

## No. 1990-182

## AN ACT

## HB 1220

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," further providing for the powers and duties of the coroner; further providing for the tax on hotel room rentals; further providing for appropriations to tourist promotion agencies; and making an editorial change.

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

Section 1. The act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is amended by adding a section to read:

**Section 1235.1. Requests for Examinations and Reports.—**  
**(a) Requests for examinations or other professional services by other counties or persons may be complied with at the discretion of the coroner pursuant to guidelines established by the county commissioners.**

**(b) A set of fees and charges for such examinations or professional services shall be established by the coroner, subject to approval by the county commissioners, and shall be accounted for and paid to the county treasurer pursuant to section 1960. Payment for examinations or professional services shall be the responsibility of the county or person requesting such services.**

**(c) The coroner may charge and collect a fee of up to one hundred dollars (\$100) for each autopsy report, up to fifty dollars (\$50) for each toxicology report, up to fifty dollars (\$50) for each inquisition or coroner's report and such other fees as may be established from time to time for other reports and documents requested by nongovernmental agencies. The fees collected shall be accounted for and paid to the county treasurer pursuant to section 1960 and shall be used to defray the expenses involved in the county complying with the provisions of the act of March 2, 1988 (P.L.108, No.22), referred to as the Coroners' Education Board Law.**

Section 2. Sections 1236, 1237, 1238, 1239 and 1243 of the act are amended to read:

Section 1236. Coroner's Investigations.—**(a) The coroner having a view of the body shall investigate the facts and circumstances concerning deaths which appear to have happened within the county, regardless where the cause thereof may have occurred, for the purpose of determining whether or not an autopsy should be conducted or an inquest thereof shall be had, in the following cases: [(1) Any sudden, as hereafter defined, violent or suspicious death, (2) any death wherein no cause of death is properly certified by a person duly authorized thereof, (3) any death resulting from a mine accident, as directed by law, (4) deaths resulting from drownings, cave-ins and subsidences, (5) any stillbirth, or the death of any baby dying within twenty-four hours after its birth, and, in addition thereto, (6) the death of**

any prematurely born infant, wherein the cause of death is not properly certified by a person duly authorized thereto.

The purpose of the investigation shall be to determine whether or not there is any reason sufficient to the coroner to believe that any such death may have resulted from the criminal acts or criminal neglect of persons other than the deceased, rather than from natural causes or by suicide.]

*(1) sudden deaths not caused by readily recognizable disease or wherein the case of death cannot be properly certified by a physician on the basis of prior (recent) medical attendance;*

*(2) deaths occurring under suspicious circumstances, including those where alcohol, drugs or other toxic substances may have had a direct bearing on the outcome;*

*(3) deaths occurring as a result of violence or trauma, whether apparently homicidal, suicidal or accidental (including, but not limited to, those due to mechanical, thermal, chemical, electrical or radiational injury, drowning, cave-ins and subsidences);*

*(4) any death in which trauma, chemical injury, drug overdose or reaction to drugs or medication or medical treatment, was a primary or secondary, direct or indirect, contributory, aggravating or precipitating cause of death;*

*(5) operative and peri-operative deaths in which the death is not readily explainable on the basis of prior disease;*

*(6) any death wherein the body is unidentified or unclaimed;*

*(7) deaths known or suspected as due to contagious disease and constituting a public hazard;*

*(8) deaths occurring in prison, a penal institution or while in the custody of the police;*

*(9) deaths of persons whose bodies are to be cremated, buried at sea or otherwise disposed of so as to be thereafter unavailable for examination;*

*(10) sudden infant death syndrome; and*

*(11) stillbirths.*

*(b) The purpose of the investigation shall be to determine the cause of any such death and to determine whether or not there is sufficient reason for the coroner to believe that any such death may have resulted from criminal acts or criminal neglect of persons other than the deceased.*

*(c) As part of this investigation, the coroner shall determine the identity of the deceased and notify the next of kin of the deceased.*

Section 1237. [Inquest; Autopsy; Coroner's Duties; Records.—If, upon the investigation by the coroner, he shall not be satisfied thereby that the death resulted from natural causes or by suicide, he shall proceed to conduct an inquest upon a view of the body, as provided by law. In the conduct of the inquest, the coroner may require such an autopsy as may be necessary, in accordance with law. At the inquest, the coroner's duty shall be to ascertain the cause of death and whether any person other than the deceased was criminally responsible therefor by act or neglect, and if so, the identity of the person, and any further evidence and witnesses regarding the crime. The proceedings at the inquest shall be recorded, at the expense of the county, in a

manner to be provided by the county commissioners, and any salary that may be required for this purpose shall be fixed by the salary board.] *Autopsy; Inquest; Records.*—(a) *If, upon investigation, the coroner shall be unable to determine the cause and manner of death, he shall perform or order an autopsy on the body.*

