon, yet even after this bill passes, you will still be able to go down and buy a class A carcinogen, a pack of cigarettes.

Mr. Speaker, instead of taking this incremental backdoor approach, which is what this is, part of a larger plan out there, instead of going through the backdoor and incrementally banning smoking, let us march right through the front door. Let us eliminate and prohibit the sale, use, and possession of tobacco products here in the State of Pennsylvania, and let us really put our money where our mouth is.

The SPEAKER. Representative Surra.

Mr. SURRA. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman indicates he will. The gentleman is in order and may proceed.

Mr. SURRA. Mr. Speaker, can you let the House know what type of fiscal implications this would have?

Mr. SCHRODER. Well, I was hoping you would not ask that, Mr. Speaker. The fiscal implications are mammoth.

According to the fiscal note I have here, it states that the resulting loss to the Commonwealth would be approximately \$1 billion. That is how addicted to cigarette revenue this Commonwealth is that we would lose \$1 billion in revenue, Mr. Speaker.

Mr. SURRA. Thank you, Mr. Speaker.

Mr. Speaker, then how would you plan to fund a program that is near and dear to many of you and I think you, too, Mr. Speaker, the \$245 million that we use for the Mcare (Medical Care Availability and Reduction of Error) abatement program for our doctors?

Mr. SCHRODER. You know, Mr. Speaker, I was contemplating that very question last night as I sat on my porch smoking one of my last cigars in contemplation of this amendment passing, and you know, it is a lot of money to come up with, but I do have a few suggestions. Whether it is the Mcare Fund or the entire \$1 billion, I mean, come on. A billion dollars to this General Assembly, we could come up with that fairly quickly, I think. I mean, you know, a billion here, a billion there. For instance, I understand WAMs (walking-around moneys) are back in the budget. We could put that money towards the Mcare program perhaps. You know, just one suggestion.

What this fiscal note I do not believe did take into account is all the money that the Commonwealth will save once smoking is eliminated here in the State of Pennsylvania. We will not have as many programs to fund as large a health-care need burdening our Medical Assistance Program. So while the billion dollars is a large number, I think you do have to factor some things out of there.

Mr. SURRA. Thank you, Mr. Speaker.

Briefly.

The SPEAKER. The gentleman has ended his interrogation—

Mr. SURRA. Yes.

The SPEAKER. —and the gentleman is in order and may proceed.

Mr. SURRA. And I just want to make a brief comment on the amendment.

I am surprised to hear such a cavalier attitude about coming up with a billion dollars in new taxes. Like it or not, tobacco is a legal product, and unfortunately, this State and many States have come to depend on some of that revenue. We use that revenue to fund many, many good programs, we use that revenue to help our doctors with their medical malpractice costs, and we use that program to fund the CHIP program (Children's Health Insurance Program). You know, with such a cavalier attitude of coming up with a billion dollars, we cannot even come up with the money to fund HSCA (Hazardous Sites Cleanup Fund), Mr. Speaker, and that is because there are other members, other members of this General Assembly and across the building that absolutely are demanding a cap on the budget that we have and a cap on the surplus that we have. We could fix many of these problems, Mr. Speaker.

So I am not sure that this is even a serious amendment, and I am going to vote "no," and I probably would bet a paycheck that most of the House will also.

The SPEAKER. Representative Sainato.

Mr. SAINATO. Thank you, Mr. Speaker.

I think we have reached a point in this debate when the rubber meets the road. For 3 days, for 3 days we have heard about the addiction, the carcinogens, how horrible secondhand

smoke is, and all the crusaders on this House floor that have been fighting to protect the health of everyone in Pennsylvania. The rubber hits the road.

It is going to be very interesting when that vote goes up, Mr. Speaker, because all of these same people, all of these same people that are telling us how horrible and how terrible this product is in Pennsylvania, this legal product is in Pennsylvania, this amendment will give each and every one of those people that opportunity to put a green vote up there and make the product illegal in the State of Pennsylvania. That is where the rubber meets the road.

You can talk the talk, but now is the time for those 120 or 130 to walk the walk. The billion dollars that the speaker just talked about, I am sure the previous speaker was asking, where is the money going to come from? Will taxes have to be raised, Mr. Speaker? I am sure those 120 people will be the first ones in line to vote for tax increases to make up the difference. I, Mr. Speaker, will not be voting for those new taxes, but many of those members like taxes, they probably will vote for them, because they want to save the health of everybody.

Pennsylvania is addicted to tobacco, Mr. Speaker. Pennsylvania is addicted in over a billion dollars to the tobacco product. Tobacco is bad, no one argues that point, but it is a legal product in Pennsylvania. But the rubber has hit the road on this amendment. So I say to everyone out there who strongly believes in putting up those votes to go after and ban smoking everywhere in this State, this is your opportunity, this is your opportunity on this vote, and I encourage you to do the moral thing. I have heard that word "moral" so many times the last 3 days. We are going to see how moral everyone is on this vote if you truly, honestly believe that. For those people who believe it, vote for this and you can vote to raise taxes, too, Mr. Speaker.

Thank you.

The SPEAKER. Representative Belfanti.

Mr. BELFANTI. I said a couple of times, you guys crack me up.

I have been trying to quit, Mr. Speaker. I just spent about \$400 on prescription pills, which I have been taking for the past 6 weeks or so. They really have not worked that well. This might really cause me to quit. But for those of you that I bump into heretofore in the pubs for the next three or four nights that are going to be allowed to have smokers in it and nonsmokers intertwine like friends, maybe I will go outside. But February, it is not a good time to go outside, but I really think that this bill might cause me to quit. I think I will support it. Thank you.

The SPEAKER. Representative Vereb.

Mr. VEREB. Thank you, Mr. Speaker.

If I could interrogate the author of the amendment, please.

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. VEREB. Thank you, Mr. Speaker.

In the proposal of this amendment, would you consider this a primary or a secondary offense?

Mr. SCHRODER. This would be primary, I believe, Mr. Speaker.

Mr. VEREB. Thank you, Mr. Speaker.

The SPEAKER. Representative Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

Mr. Speaker, I have no problem with people smoking. It is their right to smoke. It is a legal product; it should be a legal product. I have no problem with a person's right to smoke,

but their right ends at my nose, so I see no incongruity whatsoever between my support for this bill and my opposition to this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Pallone. The gentleman waives off.

Representative Seip.

Mr. SEIP. Thank you, Mr. Speaker.

I have heard two of my colleagues now say that this is a legal product, that tobacco is a legal product. I almost in my own mind have a difficult time believing that from looking at some of the amendments that we have discussed tonight. Many of the members said everyone has a right to clean air. If this amendment passes, everyone will have clean air. This is not a discriminatory amendment; this is one that will help everybody. From what I have heard tonight, our health-care costs are rising, our workers are at risk. As a licensed health-care professional, I will tell all of the members, if you want to protect all the workers, if you want to entitle everyone to breathe clean air, this is the amendment you should vote for. This is the one that will best guarantee clean air, reduce our health-care costs as they are associated with tobacco usage, and this is the amendment that will truly move the bar forward. Pennsylvania can be a leader tonight. If we vote to ban smoking in Pennsylvania, we will be the first State to be able to do that. So if you really want to move the bar forward, this is the amendment to vote for.

I would urge all of the members who have been so concerned about everyone's health, regardless of whether you are a businessperson, an employee, whatever walk of life you come from, this amendment will protect you. So I would urge all of the members who are concerned about health care to vote for this amendment.

In seeing some of the amendments that have been moved forward tonight, it is almost like George Orwell's "1984" is coming. I will not be voting for this amendment, because I do not want to limit people's choices. I think they should make up their own minds. But for those of you who are concerned about health care and clean air at the expense of personal liberty, you should vote for this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Are there any other members seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker. I will not be long.

A couple of people have gotten up and mentioned about how tobacco is a legal product – precisely, precisely. That is why the main part of this bill is so wrong, in my opinion. We are doing it backwards. For the sake of consistency and to be much more intellectually honest, I think we should pass this amendment, and if for no other reason, it might be the first time Representative Belfanti and I have really ever agreed on an issue. I mean, I think that is pretty persuasive right there, so. But with all due respect to my good friend, Mr. Belfanti. So, Mr. Speaker, I just ask for your consideration and support of the amendment. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—24

Barrar	Gabig	Mantz	Sainato
Belfanti	Gergely	Miller	Schroder
Benninghoff	Hutchinson	Pashinski	Sonney
Caltagirone	Kortz	Perry	Thomas
Cox	Kotik	Preston	True
Creighton	Mackereth	Rapp	Youngblood

NAYS—175

Adolph	Galloway	Markosek	Rohrer
Argall	Geist	Marshall	Ross
Baker	George	Marsico	Rubley
Bear	Gerber	McCall	Sabatina
Bennington	Gibbons	McGeehan	Samuelson
Beyer	Gillespie	McI. Smith	Santoni
Bianucci	Gingrich	McIlhattan	Saylor
Bishop	Godshall	Melio	Scavello
Blackwell	Goodman	Mensch	Seip
Boback	Grell	Metcalfe	Shapiro
Boyd	Grucela	Micozzie	Shimkus
Brennan	Haluska	Millard	Siptroth
Brooks	Hanna	Milne	Smith, K.
Buxton	Harhai	Moul	Smith, M.
Cappelli	Harhart	Moyer	Smith, S.
Carroll	Harkins	Mundy	Solobay
Casorio	Harper	Murt	Staback
Causar	Harris	Mustio	Stairs
Civera	Helm	Myers	Steil
Clymer	Hennessey	Nailor	Stern
Cohen	Hershey	Nickol	Stevenson
Conklin	Hess	O'Brien, M.	Sturla
Costa	Hickernell	O'Neill	Surra
Cruz	Hornaman	Oliver	Swanger
Curry	James	Pallone	Tangretti
Cutler	Josephs	Parker	Taylor, J.
Daley	Kauffman	Payne	Taylor, R.
Dally	Keller, M.	Payton	Turzai
DeLuca	Keller, W.	Peifer	Vereb
Denlinger	Kenney	Petrarca	Vitali
DePasquale	Kessler	Petri	Vulakovich
Dermody	Killion	Petrone	Wagner
DeWeese	King	Phillips	Walko
DiGirolamo	Kirkland	Pickett	Wansacz
Donatucci	Kula	Pyle	Waters
Eachus	Leach	Quigley	Watson
Ellis	Lentz	Quinn	Wheatley
Evans, D.	Levdansky	Ramaley	White
Evans, J.	Longietti	Raymond	Williams
Everett	Maher	Reed	Yewcic
Fabrizio	Mahoney	Reichley	Yudichak
Fairchild	Major	Roae	
Fleck	Manderino	Rock	O'Brien, D., Speaker
Frankel	Mann	Roebuck	
Freeman			

NOT VOTING—1

Readshaw

EXCUSED—3

Bastian	Perzel	Wojnaroski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Mr. **WATERS** offered the following amendment No. **A02899**:

Amend Sec. 4, page 16, by inserting between lines 29 and 30
(3) For any person to sell fewer cigarettes than a full package of cigarettes to another person.

On the question,
Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Waters on the amendment.

Mr. **WATERS**. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is pretty much the same as the other amendment that I withdrew, so because of the similarities, I will withdraw this because of a technical matter that I must clear up before I move forward with this. Thank you, Mr. Speaker.

But I will, will be back at another time. Thank you.

The **SPEAKER**. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

The **SPEAKER**. The Chair recognizes the gentleman from Allegheny County, Representative Wheatley, who offers amendment A02900. The gentleman withdraws his amendment. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Philadelphia County, Representative Cruz. The Chair understands that the gentleman is withdrawing amendment A02916 and has a replacement amendment, which we will get to later. Is the Chair correct, the gentleman withdraws this amendment? A02916. That amendment is being replaced by 3071. Is that correct?

Mr. **CRUZ**. That is correct, Mr. Speaker.

The **SPEAKER**. The Chair will come back to the gentleman to offer that amendment.

The Chair recognizes the gentleman from Luzerne County, Representative Eachus. The gentleman withdraws.

The Chair recognizes the gentlelady from Philadelphia County, Representative Josephs, who offers amendment A0—
The lady withdraws.

Amendment A02951 is out of order.

Amendment A02975 is out of order.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Mr. **SIPTROTH** offered the following amendment No. **A03006**:

Amend Sec. 3, page 13, by inserting between lines 10 and 11 "Smokers' establishment." An establishment that receives a special permit under section 5.

Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) Smokers' establishments, subject to the provisions of section 5.

Amend Bill, page 17, by inserting between lines 27 and 28 Section 5. Smokers' establishment.

(a) Authorization.—A public establishment for eating or drinking, or both, may receive a special permit under this section to permit smoking of tobacco products.

(b) Procedure.—

(1) The establishment must apply to the department for a special permit.

(2) The establishment must pay a reasonable fee set by the department at not more than \$500.

(3) The department shall supply the establishment with a notice of application to become a smokers' establishment. The notice must be posted at the front of the building visible to the public.

(4) In order to allow employees of the establishment to make a decision on continued employment, the special permit shall not be issued until at least 90 days have elapsed from the date of application.

