

No. 1992-62

AN ACT

HB 1970

Amending the act of May 23, 1945 (P.L.926, No.369), entitled, as amended, "An act for the protection of the public health by regulating the conduct and operation of public eating and drinking places within this Commonwealth; requiring their licensing; imposing certain duties on the Department of Environmental Resources of this Commonwealth and on the local health authorities; and providing penalties," providing for certain definitions relating to bed and breakfast homestead or inn; and further providing for licenses.

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

Section 1. Sections 1 and 2 of the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, amended December 22, 1989 (P.L.787, No.111), are amended to read:

Section 1. Definitions.—"Department" shall mean the Department of Environmental Resources of the Commonwealth.

The words "public eating or drinking place" shall mean any place within this Commonwealth where food or drink is served to or provided for the public, with or without charge: Provided, however, That nothing herein contained shall apply to dining cars operated by a railroad company in interstate commerce *or a bed and breakfast homestead or inn.*

The word "proprietor" shall mean any person, partnership, association or corporation, conducting or operating within this Commonwealth, a public eating or drinking place.

The word "employee" shall include any cook, waiter, kitchen help, chambermaid, house servant or other employe of any kind in a public eating or drinking place, who in any manner whatever, handles or comes in contact with any food or drink served to or provided for the public, and the proprietor or any member of the proprietor's family who handles said food or drink.

"License" shall mean a grant to a licensee to conduct a restaurant, as defined in this act.

"Licensor" shall mean the county department of health or joint-county department of health, whenever such public eating or drinking place is located in a political subdivision which is under the jurisdiction of a county department of health or joint-county department of health, or the health authorities of cities, boroughs, incorporated towns and first-class townships, whenever such public eating or drinking place is located in a city, borough, incorporated town or first-class township not under the jurisdiction of a county department of health or joint-county department of health, or the health authorities of second class townships and second class townships which have adopted a home rule charter which elect to issue licenses under the provisions of this act whenever such public eating and drinking place is

located in such a second class township or second class township which has adopted a home rule charter not under the jurisdiction of a county department of health or joint-county department of health, or the Department of Environmental Resources, whenever such public eating or drinking place is located in any other area of the Commonwealth.

The words "bed and breakfast homestead or inn" shall mean a private residence which contains ten or fewer bedrooms used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room.

Section 2. From and after a period of six months after the effective date of this act, it shall be unlawful for any proprietor to conduct or operate a public eating or drinking place without first obtaining a license for each establishment, as herein provided. Such license shall be issued by the health authorities of cities, boroughs, incorporated towns and first-class townships, and, if electing to issue licenses under this act, second class townships and second class townships which have adopted a home rule charter, whenever such public eating or drinking place is located in a city, borough, incorporated town or township not under the jurisdiction of a county department of health or joint-county department of health, or by the county department of health or joint-county department of health whenever such public eating or drinking place is located in a political subdivision which is under the jurisdiction of a county department of health or joint-county department of health, or in those townships of the second class which are not under the jurisdiction of a county department of health or joint-county department of health and which do not elect to issue licenses under this act, by the department. No license shall be issued until inspection of the premises, facilities and equipment has been made by the licensor, and they are found adequate to the protection of the public health and comfort of patrons. *No license shall be issued until the proprietor exhibits proof that he has applied for or received a sales and use tax license or exemption certificate from the Department of Revenue.* The fee for such license shall be one dollar (\$1.00) or as established by ordinance of the governing body or by State law and shall be paid into the city, borough, incorporated town, township or county treasury, or to the State Treasury through the Department of Revenue, depending upon the location of such public eating or drinking place. The license shall be renewed annually.

Whenever any proprietor maintains more than one public eating or drinking place within the Commonwealth, he shall be required to apply for and procure a license for each eating or drinking place.

Section 2. This act shall take effect in 60 days.

APPROVED—The 25th day of June, A. D. 1992.

ROBERT P. CASEY