

## No. 1978-315

## AN ACT

## HB 2654

To promote the general welfare, to protect the public and to encourage full and proper utilization of public facilities by requiring that all public bodies include in all contracts granting concessions, licenses, permits, or other rights to sell, lease, contract for or otherwise make available for consideration, goods or services to the public in any public facility, provisions giving the public agency the right to regulate the kinds, quality and prices of such goods and services.

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

Section 1. Short title.

This act shall be known and may be cited as the "Public Facilities Concession Regulation Act."

Section 2. Legislative findings.

It is hereby determined by the General Assembly of Pennsylvania and declared as a matter of legislative findings that:

(1) It is and has been the policy of the Commonwealth to require and encourage public agencies to own and operate a variety of public facilities for the conduct of public business, and for the health, education, protection, transportation, recreation, entertainment, and cultural advancement of the people of the Commonwealth.

(2) It is and has been the policy of the Commonwealth to promote the public welfare by permitting the operation, within such public facilities, of various concessions to provide goods and services to the public.

(3) Due to the nature, configuration and location of many such public facilities, members of the public utilizing the same must either patronize the concessionaires operating therein or undergo great expense, inconvenience and hardship.

(4) The general welfare of the people of the Commonwealth requires that concessionaires operating in public facilities offer to the public goods and services of good quality at reasonable prices.

The General Assembly therefore declares it to be the policy of the Commonwealth of Pennsylvania that all public officers and agencies should, at all times, make efforts to see that concessionaires in public facilities provide goods and services of high quality, at reasonable prices, in order to protect the public and encourage use of such facilities.

Section 3. Act exercise of police power.

This act shall be deemed to be an exercise of the police powers of the Commonwealth for the protection of the health, safety and general welfare of the people of the Commonwealth.

Section 4. Definitions.

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

“Public agency.”

(1) the Commonwealth and its departments, boards, commissions and agencies;

(2) counties, cities, boroughs, townships, school districts, and all other governmental units and districts;

(3) the State Public School Building Authority, the State Highway and Bridge Authority, and any other authority now in existence or hereafter created or organized by the Commonwealth;

(4) all municipal or school or other authorities now in existence or hereafter created or organized by any county, city, borough, township or school district or combination thereof; and

(5) any and all other public bodies, authorities, officers, agencies or instrumentalities, whether exercising a governmental or proprietary function.

“Public facility.” Any building, airport, school, park, hospital or other structure, grounds or place owned or operated by a public agency, whether for governmental or proprietary use.

Section 5. Terms of contracts.

(a) Every public agency shall require that every contract entered into after the effective date of this act, granting any concession, license, permit or right to sell, lease, contract for, or otherwise make available for consideration, goods or services to the public in any public facility, contain provisions giving the public agency the right to regulate the kinds, quality and prices of such goods and services, upon such terms and conditions as may be appropriate.

(b) This section is not intended to apply in any case where the right to regulate price or quality is vested exclusively in or has been preempted by the United States of America or any agency thereof or another public agency; nor shall it apply in any case where the head of the public agency, in writing, determines that the retention of the right to regulate is not necessary to protect the general welfare.

Section 6. Construction.

This act is intended as remedial legislation designed to promote the general welfare, protect the public, and encourage full and proper use of public facilities, and each and every provision hereof is intended to receive a liberal construction such as will best effectuate those purposes, and no provision is intended to receive a strict or limited construction.

Section 7. Certain rights preserved.

This act is not intended to limit or deny any other rights heretofore enjoyed by any public agency.

Section 8. Repealer.

All acts or parts of acts are repealed insofar as they are inconsistent herewith.

Section 9. Effective date.

This act shall take effect immediately.

APPROVED—The 26th day of November, A. D. 1978.

MILTON J. SHAPP