(5) Upon issuance of a special permit, the establishment shall post a sign on the exterior of the establishment identifying it as an establishment in which smoking is permitted. The size, wording and location of the sign must be approved by the department. The department's approval shall be based upon clarity and readability from a distance of 15 feet from the entrance of the establishment.

(6) A special permit shall be valid for one year, subject to renewal by the department in accordance with paragraphs (1), (2) and (3). A renewal application may be submitted within 90 days of the expiration date of the special permit.

Amend Sec. 5, page 17, line 28, by striking out "5" and inserting 6

Amend Sec. 6, page 18, line 3, by striking out "6" and inserting 7

Amend Sec. 7, page 18, line 14, by striking out "7" and inserting 8

Amend Sec. 8, page 18, line 20, by striking out "8" and inserting 9

Amend Sec. 9, page 18, line 24, by striking out "9" and inserting 10

On the question,
Will the House agree to the amendment?

AMENDMENT PASSED OVER TEMPORARILY

The **SPEAKER**. The Chair recognizes Representative Siptroth on the amendment.

Mr. **SIPTROTH**. Thank you very much, Mr. Speaker.

Mr. Speaker, I would ask that you go over this amendment, pending the outcome of the gentlelady from Montgomery, Representative Manderino.

The **SPEAKER**. This amendment will be over temporarily.

Mr. **SIPTROTH**. Thank you, Mr. Speaker.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Ms. **MANDERINO** offered the following amendment No. **A03016**:

Amend Sec. 2, page 11, by inserting between lines 17 and 18

(8) Leaving employment because the establishment has applied for a special permit to become a smokers' establishment under section 6 shall be deemed to be leaving employment with a cause of necessitous and compelling nature under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

Amend Sec. 3, page 13, by inserting between lines 10 and 11

"Smokers' establishment." An establishment which receives a special permit under section 6.

Amend Bill, page 18, by inserting between lines 2 and 3

Section 6. Smokers' establishment.

(a) Authorization.—A public establishment for eating or drinking, or both, may receive a special permit under this section to permit smoking of tobacco products.

(b) Procedure.—

(1) The establishment must apply to the department for a special permit.

(2) The establishment must pay a reasonable fee set by the department at not more than \$500.

(3) The department shall supply the establishment with a notice of application to become a smokers' establishment. The notice must be posted at the front of the building visible to the public.

(4) In order to allow employees of the establishment to make a decision on continued employment, the special permit shall not be issued until at least 90 days have elapsed from the date of application.

(5) Upon issuance of a special permit, the establishment shall post a sign on the exterior of the establishment identifying it as an establishment in which smoking is permitted. The size, wording and location of the sign must be approved by the department. The department's approval shall be based upon clarity and readability from a distance of 15 feet from the entrance of the establishment.

(6) A special permit shall be valid for one year, subject to renewal by the department in accordance with paragraphs (1), (2) and (3). A renewal application may be submitted within 90 days of the expiration date of the special permit.

(c) Prohibition on employing or admission of minors.—A smokers' establishment shall not employ an individual under 18 years of age. A smokers' establishment shall not admit an individual under 18 years of age.

Amend Sec. 6, page 18, line 3, by striking out "6" and inserting
7

Amend Sec. 7, page 18, line 14, by striking out "7" and inserting
8

Amend Sec. 8, page 18, line 20, by striking out "8" and inserting
9

Amend Sec. 9, page 18, line 24, by striking out "9" and inserting
10

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Manderino on the amendment.

Ms. **MANDERINO**. Thank you, Mr. Speaker.

Mr. Speaker, I had the opportunity over the past few sessions to be a member of the Health and Human Services Committee, where last session we had hearings on a similar Smoke Free Pennsylvania bill and we debated it in committee and again this session. I am a supporter of Smoke Free Pennsylvania, but it became very clear to me during the course of all of the hearings,

and as we can all see here, during the course of our debate on the floor of the House, that a middle ground needs to be reached, and I would like the House members to take a minute and think about the approach that is offered by this amendment, 3016, because it is different than the approach of most of the amendments that we have heard today.

Most of the amendments have approached trying to find a compromise for various groups by way of an exception process. I do not think an exception process is the way to go. My amendment is written not as an exemption or an exception or a carveout to the language, but it is written as a special permit, new type of facility that does not currently exist, and I would like to explain that to members.

I am proposing that we establish a very narrow group of establishments in Pennsylvania. This is written to apply to eating and drinking establishments only, and it is creating a special permit for smoker establishments. If this Smoke Free Pennsylvania law goes into effect, every eating and drinking establishment would have to go smoke-free for 90 days, because the permitting process that I am creating has a 90-day application period from the effective date of the law.

If you want to apply to be a smokers' establishment and you are an eating or drinking establishment, you can apply for a special permit to the Department of Health. There is an annual fee for that permit, which the department will determine based on what it costs them to administer the special permit process, with a maximum cap of \$500 a year. A smokers' establishment is an adult-only establishment. Nobody under 18 can go in there; nobody under 18 can work there. It is all or nothing.

During the 90 days after Smoke Free Pennsylvania would go into place, while every existing establishment must go smoke-free, those that choose to apply for a special permit must post at their place of work for their employees their intent to apply for this special permit. During that 90-day time frame, while that workplace remains smoke-free, employees who do not want to work in a smokers' establishment will have the ability to look and the time to look for another job. If they are unsuccessful at finding another job within that 90-day time period, they will have a legitimate reason for leaving their employment and will be eligible for unemployment compensation at that business owner's expense.

To me, this is a very narrowly defined special niche establishment. It recognizes a legal activity that folks may want, who engage in that legal activity, may want to engage in a social venue with other like-minded folks, but you cannot take children there; children cannot work there; workers who do not want to work in that establishment have the ability, time to switch jobs, and if they cannot find another job, the burden of their being unable to find that job and being unemployed is on the employer who switched from a smoke-free to a smokers' establishment.

The **SPEAKER**. The gentlelady will suspend.

The noise level is entirely too loud. Conversations will cease or be taken to the anterooms.

Representative Manderino.

Ms. **MANDERINO**. Thank you, Mr. Speaker.

I think given all of those provisions, all of those requirements of having a smokers' establishment, we will see that there will become a special niche market for those venues and that the vast majority of Pennsylvania eating and drinking establishments will be smoke-free.

I ask for your serious consideration of this amendment.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

I recognize that the maker of this amendment is making a serious attempt to find a compromise. I am reluctant to say, though, that after thinking about it carefully, I do not think that a compromise really is available on this, that at the end of the day, even the mitigation of unemployment compensation still forces the worker at the end of the day to choose between their health and their family's ability to be fed, and I think at the end of the day that that is a bad idea.

We ought to make this consistent also across the board. The expectation is for restaurants and eating places, that they have urged us over and over again to have a consistent ban, not one that has some let in, some let out. So I will also be urging a negative vote on this.

The SPEAKER. Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

It is a rare moment where I have to stand here in the Assembly and oppose my very good friend, Representative Manderino, and it is also an extremely unenviable position based on her abilities to debate. But I rise in opposition to this because I absolutely do not believe that it is fair to the employees to say that you will be compelled, which it does, to look for another job if this establishment decides to take on this smokers' establishment license. It is inherently unfair, and what we are basically doing is licensing for \$500, or whatever the fee is ultimately, the ability of an establishment to have an atmosphere where a carcinogen is being spread, a known carcinogen, and we would not do that. We would not put a sign outside and sell a license to somebody saying, you know, we are asbestos-free, we have benzene, we have any our chemical that creates a carcinogen or an illness, and I think that to sell licenses to be able to promote an unhealthy environment, even though the establishment owners or maybe their guests prefer it, will end up creating an environment where employees, and many of these employees, as I said in the past, come from low economic status, they are without health insurance, and they are not necessarily quite so mobile, and I do not know that necessarily going for unemployment compensation is a very reasonable expectation, to have to force somebody to do that.

So I would say to my colleagues that, again, this falls under my imploring you to basically say we ought to treat all employees in the State the same, and this inherently creates a different playing field for certain categories of employees, and that is just not fair, Mr. Speaker. It is just not fair. And I know the maker of the amendment is looking for reasonable ground for compromise, but this evening, I think many of us have stood up and voted courageously to say that Pennsylvania needs to apply equal protections to all of its employees, and I do not believe that this amendment does that.

Thank you, Mr. Speaker.

The SPEAKER. Representative Wheatley.

Mr. WHEATLEY. Thank you, Mr. Speaker.

Mr. Speaker, originally I was going to rise and ask the maker of this amendment if she would stand for interrogation, but on second thought, I am not going to do that. I am just going to make a statement.

The first part of the statement is to say that I very much respect the maker of this amendment. I served with her on the Health and Human Services Committee, and I know that her commitment is genuine and is very well thought out and

reasoned. The statement I am going to make, though, is to ask the membership to oppose this amendment on a couple grounds.

One, I am going to continue to say that it is very important for us to provide a workplace that is safe and secure for workers, and I know that in this amendment there are stipulations around how to try to get to that. But still, when I look at the reality of their situation, workers placed with a choice of having firm employment, regardless of that employment, maybe seen as harmful, compared to not having employment at all, they are going to take that employment. The fastest growing industry for many of our communities or the fastest place to get employment in many of these communities is in service-sector jobs, and many of those service-sector jobs will probably take this avenue and become a smoke environment, or maybe not, but my thinking is that they would, and those employees that are there would want to stay there for the most part, because that is a job, that is a payment for them, and that is something that covers their bills.

I think it is very important for us in this conversation to try to make as clean of a work environment as we can. Also, I think it is a business competition fairness issue. I also believe, and it is kind of similar, one of these provisions of the annual renewal, an annual renewal is similar to when I put my name on a bill that Representative Cruz had, and it was just for a renewal of licenses for guns where not only did I get a lot of e-mails and calls from the outside world, I had a lot of members who talked to me about how unfair it was to have annually a renewal system for guns. So this again will be a fee or a tax on businesses every year to come before us and pay that fee and that service.

So again, I am just going to encourage my colleagues to, as much as we can, provide a fair business environment and provide a clean, safe work environment for our residents and our citizens.

Thank you, Mr. Speaker.

The SPEAKER. Representative Siptroth.

Mr. SIPTROTH. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Manderino amendment.

Mr. Speaker, not too many evenings ago we passed an amendment that would permit smoking in our service club organizations, clubs of other types not so well defined, but nonetheless, that was passed. I heard from a number of my local establishments that have individuals who happen to smoke and tend bar at the same time, who happen to work in that environment, and, Mr. Speaker, those individuals would now have to either be relieved for a break, which would certainly cost the owners of those particular institutions additional dollars in hiring additional staff. So, Mr. Speaker, the contentious issue about the additional costs, I think, is not substantiated in this debate at all.

Mr. Speaker, I would certainly ask the members to support this particular amendment. I have a like amendment, and that is why I asked it to be gone over. This amendment is much stronger. It protects the youth, and I would again ask for your support.

Thank you, Mr. Speaker.

The SPEAKER. Representative Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I rise in opposition to this amendment, also rather reluctantly, because the lady from Philadelphia is a formidable debater and a really deep thinker. But this amendment really takes away all of the effort that we have been making over the

last several days to protect patrons and particularly to protect workers. In spite of the efforts that the lady has made to give workers a chance to move, that is not really realistic. Workers are not going to really have a choice, mostly because, as has been mentioned, they are not making a lot of money, they are very replaceable. We will have workers in establishments where they will be poisoned by this secondhand smoke.

Tens of thousands of bars, thousands of nonprofit organizations, the 12 licensed slot casinos, hundreds of thousands of other workplaces and public places, why \$500? I am not going to ask, because I think probably that was just pulled out of the air. I mean, I ask you, Mr. Speaker, suppose we had an establishment where there were no fire safety precautions taken. Would we allow establishments to put a sign that said, come in here because we have no fire safety? We have no crime safety? We do not have safe food? We do not have safe water? What we should be saying is, you cannot have a place where there is not safe air if it is enclosed.

And finally, the Department of Health is supposed to issue this certificate endorsing smoking and tobacco smoke pollution. The purpose of the Department of Health is to protect public health, not to endorse a habit which will hurt the public and particularly workers.

Please vote against this amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative Lentz.

Mr. LENTZ. Thank you, Mr. Speaker.

I urge all the members that support a ban to vote against this amendment. I believe this amendment undoes several of our previous votes. For instance, although the intent is to protect small bars, every casino in Pennsylvania could pay this \$500 and make themselves smoking establishments, as could any other large business or restaurant. This would create hundreds and hundreds of exceptions to the ban and defeat the ban's purpose.

So I would urge the members to defeat this amendment. Thank you.

The SPEAKER. Representative Longietti.

Mr. LONGIETTI. Thank you, Mr. Speaker.

Mr. Speaker, after a great deal of thought and reflection on this issue, I rise to support the gentlelady's amendment, and I congratulate her on crafting a very thoughtful amendment. It is a reasonable compromise. Number one, it protects kids from secondhand smoke. That is our number one job, is to protect kids. Number two, it allows workers to withdraw from a smoking workplace and still collect their unemployment, and I think that is an important provision. I know in my area I still see "Help Wanted" signs at restaurants and facilities, and some of them will be nonsmoking. So folks can withdraw from a smoking place, collect unemployment if necessary, and find a new working environment. Number three, it preserves some freedom of choice for smokers. And fourthly, it gives businesses an opportunity to choose what type of establishment they want to have, an adult-oriented one or one that is family-oriented, smoking or nonsmoking.

So, Mr. Speaker, I want to congratulate the gentlelady on her amendment. I think it is a very thoughtful amendment. It is a first step forward. I rise in support of it after a lot of thought and reflection on this subject.

Thank you, Mr. Speaker.

The SPEAKER. Representative Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, one of the reasons that I have been somewhat vocal along with all of the other zealots from the other side of this issue is because of the issue that Representative Manderino is trying to hit the nail on the proverbial head with. Many of the establishments in northeastern Pennsylvania are local corner bars. They have been there since the days of coal mining, et cetera. People in those establishments smoke, the owners in those establishments smoke, most of the employees in those establishments smoke, and they are the ones who contacted me over the past several months and said, keep your hand out of my pocket. Have those people down there, those folks that are so antismoking, have them buy me out. I have a quarter-million-dollar investment in this business. You are going to cost me a lot of my business. If I wanted to be smoke-free, I would be smoke-free. I choose not to.

Now, again getting back to the zealots, there has been no room throughout the past month, not one of them has talked to me at least after several days of debate and said, can we work on some compromises? There is no room for any compromise with any of these folks, and they all got up one at a time and now I am taking my turn. You have all heard Representative Pallone, who knows probably more about smoke and its effects than anyone else in this chamber. They have state-of-the-art smoke eaters, that my VFW (Veterans of Foreign Wars) has just paid about \$4,000 to install, that clean the air very effectively, and they are becoming more and more state of the art.

Furthermore, Mr. Speaker, the Manderino amendment requires that all of these mom-and-pop taverns and the high-end taverns on the Hill and places like that have a 90-day hiatus where they can give some thought as to whether or not they want to make an application to be a smoking environment and an adult-only establishment. That, I think, 90-day cooling-off period is what we need here.

I do have one question of interrogation for the maker of the amendment before I make my final 1-minute comment.

The SPEAKER. The gentlelady will stand for interrogation. The gentleman is in order and may proceed.

Mr. BELFANTI. I just want to make sure that your amendment has no effect on the single Reichley amendment that was adopted two nights ago dealing with fire companies and veterans organizations, et cetera.

Ms. MANDERINO. Thank you, Mr. Speaker.

I will try to answer that as I understand it, and someone will correct me if I state it wrong. But statutorily, the way I think the bill will read with what Representative Reichley put in, the answer would be no, and only for this reason: He put that amendment in for the private clubs under exemptions. I am not dealing with exemptions at all. I am dealing with the category of places that must be smoke-free and, within that list, only the subset of groups where you eat and drink. So I do not know how – I am being very honest – I do not know how a court would interpret it, but the way this is drafted, it is drafted to go to the places that must be smoke-free, and so I think a court would probably interpret that since his language went into the exemption process, it is a different part of the bill. That is the best answer I can give you.

Mr. BELFANTI. And I appreciate that answer, and under legislative intent, that is why I posed that question. It is not your intention, as I understand it, with this amendment to undo or forge the Reichley amendment that deals with fire companies

and civic organizations, et cetera, that are already under the exemption category.

Ms. MANDERINO. I have to answer it this way, because I did not vote for that exemption, because I do not think exemptions are the way to go. However, I did not draft this to make it apply to those categories with which the legislature chooses to exempt, so it is my intent that this applies to those establishments that are eating or drinking establishments within the body of the smoke-free law.

Mr. BELFANTI. Thank you, Mr. Speaker.

Just briefly, on the amendment.

The SPEAKER. The gentleman is in order and may proceed.

Mr. BELFANTI. Thank you, Mr. Speaker.

In all seriousness for a change, as I said, I believe that there had to be a bit of levity here because there are some folks that are just getting really overboard on the legislation on how to tell everyone how and when and where to act. This amendment introduced by Representative Manderino is the first and probably the only step forward, step forward, to try and reach some kind of a compromise, some kind of a meaningful plan to allow the owners who have put their sweat and blood and money into opening an establishment or continuing to keep that establishment that their grandfather opened alive.

Please, Mr. Speaker, this is a genuine effort to allow those people who do not want to be in a smoking environment to get out of it very quickly, move to another service-sector job, and those folks who would like to work in a bar or a tavern and are perhaps smokers and the owners are smokers, let them enjoy life. Life, liberty, pursuit of happiness does not only apply to you folks who want to ban smoking, and probably, and I do not know whatever next, forever.

Thank you.

The SPEAKER. Representative McIlhattan.

Mr. McILHATTAN. On the amendment, Mr. Speaker.

If you support the comprehensive Clean Air Act, I would ask for a negative vote on this. We are looking at special dispensations for places with food and drink and that do not allow kids, Mr. Speaker. I think that is tailor-made for casinos. I would be concerned about that.

Thank you very much.

The SPEAKER. Representative Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Will the gentlelady stand for interrogation?

The SPEAKER. The lady indicates that she will. The gentleman is in order and may proceed.

Mr. VITALI. I just want to clarify a point brought up by a previous speaker from Delaware County, the issue of casinos. I want to make sure this is not going to be a de facto exemption for them, and I see the language eating and drinking establishments on one hand, but I also have been to a casino where there are eating and drinking establishments. So could you address the concern of this as it might apply to casinos who desperately want to allow smoking there and have lots of expensive lawyers at their disposal?

Ms. MANDERINO. Thank you, Mr. Speaker.

And again, I will do my best to tell you what I think statutorily, statutory-construction-wise, the result of this would be, and again, because this is adding not an exemption or an exception but a special permit under the main body of the bill. The main body of the bill has language about public places being places that are totally enclosed or substantially enclosed, and so from my point of view, the only way something in a

casino would meet the definitions that are in the main law and be eligible for this permit is if they had a bar or restaurant inside that casino that was totally its own separate building. So I do not know exactly how that happens, you know, its own separate entrance off the boardwalk with no walls or windows that could come into the casino, because otherwise, it would not meet the definitions that the maker of the bill and the primary amendment to the bill set forth for those establishments. So it is my belief that this would not apply to casinos.

Mr. VITALI. Okay. Now, my second question, I can see how if you are a bar or a restaurant and you want family clientele, you might not apply for something like this, but I am thinking about now just the bar, the basic bar. I am concerned this just might be a de facto exemption for the basic bar, because right now bars have a right to be smoke-free. If they thought it was a good business decision, they would, and I am wondering, if we pass this exemption and pass the ban, why would not the bar just, why would you not expect every single bar owner or almost every single bar owner to just apply again? And I guess maybe I was— Maybe this is not— Well, I have asked the question, and I will let you answer it. But, I mean, my question was, I understand the disadvantages of having to apply every year and the fee and the unemployment comp, but beyond that, I mean, do you not think this has the danger of becoming a de facto exemption for the bar?

Ms. MANDERINO. Mr. Speaker, I think it is, and I am going to say something that may surprise folks. I personally do not believe that, and I have to pull a number out of the air, but I personally do not believe that more than 5 percent of eating and drinking establishments all across the Commonwealth are going to have a niche market, that this is what they are going to see as beneficial to their business. But if you disagree with me, if you think that this amendment as drafted will exempt more, you know, 50 percent or a substantial amount of them, if you think that is its impact, then vote "no," because that is not my intent and that is not what I think that it will do. I think that by making every establishment go smoke-free for 90 days, so that those who are just afraid that they might lose their clientele will experience 3 months of having to have been smoke-free and realize whether their business is going down the tubes or actually picking up or remaining stable, combined with the fact that they cannot hold themselves out in any way, shape, or form as a family venue because no minors can be there, they cannot hire anybody as a bus boy or waitress who is under the smoking age because they cannot be there, combined with the fact that it is costing them whatever the permitting fee is to keep paying for a permit, that if that is not the vast majority of your clientele, why would you keep paying that fee year after year after year? Combine all of those things, and on top of it, potentially losing your employees, if most of your employees do not want to work in that kind of environment and then having to pay their unemployment compensation on top of it if they cannot find a job, I think all of those factors put together will sort the market out in a way that whatever the marketplace for smokers is in a given community, it will sort itself out such that there are one or two, and obviously in larger towns more than that, one or two places that this is the smoker's establishment where folks go, and everybody else will socialize in smoke-free environments. That is my intent.

Mr. VITALI. Thank you.

The SPEAKER. Representative Waters.

Mr. WATERS. Thank you, Mr. Speaker.

Mr. Speaker, I would like to ask the gentlelady from Philadelphia if she would mind standing for brief interrogation?

The SPEAKER. The lady indicates she will stand for interrogation. The gentleman is in order and may proceed.

Mr. WATERS. Thank you.

I just want to ask you a question about what this would do for people who were under the age of 18 who do go out to restaurants and eat. Would they be allowed to go into this restaurant and eat?

Ms. MANDERINO. No.

Mr. WATERS. They would not be allowed. So the State would be mandating that people who are under the age of 18, who had been allowed to go and enjoy eating at restaurants of their choice, would now not be allowed to go into those places and eat?

Ms. MANDERINO. They would not be able to go into a smokers' establishment to eat or drink.

Mr. WATERS. Right.

Ms. MANDERINO. To eat.

Mr. WATERS. You are saying this would make that a law, a new law that the restaurant owner would now be responsible for enforcing, that a person under the age of 18 would be prohibited from going in there and getting served?

Ms. MANDERINO. No.

Mr. WATERS. If they come alone.

Ms. MANDERINO. The way it is written, if an eating or drinking establishment wanted to become a smokers' establishment, they have a choice. They are either a smoke-free establishment or a smokers' establishment; they cannot sit on the fence in between. If they choose to be a smokers' establishment, they have to apply for the special permit, and among the other things that I have already mentioned that are in there, they will have to post outside the business in a smokers' establishment, no one under 18 admitted.

Mr. WATERS. Okay. All right.

Yesterday, yesterday you were here and I had mentioned on the floor that what I believe we are doing here when we come up with exceptions or exemptions for certain establishments is that we are actually in a sense creating two classes of people. We are telling people who smoke that they have the freedom to go to anyplace that they choose to go to. If it is smoke-free or not, they can go there as long as they do not smoke inside that establishment. But we are telling people who, because of health reasons, and now with the amendment that you are presenting to us today, or of a certain age, that they should not go into these places, or that would be a conscious decision that people over 18 would make based on their health and their desire to stay smoke-free. They would not be welcome if they went inside of these places because of their— I do not smoke. I do not smoke, and what I am saying is that if I go to a facility where I walk in there and I am met with heavy smoke, I will immediately exit. That is a conscious decision that I made, but I also have to be concerned about my health, and I do know that secondhand smoke does kill, and in some cases it is more harmful to a person who does not smoke than it is to a person who does smoke. So now I will be saying that I am not going to go into this place because I want to protect my health, and that is in my best interest. So now smoking establishments will be a place that I will not visit. So what I am saying is that that would give smokers an advantage over me because we have these two different places that exist. Do you understand my question?

Ms. MANDERINO. I understand your question, but respectfully, Mr. Speaker, I see it a different way. I see it as there are smoke-free establishments that nonsmokers can go to or smokers can go to, but a smoker knows that if they walk in a smoke-free establishment, they cannot smoke there.

Mr. WATERS. Exactly.

Ms. MANDERINO. There are smoking establishments that nonsmokers can go to or smokers can go to, but if a nonsmoker walks into a smoking establishment, they know there is going to be smoke there.

I just want to, if I may, I just want to distinguish, at least in my mind, something else that you said that I do not think is accurate about my amendment. This is not an exception where I am carving out a whole class of haves or have-nots. I do not think so. I am not saying, well, if you serve X amount of food, you can do this, and if you serve X amount of food, you cannot. I am basically saying, I agree with the concept of Representative Gerber's proposal. Everyone should be smoke-free, but I believe that there is a niche market for folks who are smokers who want to socialize together and that the way to accomplish that is not by carveout exceptions but by special-permit establishments.

Mr. WATERS. Okay. Mr. Speaker, I just wanted to say— On the amendment?

The SPEAKER. The gentleman is in order and may proceed.

Mr. WATERS. I just want to make a closing remark, that I know the lady from Philadelphia very well, and I do know that she pays very close attention to the issues. And I truly respect her, and many times I do agree with what it is that she presents. However, on this particular issue right here, I am sticking— I am trying to be consistent in my position that I have had so far dealing with this smoking ban, and that is that I believe we are creating and mandating as elected officials and lawmakers, we are saying that people who choose not to smoke will be separated from people who do smoke – in public, we are talking about – and in a time when we have so many dire fronts that are affecting our community, I believe family establishments are something that we should be looking toward establishing more of, and if we start establishing facilities like this, we are working against that particular movement that I think is in our own best interests.

I think that families should eat together. I think they should eat at home together, and I think that if they go out, they should go out together. I think that we should be trying to find more places that we could establish that are family-friendly, and because of that and because this will work against that, and even if a person says, I am willing to pay whatever it is, the fee that I have to pay to do so, I know that that merchant might be in it for the money. I know that they might be in it and their goal is profit and the bottom line. But we as lawmakers, I believe, have to look at a bigger picture, and that is, what is in the best interest of the family? So if this works against setting up an establishment that will be family-friendly, I would have to be opposed to this amendment.

I do not agree with the fact that, it reminds me, as I said yesterday, it almost reminds me of the Jim Crow era, whereas you could not go into certain places, you just could not go into certain places if it was against you, because going into those places was against your health; it was against your best interest to go into certain places at that time. Smokers can go in any environment and be safe there. They could come on the House floor and be safe here. But people who do not smoke because of

their health and because it is against their health, because they might have asthma, because they might have signs of emphysema, and because they might have other health issues, then they should not go to facilities like that, and not because they are going to be harmed by anything other than the fact that the atmosphere and the air quality in that place will be harmful to them.

So I would, for the sake of the family, have to oppose this amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative Gerber.

Mr. GERBER. Mr. Speaker, I believe this amendment reflects an earnest attempt to reach a compromise, but as many of the previous speakers have mentioned, this language is too broad, creates too many loopholes, and therefore warrants a "no" vote. Under this language, every casino, every steakhouse, every tavern, every restaurant, every bar could be a smoking environment. This amendment would totally eviscerate the underlying bill and render a statewide ban moot.

I urge all my colleagues to vote "no" on the Manderino amendment. Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

The Chair recognizes Representative Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker, and I thank the members for their attention and their very thoughtful debate on this issue.

And I want to reiterate what I said earlier because I truly mean this. So far tonight I have voted against all of the exceptions and exemptions, because I do not believe that is the way to go, and I would not be offering this amendment if I did not believe that it would be a very small niche market that would want to meet all of these requirements. But having said that, I do believe there is a niche market for smokers, who have the right to smoke, to be able to go someplace and socialize. And quite frankly, I actually envision some positive effects to this for children. Instead of the adults staying home and smoking in front of the kids because there is no place they could go and socialize and have a cigarette at the same time, maybe they will go and socialize at a smokers' establishment and not smoke in front of the kids.

But seriously, if you truly believe, if you just disagree with my premise and you truly believe that I am creating some sort of exception that is going to make everybody run out and apply for these permits, do not vote for this. This is not the amendment you want. But if you think like I do that this is a legitimate way to allow for a legal activity in a limited venue where like-minded folks can engage in a social activity, then I think this is a reasonable way to approach the issue, and I ask for an affirmative vote.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—77

Barrar	Haluska	McCall	Sabatina
Belfanti	Harhai	Melio	Sainato
Bianucci	Harhart	Mensch	Scavello
Bishop	Harkins	Miller	Schroder
Brooks	Hennessey	Myers	Seip

Buxton	Hutchinson	O'Brien, M.	Siptroth
Caltagirone	James	Pallone	Smith, S.
Civera	Kessler	Pashinski	Solobay
Dally	Kirkland	Perry	Sonney
Denlinger	Kortz	Petrarca	Staback
DeWeese	Kotik	Petri	Stevenson
Eachus	Kula	Petrone	Sturla
Evans, D.	Levdansky	Pickett	Surra
Everett	Longiotti	Preston	Thomas
Fabrizio	Mahoney	Pyle	Wansacz
Fairchild	Major	Readshaw	White
George	Manderino	Reichley	Williams
Gergely	Mantz	Roae	Yewcic
Gibbons	Marsico	Rock	Yudichak
Grucela			

NAYS—123

Adolph	Fleck	Mann	Rohrer
Argall	Frankel	Markosek	Ross
Baker	Freeman	Marshall	Rubley
Bear	Gabig	McGeehan	Samuelson
Benninghoff	Galloway	McI. Smith	Santoni
Bennington	Geist	McIlhattan	Saylor
Beyer	Gerber	Metcalfe	Shapiro
Blackwell	Gillespie	Micozzie	Shimkus
Boback	Gingrich	Millard	Smith, K.
Boyd	Godshall	Milne	Smith, M.
Brennan	Goodman	Moul	Stairs
Cappelli	Grell	Moyer	Steil
Carroll	Hanna	Mundy	Stern
Casorio	Harper	Murt	Swanger
Causar	Harris	Mustio	Tangretti
Clymer	Helm	Nailor	Taylor, J.
Cohen	Hershey	Nickol	Taylor, R.
Conklin	Hess	O'Neill	True
Costa	Hickernell	Oliver	Turzai
Cox	Hornaman	Parker	Vereb
Creighton	Josephs	Payne	Vitali
Cruz	Kauffman	Payton	Vulakovich
Curry	Keller, M.	Peifer	Wagner
Cutler	Keller, W.	Phillips	Walko
Daley	Kenney	Quigley	Waters
DeLuca	Killion	Quinn	Watson
DePasquale	King	Ramaley	Wheatley
Dermody	Leach	Rapp	Youngblood
DiGirolamo	Lentz	Raymond	
Donatucci	Mackereth	Reed	O'Brien, D., Speaker
Ellis	Maher	Roebuck	
Evans, J.			

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnaroski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

The SPEAKER. Representative Siptroth, is it your intention— The gentleman withdraws his amendment. The Chair thanks the gentleman.

Amendment A03007 is out of order. Amendment A03012 is out of order. Amendment A03031 is out of order. Amendment A03033 is out of order. Amendment A03038 is out of order. Amendment A03049 is out of order.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **REICHLEY** offered the following amendment No. **A03050**:

Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) Twenty-five percent of the physical area where gaming is conducted in a licensed facility, as defined under 4 Pa.C.S. § 1103 (relating to definitions). In the physical area of the licensed facility where smoking is permitted, a separate ventilation system shall be installed and maintained.

On the question,

Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The **SPEAKER**. The Chair recognizes Representative Reichley on the amendment.

Mr. **REICHLEY**. Mr. Speaker, may I withdraw this amendment and move to 3051?

The **SPEAKER**. The gentleman certainly may withdraw this amendment.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **REICHLEY** offered the following amendment No. **A03051**:

Amend Sec. 4, page 15, line 1, by striking out "LICENSED" and inserting

Except as provided in subsection (c)(6), licensed Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) Fifty percent of the physical area where gaming is conducted in a licensed facility, as defined under 4 Pa.C.S. § 1103 (relating to definitions). In the physical area of the licensed facility where smoking is permitted, a separate ventilation system shall be installed and maintained.

On the question,

Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Reichley on the amendment.

Mr. **REICHLEY**. Thank you, Mr. Speaker.

And the members have been very patient with all the debate tonight. I appreciate the—

The **SPEAKER**. Will the gentleman suspend.

The Chair will ask the members to hold their conversations to a minimum.

The gentleman is in order and may proceed.

Mr. **REICHLEY**. I think I lost 10 seconds there, but anyway.

Now, Mr. Speaker, this very simply, I listened closely to the debate on the Solobay amendment. I understand members had a

concern about there potentially being smoking throughout the gaming areas in our slot licensee locations. This amendment would require a 50-50 division of smoking/nonsmoking. The smoking areas would further be required to have a separate ventilation system to be installed and maintained to prevent the nonsmoking areas from being subjected to any smoke that would come from the smoking area. So it is meant to try to allow the casinos in Pennsylvania to be competitive with their out-of-State neighbors. There is a fair amount of smoking that goes on in those locations, and this would just attempt to accommodate both the smoking and nonsmoking customers of the gaming locations.

Thank you, Mr. Speaker.

The **SPEAKER**. Representative Ross.

Mr. **ROSS**. Thank you, Mr. Speaker.

And as I have been saying earlier tonight, 50 percent of the employees should not be exposed to smoke even though you are protecting the other 50 percent.

I urge a "no" vote on this amendment. Thank you.

The **SPEAKER**. Representative Frankel.

Mr. **FRANKEL**. Quite simply, I agree with the previous speaker. Fifty percent of a casino, 50 percent of a restaurant, 50 percent of Pennsylvania should not be exempt from clean air.

Vote this down. Thank you.

The **SPEAKER**. Will the House agree to the amendment?

Representative Gerber.

Mr. **GERBER**. Thank you, Mr. Speaker. I will be very brief.

I urge a "no" vote on amendment 3051. Thank you, Mr. Speaker.

The **SPEAKER**. Does any member seek recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Reichley.

Mr. **REICHLEY**. Sorry?

The **SPEAKER**. For the second time on the amendment.

Mr. **REICHLEY**. Oh; I am sorry. I thank you, Mr. Speaker. I thought it was a question. I apologize.

Again, this is, I think, what is a reasonable alternative. I do not gamble, I do not smoke cigarettes, but listening to the comments from those who are supporters of the gaming facilities, I would urge them to support this as sort of a commonsense alternative to allow both the smoking and nonsmoking gambling customers to have equal access to the gaming facilities.

Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—58

Belfanti	Goodman	Millard	Sainato
Beyer	Grell	Miller	Scavello
Buxton	Hanna	Moul	Schroder
Caltagirone	Harhai	Nickol	Seip
Casorio	Harhart	Pallone	Siptroth
Causer	Hennessey	Pashinski	Smith, S.
Cruz	Keller, W.	Perry	Solobay
Dally	Kortz	Petrarca	Sonney
DeWeese	Kula	Petri	Staback
Eachus	Levdansky	Petrone	Stevenson
Ellis	Longiotti	Pyle	Thomas
Evans, D.	Mahoney	Ramaley	Wansacz

Fabrizio	Mantz	Reichley	White
Gergely	McCall	Sabatina	Yewcic
Gibbons	Metcalfe		

NAYS—142

Adolph	Frankel	Manderino	Roebuck
Argall	Freeman	Mann	Rohrer
Baker	Gabig	Markosek	Ross
Barrar	Galloway	Marshall	Rubley
Bear	Geist	Marsico	Samuelson
Benninghoff	George	McGeehan	Santoni
Bennington	Gerber	McI. Smith	Saylor
Bianucci	Gillespie	McIlhattan	Shapiro
Bishop	Gingrich	Melio	Shimkus
Blackwell	Godshall	Mensch	Smith, K.
Boback	Grucela	Micozzie	Smith, M.
Boyd	Haluska	Milne	Stairs
Brennan	Harkins	Moyer	Steil
Brooks	Harper	Mundy	Stern
Cappelli	Harris	Murt	Sturla
Carroll	Helm	Mustio	Surra
Civera	Hershey	Myers	Swanger
Clymer	Hess	Nailor	Tangretti
Cohen	Hickernell	O'Brien, M.	Taylor, J.
Conklin	Hornaman	O'Neill	Taylor, R.
Costa	Hutchinson	Oliver	True
Cox	James	Parker	Turzai
Creighton	Josephs	Payne	Vereb
Curry	Kauffman	Payton	Vitali
Cutler	Keller, M.	Peifer	Vulakovich
Daley	Kenney	Phillips	Wagner
DeLuca	Kessler	Pickett	Walko
Denlinger	Killion	Preston	Waters
DePasquale	King	Quigley	Watson
Dermody	Kirkland	Quinn	Wheatley
DiGirolamo	Kotik	Rapp	Williams
Donatucci	Leach	Raymond	Youngblood
Evans, J.	Lentz	Readshaw	Yudichak
Everett	Mackereth	Reed	
Fairchild	Maher	Roae	O'Brien, D.,
Fleck	Major	Rock	Speaker

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnarowski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The SPEAKER. Amendment A03052 is out of order. Amendment A03053 is out of order. Amendment A03054 is out of order. Amendment A03055 is out of order.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. CRUZ offered the following amendment No. **A03071**:

Amend Title, page 1, line 6, by inserting after "AREAS" and in motor vehicles occupied by minors

Amend Bill, page 18, by inserting between lines 2 and 3 Section 6. Smoking in motor vehicle occupied by minor.

No person may smoke a cigarette, pipe or cigar in a motor vehicle that is occupied by a minor. An operator of a motor vehicle who violates this section or permits a person in the motor vehicle to violate this section commits a summary offense with a maximum fine of \$25 for a first offense, a maximum fine of \$50 for a second offense and a maximum fine of \$100 for a third or subsequent offense. A conviction under this section shall occur only as a secondary action when the operator of a motor vehicle has been convicted of violating a provision of 75 Pa.C.S. (relating to vehicles).

Amend Sec. 6, page 18, line 3, by striking out "6" and inserting 7

Amend Sec. 7, page 18, line 14, by striking out "7" and inserting 8

Amend Sec. 8, page 18, line 20, by striking out "8" and inserting 9

Amend Sec. 9, page 18, line 24, by striking out "9" and inserting 10

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Cruz on the amendment.

Mr. CRUZ. Mr. Speaker, we have tried to get this amendment passed in the House at various times, Representative Daley and I, and made a little bit of changes into this amendment where we are making minors instead of an age limit, and also, it is a secondary action.

So I am asking for an affirmative vote on this amendment, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—65

Bennington	Galloway	Mahoney	Solobay
Bishop	Gerber	Mann	Staback
Blackwell	Gillespie	Mantz	Sturla
Boback	Goodman	Marshall	Tangretti
Brennan	Hanna	McCall	Taylor, J.
Caltagirone	Helm	Moul	Thomas
Carroll	Hornaman	Murt	Wagner
Cohen	Hutchinson	Oliver	Walko
Costa	Keller, W.	Readshaw	Wansacz
Cruz	Kenney	Reichley	Waters
Daley	Kessler	Sabatina	Wheatley
DePasquale	King	Samuelson	White
DiGirolamo	Kirkland	Scavello	Williams
Donatucci	Leach	Shapiro	Yewcic
Eachus	Longietti	Smith, K.	Youngblood
Frankel	Maher	Smith, M.	Yudichak
Freeman			

NAYS—135

Adolph	Geist	McI. Smith	Rapp
Argall	George	McIlhattan	Raymond
Baker	Gergely	Melio	Reed
Barrar	Gibbons	Mensch	Roae
Bear	Gingrich	Metcalfe	Rock
Belfanti	Godshall	Micozzie	Roebuck
Benninghoff	Grell	Millard	Rohrer
Beyer	Grucela	Miller	Ross
Bianucci	Haluska	Milne	Rubley

Boyd	Harhai	Moyer	Sainato
Brooks	Harhart	Mundy	Santoni
Buxton	Harkins	Mustio	Saylor
Cappelli	Harper	Myers	Schroder
Casorio	Harris	Nailor	Seip
Causar	Hennessey	Nickol	Shimkus
Civera	Hershey	O'Brien, M.	Siptroth
Clymer	Hess	O'Neill	Smith, S.
Conklin	Hickernell	Pallone	Sonney
Cox	James	Parker	Stairs
Creighton	Josephs	Pashinski	Steil
Curry	Kauffman	Payne	Stern
Cutler	Keller, M.	Payton	Stevenson
Dally	Killion	Peifer	Surra
DeLuca	Kortz	Perry	Swanger
Denlinger	Kotik	Petrarca	Taylor, R.
Dermody	Kula	Petri	True
DeWeese	Lentz	Petrone	Turzai
Ellis	Levdansky	Phillips	Vereb
Evans, D.	Mackereth	Pickett	Vitali
Evans, J.	Major	Preston	Vulakovich
Everett	Manderino	Pyle	Watson
Fabrizio	Markosek	Quigley	
Fairchild	Marsico	Quinn	O'Brien, D., Speaker
Fleck	McGeehan	Ramaley	
Gabig			

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnarowski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. **DALLY** offered the following amendment No. **A03083**:

Amend Sec. 3, page 11, lines 29 and 30; page 12, lines 1 through 6, by striking out all of said lines on said pages and inserting "Cigar bar." An establishment which operates pursuant to an eating place or restaurant liquor license under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, that is physically connected and directly adjacent to a tobacco shop.

Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) An exhibition hall, conference room or similar facility used exclusively for an event to which the public is invited for the primary purpose of promoting and sampling tobacco products, and where the service of food and drink is incidental, if the sponsor or organizer gives notice in all advertisements and other promotional materials give notice that smoking will not be restricted. At least 75% of all products displayed or distributed at the event shall be tobacco or tobacco-related products. Notice that smoking will not be restricted must be prominently posted at the entrance to the facility. No retailer, manufacturer or distributor of tobacco may conduct more than six days of a promotional event under this paragraph in any calendar year.

On the question,

Will the House agree to the amendment?

PARLIAMENTARY INQUIRY

AMENDMENT DIVIDED

The SPEAKER. The Chair recognizes Representative Dally on the amendment.

Mr. DALLY. Thank you, Mr. Speaker.

I would like to begin with a parliamentary inquiry because what I am proposing is to divide this amendment, and the amendment would just consist of beginning with line 8.

The SPEAKER. The gentleman wants to divide the amendment between lines 7 and 8?

Mr. DALLY. That is correct, Mr. Speaker.

The SPEAKER. The amendment is divisible.

Which part of the amendment does the gentleman wish to offer first?

PART 1 OF AMENDMENT WITHDRAWN

Mr. DALLY. I would like to offer from line 8 through the end of the amendment, and I will not be offering the first part of the amendment.

The SPEAKER. The gentleman is in order.

Mr. DALLY. That would be line 8 through line 21 of the amendment, Mr. Speaker.

The SPEAKER. The gentleman may proceed.

On the question,

Will the House agree to part 2 of the amendment?

Mr. DALLY. Okay. Thank you, Mr. Speaker.

Mr. Speaker, this amendment pertains to cigar, mainly cigar exhibitions that are held in the Commonwealth. As many of you may know, Pennsylvania is home to three of the five largest cigar distributors in the world, and together these companies employ hundreds of Pennsylvania workers and generate tens of millions of dollars in economic activity. SB 246, as it has been amended, recognizes the important presence of this industry in Pennsylvania by providing an exception from the smoking ban for smoking at businesses that manufacture, distribute, or sell tobacco products.

Many of these cigar distributors hold special promotional events for their customers where they showcase specific manufacturers and cigar products while cigar smokers and clients sample the showcased products. These events are private affairs held at public exhibition halls in Pennsylvania. They are staffed by employees of the cigar distributors and manufacturers, who at their offices are allowed to smoke under this legislation.

The largest of these private cigar functions is CigarFest, which is hosted by Cigars International, which is a 120-employee firm located in my legislative district. CigarFest is held at Split Rock Lodge, which is in the Representative from Carbon's district, and it is a 1-day tourist event in the Poconos. It is also a major fund raiser for LifePath, which is a nonprofit, whose mission is to help adults with disabilities.

Now, my amendment as divided would restore the Senate language and allow any Pennsylvania cigar manufacturer, distributor, or retailer to hold six of these events a year. My amendment requires that only adults are allowed to attend these functions and that 75 percent of the products displayed or sold be cigar products, and that language mirrors the cigar bar

exception. It also requires there be a definitive wording in all advertisements that these are indeed smoking events.

Mr. Speaker, I would encourage all the House members for support of this endeavor and to support this industry that is a very vital industry in our Commonwealth. Thank you.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

I see this as a logical parallel to the tobacco manufacturing establishment exemption and also the retail tobacco shop exception, and so therefore, I am quite happy to support this amendment.

The SPEAKER. Representative Wansacz.

Mr. WANSACZ. Thank you, Mr. Speaker.

I rise today to support the gentleman from Northampton's amendment. This is a great amendment as this is about tourism, tourism for Pennsylvania. And I was lucky enough to attend the function at Split Rock, and what I can tell you, all it was, was a bunch of people, both men and women, going in and enjoying a fine cigar. This is something that is good for tourism for Pennsylvania, it is good for our cigar industry in Pennsylvania, and it is good for Pennsylvania.

So I would urge the members to support this, as this does not, this does not force any business to compete against one another but it does allow people to come in from outside of the area to spend money here in Pennsylvania, and I would ask the members to support this.

Thank you.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor, Representative Dally?

Representative Dally.

Does Representative Josephs seek recognition? The Chair apologizes. He did not see the gentledady raise her hand. The gentledady is in order and may proceed.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I rise to ask people to vote "no." I do not see any exemption here for 18-year-olds. I think this is much too loose. I think if children can go in, I think any establishment can set up a little room and say we are tobacco testing, cigar smoking, and secondhand smoke from cigars is just as dangerous as secondhand smoke from cigarettes. We do not even tax cigars in this State. Come on. How much do they want?

Vote "no." Thank you.

The SPEAKER. Representative Dally.

Mr. DALLY. I would just like to say, Mr. Speaker, that this is an amendment that is agreed to by the prime sponsor of the bill, and as the Representative said yesterday, do not let that long, cold arm of Rittenhouse Square come in and disrupt these cigar festivals.

On the question recurring,

Will the House agree to part 2 of the amendment?

The following roll call was recorded:

YEAS—170

Argall	George	McCall	Sainato
Baker	Gerber	McI. Smith	Samuelson
Barrar	Gergely	McIlhattan	Santoni
Bear	Gibbons	Mensch	Saylor
Belfanti	Gingrich	Metcalfe	Scavello
Benninghoff	Godshall	Micozzie	Schroder

Beyer	Goodman	Millard	Seip
Bianucci	Grell	Miller	Shapiro
Bishop	Grucela	Milne	Sipthoth
Blackwell	Haluska	Moul	Smith, K.
Boyd	Hanna	Moyer	Smith, M.
Brennan	Harhai	Mustio	Smith, S.
Buxton	Harhart	Myers	Solobay
Caltagirone	Harkins	Nailor	Sonney
Cappelli	Harper	Nickol	Staback
Carroll	Harris	O'Neill	Stairs
Casorio	Helm	Oliver	Steil
Causer	Hennessey	Pallone	Stern
Civera	Hershey	Pashinski	Stevenson
Clymer	Hickernell	Payne	Sturla
Conklin	Hornaman	Payton	Surra
Costa	James	Peifer	Swanger
Cox	Kauffman	Perry	Tangretti
Creighton	Keller, M.	Petrarca	Taylor, J.
Cruz	Keller, W.	Petri	Taylor, R.
Cutler	Killion	Petrone	True
Daley	King	Pickett	Turzai
Dally	Kirkland	Preston	Vereb
Denlinger	Kortz	Pyle	Vitali
DePasquale	Kotik	Quigley	Vulakovich
DeWeese	Kula	Quinn	Wagner
DiGirolamo	Leach	Ramaley	Walko
Donatucci	Levdansky	Rapp	Wansacz
Eachus	Longiotti	Raymond	Waters
Ellis	Mackereth	Readshaw	Watson
Evans, D.	Maher	Reed	White
Everett	Mahoney	Reichley	Williams
Fabrizio	Major	Roae	Yewcic
Fairchild	Mann	Rock	Youngblood
Fleck	Mantz	Rohrer	Yudichak
Gabig	Markosek	Ross	
Galloway	Marshall	Rubley	O'Brien, D., Speaker
Geist	Marsico	Sabatina	

NAYS—30

Adolph	Evans, J.	Kessler	O'Brien, M.
Bennington	Frankel	Lentz	Parker
Boback	Freeman	Manderino	Phillips
Brooks	Gillespie	McGeehan	Roebuck
Cohen	Hess	Melio	Shimkus
Curry	Hutchinson	Mundy	Thomas
DeLuca	Josephs	Murt	Wheatley
Dermody	Kenney		

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnaroski
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The majority having voted in the affirmative, the question was determined in the affirmative and part 2 of the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Mr. MICOZZIE offered the following amendment No. A03095:

Amend Sec. 3, page 12, by inserting between lines 26 and 27 "Private club." Any reputable group of individuals associated together as a not-for-profit organization for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience which regularly and exclusively occupies, as owner or lessee, a clubhouse or

quarters for the use of its members and which holds regular meetings, conducts business through officers regularly elected, admits members by written application, investigation and ballot, and charges and collects dues from elected members. The club shall either be incorporated or, if unincorporated, provide proof of continuous existence for the past ten years in a manner deemed sufficient by the Department of Health.

Amend Sec. 4, page 15, by inserting between lines 6 and 7
(18) Private clubs.

On the question,
Will the House agree to the amendment?

AMENDMENT WITHDRAWN

The SPEAKER. The gentleman withdraws his amendment.
The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

Mr. **PAYTON** offered the following amendment No. **A02884**:

Amend Bill, page 18, by inserting between lines 19 and 20
Section 8. Ordinances.

Cities of the first class may enact ordinances concerning the health, safety and welfare of their residents.

Amend Sec. 8, page 18, line 20, by striking out "8" and inserting
9

Amend Sec. 9, page 18, line 24, by striking out "9" and inserting
10

On the question,
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Payton on the amendment.

Mr. **PAYTON**. Thank you, Mr. Speaker.

I ask for an affirmative vote.

The SPEAKER. Representative Vitali is rising to ask the gentleman for an explanation.

Mr. **PAYTON**. This amendment makes sure that Philadelphia's smoking ban stays intact. Thank you, Mr. Speaker.

The SPEAKER. Representative Ross.

Mr. **ROSS**. Mr. Speaker, actually, the language, I am afraid, is a good deal more broad than that. It talks about Philadelphia being able to enact health and safety language of its own, and it does not restrict it merely to issues of smoking.

On the second point, there is already language in the existing bill that allows individual municipalities to have more extensive laws in this area. So I would say that it was unnecessary for the purpose that the maker of the amendment asserted, and actually, because of its broad language, it could be used for many other purposes, and I do not think that we ought to adopt it.

I urge a negative vote.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—39

Bishop	Hanna	Melio	Sturla
Blackwell	Hennessey	Myers	Taylor, R.
Caltagirone	James	O'Brien, M.	Thomas
Cohen	Keller, W.	Parker	Vitali
Cruz	Kirkland	Payton	Wagner
Evans, D.	Leach	Preston	Wheatley
Frankel	Lentz	Ramaley	White
Freeman	Levdansky	Sabatina	Williams
Galloway	Manderino	Shapiro	Youngblood
Gerber	McGeehan	Solobay	

NAYS—161

Adolph	Fairchild	Mantz	Rock
Argall	Fleck	Markosek	Roebuck
Baker	Gabig	Marshall	Rohrer
Barrar	Geist	Marsico	Ross
Bear	George	McCall	Rubley
Belfanti	Gergely	McI. Smith	Sainato
Benninghoff	Gibbons	McIlhattan	Samuelson
Bennington	Gillespie	Mensch	Santoni
Beyer	Gingrich	Metcalfe	Saylor
Bianucci	Godshall	Micozzie	Scavello
Boback	Goodman	Millard	Schroder
Boyd	Grell	Miller	Seip
Brennan	Grucela	Milne	Shimkus
Brooks	Haluska	Moul	Sipthroth
Buxton	Harhai	Moyer	Smith, K.
Cappelli	Harhart	Mundy	Smith, M.
Carroll	Harkins	Murt	Smith, S.
Casorio	Harper	Mustio	Sonney
Causar	Harris	Nailor	Staback
Civera	Helm	Nickol	Stairs
Clymer	Hershey	O'Neill	Steil
Conklin	Hess	Oliver	Stern
Costa	Hickernell	Pallone	Stevenson
Cox	Hornaman	Pashinski	Surra
Creighton	Hutchinson	Payne	Swanger
Curry	Josephs	Peifer	Tangretti
Cutler	Kauffman	Perry	Taylor, J.
Daley	Keller, M.	Petrarca	True
Dally	Kenney	Petri	Turzai
DeLuca	Kessler	Petrone	Vereb
Denlinger	Killion	Phillips	Vulakovich
DePasquale	King	Pickett	Walko
Dermody	Kortz	Pyle	Wansacz
DeWeese	Kotik	Quigley	Waters
DiGirolamo	Kula	Quinn	Watson
Donatucci	Longiatti	Rapp	Yewcic
Eachus	Mackereth	Raymond	Yudichak
Ellis	Maher	Readshaw	
Evans, J.	Mahoney	Reed	O'Brien, D., Speaker
Everett	Major	Reichley	
Fabrizio	Mann	Roae	

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnaroski
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,
Will the House agree to the bill on second consideration as amended?

AMENDMENT A02891 RECONSIDERED

The SPEAKER. The Chair is in receipt of a reconsideration motion. Representative Reichley and Representative Sam Smith move that the vote by which amendment 2891 was defeated to SB 246, PN 1286, on the 15th day of July be reconsidered.

On the question,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—135

Adolph	Geist	McCall	Roae
Argall	George	McIlhattan	Rock
Baker	Gergely	Mensch	Rohrer
Barrar	Gillespie	Metcalfe	Rubley
Bear	Gingrich	Micozzie	Sainato
Belfanti	Godshall	Millard	Santoni
Benninghoff	Grell	Miller	Saylor
Beyer	Harhart	Milne	Scavello
Bishop	Harkins	Moul	Schroder
Boback	Harper	Moyer	Seip
Boyd	Harris	Murt	Smith, S.
Brooks	Helm	Mustio	Solobay
Buxton	Hennessey	Nailor	Sonney
Caltagirone	Hershey	Nickol	Staback
Cappelli	Hess	O'Neill	Stairs
Causar	Hickernell	Pallone	Stern
Civera	Hornaman	Pashinski	Stevenson
Clymer	Hutchinson	Payne	Swanger
Cox	James	Peifer	Taylor, J.
Creighton	Kauffman	Perry	Taylor, R.
Cruz	Keller, M.	Petrarca	Thomas
Cutler	Kenney	Petri	True
Dally	Kessler	Petrone	Turzai
Denlinger	Killion	Phillips	Vereb
DeWeese	Kortz	Pickett	Vitali
DiGiolamo	Kotik	Preston	Vulakovich
Ellis	Longietti	Pyle	Watson
Evans, D.	Mackereth	Quigley	White
Evans, J.	Maher	Quinn	Yewcic
Everett	Mahoney	Rapp	Youngblood
Fabrizio	Major	Raymond	Yudichak
Fairchild	Mantz	Readshaw	
Fleck	Marshall	Reed	O'Brien, D., Speaker
Freeman	Marsico	Reichley	
Gabig			

NAYS—65

Bennington	Galloway	Manderino	Samuelson
Bianucci	Gerber	Mann	Shapiro
Blackwell	Gibbons	Markosek	Shimkus
Brennan	Goodman	McGeehan	Siptroth
Carroll	Grucela	McI. Smith	Smith, K.
Casorio	Haluska	Melio	Smith, M.
Cohen	Hanna	Mundy	Steil
Conklin	Harhai	Myers	Sturla
Costa	Josephs	O'Brien, M.	Surra
Curry	Keller, W.	Oliver	Tangretti
Daley	King	Parker	Wagner
DeLuca	Kirkland	Payton	Walko
DePasquale	Kula	Ramaley	Wansacz
Dermody	Leach	Roebuck	Waters
Donatucci	Lentz	Ross	Wheatley
Eachus	Levdansky	Sabatina	Williams
Frankel			

NOT VOTING—0

EXCUSED—3

Bastian Perzel Wojnaroski

The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
Will the House agree to the amendment?

The clerk read the following amendment No. **A02891**:

Amend Sec. 4, page 15, by inserting between lines 29 and 30

(6) The private office of the owner or proprietor of a business where the public is not admitted.

On the question recurring,
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Reichley on the amendment.

Mr. REICHLEY. Thank you, Mr. Speaker.

This is the amendment which we had a 100-to-100 tie on just a few minutes ago. I would strongly urge the members to think very, very seriously about those small business owners, the people who are the backbone of our communities, who have emphasized how much that they do not want to be burdened by continued governmental regulation, and think of the confrontations you might have in your district with those same individuals.

I would ask the members please to think very seriously about that. This is not somehow a mandate upon those employees getting inflicted with it. It is more the idea of the business owner having to question, to allow the freedom of choice for that business owner to smoke in the privacy of his own office without impinging upon the employees.

Thank you, Mr. Speaker. Please vote "yes" on this amendment.

The SPEAKER. Members will please hold their conversations to a minimum.

The Chair recognizes Representative Eachus.

Mr. EACHUS. Mr. Speaker, I understand the gentleman's argument, and really, nothing has changed in the last 45 minutes. For the same reasons that I expressed which relate to— As I said, workplace smoking is a problem, and I realize the gentleman is talking about this in relation to small business, but it goes well beyond that and it relates to smoking in workplaces by the boss in maybe an office that the ventilation system would share smoke throughout the building. So once again, just to be consistent, my amendment a few nights ago expressed workplace smoking was never an exemption.

So I would ask members to vote "no" on the Reichley amendment. Thank you.

The SPEAKER. Representative Ross.

Mr. ROSS. Thank you, Mr. Speaker.

And I would strongly urge a negative vote. Please think of the executive secretaries, the others who will be called into the boss's office and exposed to smoke. Thank you.

The SPEAKER. Representative Frankel.

Mr. FRANKEL. And very briefly, Mr. Speaker.

This is very simple. We all are very concerned about business owners and businesses in Pennsylvania, but we are concerned about employees and the people who visit those establishments. This is not about somebody just working in their home. This is very broad language, and we are talking about employees who are working in these environments who would be subjected to this. This is not the individual right of an owner. This is an owner versus a group of employees that he may have, a group of customers, a group of guests, and that is what we are talking about.

Equal protection for all Pennsylvanians, that is what we want. That is not what this amendment does. Defeat it.

The SPEAKER. Representative Rapp.

Ms. RAPP. Thank you, Mr. Speaker.

I rise again to support this amendment. Again, there are many small business owners in the State of Pennsylvania who operate out of their home, including bed and breakfasts where the proprietor lives in the home where the business is. A negative vote on this amendment is a vote against those small business owners who live in their home and who have an office in their home.

I ask you to reconsider an affirmative vote on this amendment and protect the private property rights of our small businesses who operate out of their private homes and who have the right to do those things that are private in their home and in their private offices.

Thank you, Mr. Speaker.

The SPEAKER. Representative Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker.

Once again, we are talking about a legal product on private property. In many cases this is private property owned and purchased by the business owner. We are talking about the private office of that business owner. Are we really saying that that business owner, small businessperson in Pennsylvania, cannot go into their private office on their property and smoke?

I think we should support the Reichley amendment. Thank you very much.

The SPEAKER. Representative Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

I am one who is going to vote for the bill, and I support the ban in public places, but you know, this becomes really a problem for me when you tell a private owner of a business or a private homeowner what to do and what not to do. That goes above and beyond what I think we can do.

So I certainly support this amendment, and you know, I also plan to support the bill, too. So I would hope we could make this amendment part of the legislation to protect private ownership of property.

The SPEAKER. Representative Kessler.

Mr. KESSLER. Would the maker of the amendment stand for interrogation, please?

The SPEAKER. Will the members in the aisle in front of Representative Reichley please take their seats.

The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. KESSLER. Mr. Speaker, let me just understand this. If somebody owns a building that has three offices in it and it is within the same building and they are set up as a proprietorship, not a corporation, and they have one of those offices in there as their office who owns the building and they do not allow the public in their office and the air conditioning is all the same unit

for the whole building, would that person be allowed to smoke in that building, in their office?

Mr. REICHLEY. In the private office, yes, Mr. Speaker.

Mr. KESSLER. Even though the ventilation and the air conditioning is the same for all of those three offices that are within that building that is owned by the proprietorship?

Mr. REICHLEY. Mr. Speaker, in the language of this amendment, I would have to say, yes, you are correct that the proprietor would still be able to smoke in his office.

The SPEAKER. Will the gentleman suspend. The gentleman cannot hear the response. The Chair will ask the members to please hold their conversation to a minimum.

Representative Reichley.

Mr. REICHLEY. The language in this amendment does not refer to the ventilation system, Mr. Speaker, no. It just refers to the fact of the ability of the proprietor or owner of the business to be able to smoke within the strict confines of his private office. I understand the concern you have about the potential ventilation system question. That is not addressed within this amendment.

Mr. KESSLER. So they would be allowed to smoke in that office?

Mr. REICHLEY. Yes.

Mr. KESSLER. Thank you.

The SPEAKER. Representative Gerber.

Mr. GERBER. Thank you, Mr. Speaker.

We have now done this for the third time, and as I have stated before, while the intent may be to protect someone who works at their computer in their own home, that is not a concern. The underlying bill permits smoking in one's personal residence, but with this broad language, if this were to pass, an individual would be able to smoke in any office anywhere just so long as the public does not come in. It does not protect the workers in that office.

I urge a "no" vote on this amendment. Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment, Representative Reichley?

Representative Kortz.

Mr. KORTZ. Thank you, Mr. Speaker.

Would the gentleman rise for a brief interrogatory?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. KORTZ. Mr. Speaker, under your amendment, if I – a hypothetical situation – if I had a construction company and I had a trailer that I was taking to a construction site, multiple trailers, and one of the trailers was mine and I was a smoker, which I am not, but say I was smoking in my trailer and I did not stay there to do my other work and I would leave to go to the other trailers to meet with the engineers on the project, under your amendment, would I be legal to smoke in my trailer?

Mr. REICHLEY. Mr. Speaker, under the strict terms of your hypothetical, I am unclear as to whether you are the owner and proprietor and whether that is your private office or if this is just a temporary location. I would think that if you have a construction company, you have a physical premises at a location separate and apart from the construction site so that your private office where the public is not admitted would be at another location. You certainly would not be allowed to go into the other trailers and smoke in those locations because those would fit within the ban on smoking in the workplace,

which still remains within the language of the amendment that Mr. Gerber introduced in the House Health and Human Services Committee.

Mr. KORTZ. Well, let me rephrase that. This trailer is part of my office, and you take that to various construction sites as you do the jobs. So if I take my trailer there and I smoke in it, would I be okay under your amendment?

Mr. REICHLEY. If you do not admit the public into that temporary location, Mr. Speaker, I guess under those terms that you have described, you would be, but it should not be seen as a situation where somehow we are trying to facilitate people setting up temporary offices and dragging them around the countryside just to be able to have a smoke within the private office. This is meant to protect the workers from the boss of smoking out in the workplace area but yet still respecting that individual employer's choice, no matter how ill-advised we think it may be, that he would smoke within the specific confines of his private office.

And I should also hasten that this also does not ban employees from requesting the employer to step outside of the private office. There has been some mention made about how this is going to impact the employees. Well, there is certainly nothing within the amendment nor the bill which says the employees cannot ask the employer, I do not want to be around in the smoke of your office, can we talk about my pay, my getting disciplined, whatever it is, outside of your office?

Mr. KORTZ. Thank you.

On the amendment?

The SPEAKER. On the amendment, the Chair recognizes Representative Kortz.

Mr. KORTZ. Mr. Speaker, as was stated prior days, this is not about legislation, it is about education, and I would say let us vote in the affirmative on this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes Representative Reichley for the second time?

Representative Reichley.

Mr. REICHLEY. Thank you, Mr. Speaker, and I do appreciate this has gone on quite a number of days now.

I do want to respond to some degree. We had members who were pushing for a certain amendment two nights ago which would have theoretically precluded a ban on smoking in a whole host of workplaces, such as casinos, such as certain restaurants and bars, cigar bars, and that is not in any way the implication of the strict language of this amendment. This is meant to preserve a matter of choice for a private employer who would smoke specifically, and again, I will read from the amendment, "The private office of the owner or proprietor of a business where the public is not admitted."

This is not for just the manager. It is not for one of a series of vice presidents or something. This is for the office of the owner or proprietor of the business. So we are really focusing strictly upon the small businessperson who wishes to make that discretionary choice about smoking within their presence. It is not meant to impact workers who can ask the owner to step out to talk about employment issues. It is not meant to force secondhand smoke on others, and actually, one of the other members who is much more acquainted with construction issues gave me information in response to a question from one of the members about air conditioning. I guess it was the gentleman from Berks, Mr. Kessler, who asked, does the air conditioning

impact the other workers, and I have been informed that in fact air conditioning draws air from the outside and brings it into the offices. The air conditioning would not be drawing smoke from the owner's office and distributing it throughout the office area. It does not work that way at all. Those of you who are more familiar with construction would know this better than I do, but I was graciously informed by the gentleman from Delaware that the—

The SPEAKER. Will the gentleman suspend.

The noise level is entirely too loud. Conferences in the well of the House will break up. Members will take their seats. The gentleman is entitled to be heard.

Mr. REICHLEY. Thank you, Mr. Speaker.

This issue of air conditioning and similar ventilation systems is a ruse or a canard to distract people from the actual issue. The ventilation system, the air conditioning draws air from the outside, brings it into the office. It does not bring air from the office and distribute it to the other areas of the establishment.

So I would ask the members, you know, you love to say you support small business. Now is the time to walk the walk, not just talk the talk to say you support small business. It is time to walk the walk. Respect the freedom of choice, not a mandate that owners and proprietors smoke in their offices, but just the freedom of choice for those individuals to have that choice, that limited use of their discretion.

Please vote "yes" on this amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—98

Baker	Harhai	Metcalfe	Reichley
Barrar	Harhart	Millard	Roae
Belfanti	Harkins	Miller	Rock
Benninghoff	Harper	Moul	Rohrer
Beyer	Helm	Mustio	Sainato
Brooks	Hennessey	Myers	Saylor
Buxton	Hershey	Nailor	Scavello
Caltagirone	Hess	Nickol	Schroder
Casorio	Hornaman	O'Neill	Seip
Causer	Hutchinson	Pallone	Sipthro
Civera	James	Pashinski	Smith, S.
Costa	Kauffman	Payne	Solobay
Cox	Keller, M.	Peifer	Sonney
Dally	Kortz	Perry	Staback
Denlinger	Kotik	Petrarca	Stairs
Ellis	Kula	Petri	Stern
Everett	Longietti	Petrone	Stevenson
Fabrizio	Mackereth	Phillips	Taylor, J.
Fairchild	Maher	Pickett	Turzai
Fleck	Mahoney	Preston	Wansacz
Gabig	Major	Pyle	White
Gergely	Mantz	Quinn	Williams
Gibbons	Marshall	Rapp	Yewcic
Godshall	Marsico	Reed	Yudichak
Grell	Mensch		

NAYS—102

Adolph	Eachus	Levdansky	Samuelson
Argall	Evans, D.	Manderino	Santoni
Bear	Evans, J.	Mann	Shapiro
Bennington	Frankel	Markosek	Shimkus
Biancucci	Freeman	McCall	Smith, K.

Bishop	Galloway	McGeehan	Smith, M.
Blackwell	Geist	McI. Smith	Steil
Boback	George	McIlhattan	Sturla
Boyd	Gerber	Melio	Surra
Brennan	Gillespie	Micozzie	Swanger
Cappelli	Gingrich	Milne	Tangretti
Carroll	Goodman	Moyer	Taylor, R.
Clymer	Grucela	Mundy	Thomas
Cohen	Haluska	Murt	True
Conklin	Hanna	O'Brien, M.	Vereb
Creighton	Harris	Oliver	Vitali
Cruz	Hickernell	Parker	Vulakovich
Curry	Josephs	Payton	Wagner
Cutler	Keller, W.	Quigley	Walko
Daley	Kenney	Ramaley	Waters
DeLuca	Kessler	Raymond	Watson
DePasquale	Killion	Readshaw	Wheatley
Dermody	King	Roebuck	Youngblood
DeWeese	Kirkland	Ross	
DiGirolamo	Leach	Rubley	O'Brien, D.,
Donatucci	Lentz	Sabatina	Speaker

NOT VOTING—0

EXCUSED—3

Bastian Perzel Wojnaroski

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

On the question recurring,

Will the House agree to the bill on second consideration as amended?

The SPEAKER. The following amendment is late filed. The Chair recognizes the gentelady from Philadelphia County, Representative Josephs, who makes a motion to suspend the rules for the purpose— The gentelady withdraws.

The following amendment is also late filed. The Chair recognizes the gentleman from York County, Representative DePasquale, who makes a motion to suspend the rules for the purpose of offering amendment A03— The gentleman withdraws.

The following amendment is late filed. The Chair recognizes the gentelady from Philadelphia County— The lady withdraws.

The Chair is not aware of any other amendments pending to this bill.

Does Representative Waters have an amendment?

On the question recurring,

Will the House agree to the bill on second consideration as amended?

Bill as amended was agreed to.

(Bill as amended will be reprinted.)

VOTE CORRECTIONS

The SPEAKER. For what purpose does the gentleman, Representative Hess, rise?

Mr. HESS. Mr. Speaker, to correct the record.

The SPEAKER. The gentleman is in order.

Mr. HESS. Mr. Speaker, on Representative Solobay's amendment, A3013, my switch did not record me as voted. I would like to be recorded in the negative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

Mr. HESS. Thank you.

The SPEAKER. Representative Waters? For what purpose does the gentleman rise?

Mr. WATERS. Mr. Speaker, I would like to correct the record.

The SPEAKER. The gentleman is in order.

Mr. WATERS. On amendment A2884, I would like to be recorded as an affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. Does the gentelady from Philadelphia, Representative Josephs, wish to make an announcement?

Ms. JOSEPHS. If I may, Mr. Speaker, if it fits into the schedule as it is going on.

I would like to have an informational, unfortunately, on-our-feet meeting of the House State Government Committee in the back of the House.

The SPEAKER. The Chair thanks the lady.

The State Government Committee will meet in the back of the House.

CONFERENCE COMMITTEE MEETING

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The Chair recognizes the majority whip, Representative McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, for the purpose of an announcement.

At 8 o'clock the conference committee on the budget will meet in the majority caucus room. At 8:15 the Appropriations Committee will meet in the majority caucus room.

The SPEAKER. The conference committee will meet at 8 o'clock in the majority caucus room, and the Appropriations Committee will meet at 8:15 in the majority caucus room.

DEMOCRATIC CAUCUS

Mr. McCALL. And at 8:30 the Democrats will caucus in the majority caucus room. Tomorrow morning we will caucus at 8:30 a.m. in the majority caucus room, and we plan on being on the floor at 10 o'clock a.m.

MOTION TO SUSPEND RULE 15

Mr. McCALL. And, Mr. Speaker, on the 10 o'clock on the floor, I would request that we suspend the rules so we could start for a 10 a.m. session on Monday morning.

The SPEAKER. The Chair thanks the gentleman.

On the question,
Will the House agree to the motion?

PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Mr. Smith.

Mr. S. SMITH. I was not clear what the motion was. Was it to suspend rule 12 or whatever number that was?

The SPEAKER. Rule 15.

Mr. S. SMITH. Rule 15? That would suspend the rules so that we could start earlier tomorrow than we normally can start on the first day of the week?

The SPEAKER. The gentleman is correct.

Mr. S. SMITH. And will that also suspend the latter half of that rule, Mr. Speaker?

The SPEAKER. I do not think the gentleman made that motion.

Mr. S. SMITH. He is suspending rule 12?

The SPEAKER. Rule 15.

Mr. S. SMITH. 15. I do not care. I just want to know, is that also suspending the latter half of that rule, because I do not think you can suspend half a rule.

The SPEAKER. If the gentleman will phrase his motion.

Mr. McCALL. Mr. Speaker, we—

The SPEAKER. The gentleman can narrow his motion.

Mr. McCALL. Mr. Speaker, we are only asking for a suspension of the rules for the early start at 10 a.m. at this time, and we will, as we move through the process, determine whether or not we have to go beyond 11 o'clock, but at this point in time, it is just the 10 a.m.

The SPEAKER. Representative Smith.

Mr. S. SMITH. Mr. Speaker, I have no— I mean, I appreciate that we are going to try to get started earlier tomorrow morning, and I think that is important. I am not sure that I— The reason I asked the question was because I thought that is what he probably intended, the maker of the motion intended, Mr. Speaker, but I do not know that it is a good precedent to set that we would be able to suspend bits and pieces of specific rules. I do not know that we have done that in the past.

The SPEAKER. The Chair has done that on numerous occasions. The gentleman can form a motion to suspend all or part of the rule.

Mr. S. SMITH. Thank you, Mr. Speaker.

I have stated my concern. I am not sure that I agree. I cannot say that I can cite it either way, so I cannot say that I disagree with what the Chair has stated.

**MOTION TO SUSPEND RULE 15
WITHDRAWN**

Mr. McCALL. Mr. Speaker, I think it is just a motion to start at 10 a.m. We do not necessarily have to suspend the rule. I think we could do it by virtue of a motion, according to the rule.

The SPEAKER. The gentleman is entitled to frame the motion in the form that he desires, and it is for the House to make that decision whether they agree with the motion.

MOTION TO CONVENE EARLY

Mr. S. SMITH. Thank you, Mr. Speaker.

Then, Mr. Speaker, you are going to revise that motion to state that we are just going to adjourn this evening to a specific time tomorrow?

Mr. McCALL. 10 a.m.

The SPEAKER. On the motion?

Mr. McCALL. Yes. Mr. Speaker, to clarify, it is not a suspension of the rule. It is just a motion to start session by 10 a.m. tomorrow morning, Monday, July 16, 2007.

The SPEAKER. The Chair thanks the gentleman.

On the question,
Will the House agree to the motion?

The following roll call was recorded:

YEAS—181

Adolph	Galloway	McCall	Rubley
Argall	Geist	McGeehan	Sabatina
Baker	George	McI. Smith	Sainato
Belfanti	Gerber	McIlhattan	Samuelson
Benninghoff	Gergely	Melio	Santoni
Bennington	Gibbons	Mensch	Saylor
Beyer	Gillespie	Metcalfe	Scavello
Biancucci	Godshall	Micozzie	Seip
Bishop	Goodman	Millard	Shapiro
Blackwell	Grucela	Miller	Shimkus
Boback	Haluska	Moul	Siptroth
Boyd	Hanna	Moyer	Smith, K.
Brennan	Harhai	Mundy	Smith, M.
Brooks	Harhart	Murt	Smith, S.
Buxton	Harkins	Myers	Solobay
Caltagirone	Harper	Nickol	Sonney
Cappelli	Harris	O'Brien, M.	Staback
Carroll	Helm	O'Neill	Stairs
Casorio	Hennessey	Oliver	Steil
Causar	Hershey	Pallone	Stern
Civera	Hess	Parker	Stevenson
Clymer	Hickernell	Pashinski	Sturla
Cohen	Hornaman	Payne	Surra
Conklin	Hutchinson	Payton	Tangretti
Costa	James	Peifer	Taylor, J.
Cox	Josephs	Perry	Taylor, R.
Cruz	Keller, W.	Petrarca	Thomas
Curry	Kenney	Petri	Turzai
Daley	Kessler	Petrone	Vereb
DeLuca	Killion	Phillips	Vitali
DePasquale	King	Pickett	Vulakovich
Dermody	Kirkland	Preston	Wagner
DeWeese	Kortz	Pyle	Walko
DiGirolamo	Kotik	Quigley	Wansacz
Donatucci	Kula	Quinn	Waters
Eachus	Leach	Ramaley	Watson
Ellis	Lentz	Rapp	Wheatley
Evans, D.	Levdansky	Raymond	White
Evans, J.	Longiotti	Readshaw	Williams
Everett	Mackereth	Reed	Yewcic
Fabrizio	Mahoney	Reichley	Youngblood
Fairchild	Major	Roae	Yudichak
Fleck	Manderino	Rock	
Frankel	Mann	Roebuck	O'Brien, D., Speaker
Freeman	Markosek	Rohrer	
Gabig	Marshall	Ross	

NAYS—19

Barrar	Denlinger	Maher	Nailor
Bear	Gingrich	Mantz	Schroder
Creighton	Grell	Marsico	Swanger

Cutler	Kauffman	Milne	True
Dally	Keller, M.	Musto	

NOT VOTING—0

EXCUSED—3

Bastian	Perzel	Wojnaroski
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The majority having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

COMMITTEE MEETING POSTPONED

The SPEAKER. For what purpose does the gentlelady, Representative Josephs, rise?

Ms. JOSEPHS. Thank you, Mr. Speaker.

I have to ask the members of the State Government Committee to just disregard my last announcement.

Tomorrow morning at 9 I would like to have an informational meeting only. I do not have at this time a room number. We will try and get that to you as soon as possible. Please call me or e-mail me if you have not heard.

Informational meeting only, House State Government Committee, 9 o'clock. Thank you, Mr. Speaker.

The SPEAKER. There will be a State Government Committee meeting tomorrow at 9 o'clock.

ANNOUNCEMENT BY MISS MAJOR

REPUBLICAN CAUCUS

The SPEAKER. Representative Major.

Miss MAJOR. Thank you, Mr. Speaker.

If I could please have the attention of the Republican members.

The SPEAKER. Members will please take their seats for the purpose of an announcement.

Miss MAJOR. I would like to announce that budget materials will be available in our caucus room this evening at 8:30 for the members to take, and we will caucus tomorrow morning at 8:30 and be prepared to come on the floor at 10.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

VOTE CORRECTION

The SPEAKER. Representative Donatucci. For what purpose does the gentleman rise?

Mr. DONATUCCI. To correct the record, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. DONATUCCI. Thank you.

On SB 246, amendment 2884, I would like to be recorded in the positive.

The SPEAKER. The gentleman's remarks will be spread upon the record.

Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, on unanimous consent?

Mr. Speaker, I would like for—

The SPEAKER. The gentleman is seeking unanimous consent of the House. The Chair sees no objection.

Under the provision of unanimous consent, the gentleman is in order.

Mr. THOMAS. Mr. Speaker, I would like for every member—

The SPEAKER. Before the gentleman proceeds, has he checked with the majority and minority leaders? The gentleman is asked to do that. The gentleman has not asked. He will consult with the majority leader and minority leader.

For what purpose does the gentleman rise?

Mr. THOMAS. Are you saying that as a member of this House, that the only way that I can address the body is that I must go to the majority and minority leaders in order to get permission to speak?

The SPEAKER. The gentleman will suspend. Under the provision of rule 10 – the Chair has explained this to the members on several occasions – rule 10 provides that when a member rises under the provision of unanimous consent, it must be by the unanimous consent of all members. The gentleman's unanimous consent is not to exceed 10 minutes. He or she must confer with the majority and minority leaders, by agreement, to affix the time for that unanimous consent to be granted.

Mr. THOMAS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. A parliamentary inquiry? The gentleman is in order and may proceed.

Mr. THOMAS. Mr. Speaker, I would like to ask if you, along with the members of this House, would give a special thank-you to all of the House staff that have worked last weekend and this weekend and worked late during the week to make sure that we do our work. I think we should extend a special thanks and appreciation to them, and I am asking if you would send something out to do that.

I am also asking that come Tuesday when they are supposed to get paid, that they get paid. Thank you, Mr. Speaker.

The SPEAKER. The gentleman is not stating a point of parliamentary inquiry. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Maher, rise?

Mr. MAHER. Mr. Speaker, if you could educate me as to what section of the rules or precedent or Mason's Manual you were relying on when you refused to recognize members seeking recognition on the McCall motion to suspend the rules?

The SPEAKER. The vote was already on the board. There was nothing in order except the taking of the roll.

Mr. MAHER. Mr. Speaker, I was seeking recognition for an extended period of time before you called for the vote. Is there a rule that you are relying on?

The SPEAKER. The Chair apologizes to the gentleman. No one at the rostrum saw the gentleman.

Mr. MAHER. That is clearly not accurate, Mr. Speaker.

The SPEAKER. The gentleman will suspend. The gentleman is out of order.

RECESS

The SPEAKER. This House will stand in recess to the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

**THE SPEAKER PRO TEMPORE
(MARK B. COHEN) PRESIDING**

The SPEAKER pro tempore. The House will come to order now.

CALENDAR CONTINUED**BILL ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 1610, PN 2126**, entitled:

An Act amending the act of July 9, 1990 (P.L.340, No.78), known as the Public Safety Emergency Telephone Act, further defining "contribution rate"; and further providing for county plan and expenditures.

On the question,
Will the House agree to the bill on second consideration?

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HB 1610 be placed on the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HB 1610 be removed from the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 1287, PN 2172**, entitled:

An Act making appropriations from the restricted revenue accounts within the State Gaming Fund and from the State Gaming Fund to the Pennsylvania Gaming Control Board, the Department of Revenue, the Pennsylvania State Police and the Attorney General for

the fiscal year beginning July 1, 2007, to June 30, 2008, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2007.

On the question,
Will the House concur in Senate amendments?

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HB 1287 be placed on the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that HB 1287 be removed from the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations: HB 1320 and SB 246.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS REREPORTED FROM COMMITTEE

SB 798, PN 1311 (Amended) By Rep. D. EVANS

An Act providing for the capital budget for the fiscal year 2007-2008; itemizing public improvement projects and furniture and equipment projects to be constructed or acquired or assisted by the Department of General Services, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed, acquired or assisted by the Department of General Services; stating the estimated useful life of the projects; providing for special provisions for certain projects; and making appropriations.

APPROPRIATIONS.

SB 929, PN 1312 (Amended) By Rep. D. EVANS

A Supplement to the act of April 1, 1863 (P.L.213, No.227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

SB 930, PN 1313 (Amended) By Rep. D. EVANS

A Supplement to the act of July 28, 1966 (3rd Sp.Sess., P.L.87, No.3), known as the University of Pittsburgh—Commonwealth Act, making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

SB 931, PN 1114 By Rep. D. EVANS

A Supplement to the act of November 30, 1965 (P.L.843, No.355), known as the Temple University—Commonwealth Act, making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

SB 932, PN 1115 By Rep. D. EVANS

A Supplement to the act of July 7, 1972 (P.L.743, No.176), known as the Lincoln University—Commonwealth Act, making an appropriation for carrying the same into effect; providing for a basis for payments of the appropriation; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

APPROPRIATIONS.

SB 933, PN 1116 By Rep. D. EVANS

An Act making an appropriation to the Trustees of Drexel University, Philadelphia.

APPROPRIATIONS.

SB 934, PN 1314 (Amended) By Rep. D. EVANS

An Act making appropriations to the Trustees of the University of Pennsylvania.

APPROPRIATIONS.

SB 935, PN 1118 By Rep. D. EVANS

An Act making appropriations to the Philadelphia Health and Education Corporation for the Colleges of Medicine, Public Health, Nursing and Health Professions and for continuation of pediatric services.

APPROPRIATIONS.

SB 936, PN 1119 By Rep. D. EVANS

An Act making appropriations to the Thomas Jefferson University, Philadelphia.

APPROPRIATIONS.

SB 937, PN 1120 By Rep. D. EVANS

An Act making an appropriation to the Philadelphia College of Osteopathic Medicine, Philadelphia.

APPROPRIATIONS.

SB 938, PN 1121

By Rep. D. EVANS

An Act making an appropriation to the Pennsylvania College of Optometry, Philadelphia.

APPROPRIATIONS.

SB 939, PN 1122

By Rep. D. EVANS

An Act making an appropriation to the University of the Arts, Philadelphia, for instruction and student aid.

APPROPRIATIONS.

SB 940, PN 1123

By Rep. D. EVANS

An Act making appropriations to the Trustees of the Berean Training and Industrial School at Philadelphia for operation and maintenance expenses.

APPROPRIATIONS.

SB 941, PN 1124

By Rep. D. EVANS

An Act making an appropriation to the Johnson Technical Institute of Scranton for operation and maintenance expenses.

APPROPRIATIONS.

SB 942, PN 1125

By Rep. D. EVANS

An Act making an appropriation to the Williamson Free School of Mechanical Trades in Delaware County for operation and maintenance expenses.

APPROPRIATIONS.

SB 943, PN 1126

By Rep. D. EVANS

An Act making an appropriation to the Lake Erie College of Osteopathic Medicine, Erie.

APPROPRIATIONS.

SB 944, PN 1127

By Rep. D. EVANS

An Act making an appropriation to the Fox Chase Institute for Cancer Research, Philadelphia, for the operation and maintenance of the cancer research program.

APPROPRIATIONS.

SB 945, PN 1128

By Rep. D. EVANS

An Act making an appropriation to the Wistar Institute, Philadelphia, for operation and maintenance expenses and for AIDS research.

APPROPRIATIONS.

SB 946, PN 1129

By Rep. D. EVANS

An Act making an appropriation to the Central Penn Oncology Group.

APPROPRIATIONS.

SB 947, PN 1315 (Amended) By Rep. D. EVANS

An Act making an appropriation to the Lancaster Cleft Palate for outpatient-inpatient treatment.

APPROPRIATIONS.

SB 948, PN 1131 By Rep. D. EVANS

An Act making an appropriation to the Burn Foundation, Philadelphia, for outpatient and inpatient treatment.

APPROPRIATIONS.

SB 950, PN 1132 By Rep. D. EVANS

An Act making an appropriation to The Children's Institute, Pittsburgh, for treatment and rehabilitation of certain persons with disabling diseases.

APPROPRIATIONS.

SB 951, PN 1133 By Rep. D. EVANS

An Act making an appropriation to The Children's Hospital of Philadelphia for comprehensive patient care and general maintenance and operation of the hospital.

APPROPRIATIONS.

SB 952, PN 1134 By Rep. D. EVANS

An Act making an appropriation to the Beacon Lodge Camp.

APPROPRIATIONS.

SB 953, PN 1316 (Amended) By Rep. D. EVANS

An Act making appropriations to the Carnegie Museums of Pittsburgh for operations and maintenance expenses and the purchase of apparatus, supplies and equipment.

APPROPRIATIONS.

SB 954, PN 1317 (Amended) By Rep. D. EVANS

An Act making an appropriation to the Franklin Institute Science Museum for maintenance expenses.

APPROPRIATIONS.

SB 955, PN 1318 (Amended) By Rep. D. EVANS

An Act making an appropriation to the Academy of Natural Sciences for maintenance expenses.

APPROPRIATIONS

SB 956, PN 1319 (Amended) By Rep. D. EVANS

An Act making an appropriation to the African-American Museum in Philadelphia for operating expenses.

APPROPRIATIONS.

SB 957, PN 1320 (Amended) By Rep. D. EVANS

An Act making an appropriation to the Everhart Museum in Scranton for operating expenses.

APPROPRIATIONS.

SB 958, PN 1321 (Amended) By Rep. D. EVANS

An Act making an appropriation to the Mercer Museum in Doylestown, Pennsylvania, for operating expenses.

APPROPRIATIONS.

SB 959, PN 1322 (Amended) By Rep. D. EVANS

An Act making an appropriation to the Whitaker Center for Science and the Arts in Harrisburg, Pennsylvania, for operating expenses.

APPROPRIATIONS.

The SPEAKER pro tempore. Thank you. Those bills will be placed on the active calendar.

REPORT OF COMMITTEE OF CONFERENCE PRESENTED

Mr. DeWEESE presented the report of the committee of conference on **HB 1286, PN 2346**.

The SPEAKER pro tempore. The report will be placed on the calendar.

SENATE MESSAGE

AMENDED SENATE BILL RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives by amending said amendments to **SB 623, PN 1324**.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

SENATE MESSAGE

AMENDED HOUSE BILLS RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 1203, PN 2343; HB 1590, PN 2342; and HB 1656, PN 2341**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

**THE SPEAKER (DENNIS M. O'BRIEN)
PRESIDING**

**MOTION INSISTING UPON
NONCONCURRENCE
IN SENATE AMENDMENTS**

The SPEAKER. The Chair recognizes Representative Dwight Evans, who moves that the House insist on its nonconcurrence in the amendments made by the Senate to HB 842, PN 2169, and that a committee of conference on the part of the House be appointed.

On the question,
Will the House agree to the motion?
Motion was agreed to.

CONFERENCE COMMITTEE APPOINTED

The SPEAKER. The Chair appoints as a committee of conference on the part of the House on HB 842, PN 2169: Messrs. D. EVANS, ROEBUCK, and STAIRS.
Ordered, That the clerk inform the Senate accordingly.

CONFERENCE COMMITTEE MEETING

The SPEAKER. The committee of conference will meet at 10 p.m. in the majority caucus room.

Once again, the Speaker appoints a committee of conference on the part of the House: the gentlemen, Representative Dwight Evans, Representative Roebuck, and Representative Stairs. The conference committee will meet at 10 p.m. in the majority caucus room.

RECESS

The SPEAKER. The House will stand in recess until the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

SENATE MESSAGE

**SENATE INSISTS ON AMENDMENTS
NONCONCURRED IN BY HOUSE**

The clerk of the Senate, being introduced, informed that the Senate has insisted upon its amendments nonconcurring in by the House of Representatives to **HB 842, PN 2169**, and has appointed Senators PILEGGI, ARMSTRONG, and MUSTO, to a committee of conference on behalf of the Senate to confer with a similar committee of the House of Representatives (already appointed Representatives D. EVANS, ROEBUCK, and STAIRS) on the subject of the differences existing between the two Houses in relation to said bill.

CONFERENCE COMMITTEE MEETING

The SPEAKER. The Chair announces that the Committee of Conference on HB 842 will convene at 10:30 p.m. in the majority caucus room.

BILL RETURNED TO SENATE

The SPEAKER. The Chair recognizes the majority leader, who moves to return HB 1590 to the Senate, which was sent to the House in error.

On the question,
Will the House agree to the motion?
Motion was agreed to.

SENATE MESSAGE

**AMENDED HOUSE BILL RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES**

The clerk of the Senate, being introduced, returned **HB 1295, PN 2239**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

RECESS

The SPEAKER. The House will stand in recess until the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

**REPORT OF COMMITTEE
OF CONFERENCE PRESENTED**

Mr. D. EVANS presented the report of the committee of conference on **HB 842, PN 2347**.

The SPEAKER. The bill will be placed on the active calendar.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. The Chair recognizes Representative Matt Smith from Allegheny County, who moves this House do now adjourn until Monday, July 16, 2007, at 10 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 10:50 p.m., e.d.t., the House
adjourned.