(b) *If the coroner is unable to determine the cause and manner of death following the autopsy, he may conduct an inquest upon a view of the body, as provided by law. At the inquest, the coroner's duty shall be to ascertain the cause of death, to determine whether any person other than the deceased was criminally responsible therefor by act or neglect and, if so, the identity of the person, and to examine any further evidence and witnesses regarding the cause of death.*

(c) *The proceedings at the inquest shall be recorded, at the expense of the county, in a manner to be provided by the county commissioners.*

Section 1238. Sudden Deaths Defined.—The coroner shall regard any death as sudden if it occurs without prior medical attendance by a person who may lawfully execute a certificate of death in this Commonwealth, or if, within twenty-four hours of death, the decedent was discharged from such medical attendance or a change of such medical attendance had occurred, or if any such medical attendance began within twenty-four hours of death and the medical attendant refuses or is unable to certify the cause of death. Medical attendance includes hospitalization.

The provisions of this section shall not be construed to affect the coroner's discretion as to whether or not any death was suspicious, nor shall they be construed to authorize a coroner to investigate a sudden death any further than necessary to [~~convince him that the death was from natural causes and not from any criminal act or neglect of another~~] *determine the cause and manner of death.*

Section 1239. Bodies Not to be Moved.—In all cases where the coroner has jurisdiction to investigate the facts and circumstances of death, the body and its surroundings shall be left untouched until the coroner has had a view thereof [~~and~~] *or* until he shall otherwise direct or authorize, except as may be otherwise provided by law, or as circumstances may require. Bodies upon a public thoroughfare or in other places may be removed so much as is necessary for precaution against traffic accidents or other serious consequences which might reasonably be anticipated if they were left intact.

Section 1243. Power of Subpoena and Attachment.—The coroner shall have power to issue subpoenas to obtain the attendance of any person whom it may be necessary to examine as a witness at any inquest, and to compel attendance by attachment in like manner and to the same extent as any court of [~~oyer and terminer and general jail delivery~~] *common pleas* of this Commonwealth may or can do in cases pending before them, and also to compel in like manner the production of all papers and other things relative to such inquest. Such subpoena and attachment shall be served and executed by the sheriff or by the coroner himself or his deputy, as the case may require.

Section 3. The act is amended by adding sections to read:

**Section 1243.1. Inquests; Juries.—(a) The coroner may at his discretion summon a jury of six to be selected from the jury panels of the court of common pleas.**

**(b) The function of such jury shall be to determine the manner of death and whether any criminal act or neglect of persons known or unknown caused such death. Such jury shall be paid as provided by law as if they were serving the court of common pleas.**

**Section 1250. Anatomical Gifts.—The coroner may order the removal of parts of a decedent's body for donation purposes in accordance with 20 Pa.C.S. Ch. 86 (relating to anatomical gifts).**

Section 4. Section 1970.2 of the act, reenacted and amended February 14, 1986 (P.L.11, No.5), is amended to read:

Section 1970.2. Hotel Room Rental.—(a) The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings ascribed to them in this section:

“Consideration,” receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

“Convention center or exhibition hall,” a building or series of buildings not used for the retail sale of merchandise or part of any shopping center, mall or other retail center together with any land appurtenant thereto, a major function of which is to house meetings, exhibitions, shows, conventions, assemblies, convocations, and similar gatherings: Provided, That one of the aforesaid buildings shall contain a minimum of seventy-five thousand (75,000) gross square feet of exhibition space for shows and conventions.

“Cooperating political subdivision or agency of government,” any city or public authority located in such county within whose boundaries a convention center or exhibition hall is planned or constructed which shares with the county any duties, obligations or privileges with respect to the convention center situated therein.

“Hotel,” a hotel, motel, inn, guest house, or other building located within the taxing jurisdiction which holds itself out by any means including advertising, license, registration with any innkeeper's group, convention listing association, travel publication or similar association or with any government agency as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry: Provided, That portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition.

“Municipality,” a township, borough or a home rule municipality which was formerly a township or borough.

“Occupancy,” the use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

“Operator,” any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of, or otherwise possess the right to rent or lease overnight accommodations in any hotel to the public for consideration.

“Operating deficit,” the excess of expenses over receipts from the operation and management of a convention center or exhibition hall.

“Patron,” any person who pays the consideration for the occupancy of a room or rooms in a hotel.

“Permanent resident,” any person who has occupied or has the right to occupancy of any room or rooms in a hotel as a patron or otherwise for a period exceeding thirty (30) consecutive days.

“Recognized tourist promotion agency,” the nonprofit corporation, organization, association or agency which is and has been engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties served by such agencies as that term is defined in the act of April 28, 1961 (P.L.111, No.50), known as the “Tourist Promotion Law,” and which particular nonprofit corporation, organization, association or agency heretofore has been recognized by the Department of Commerce all in accordance with the terms of said “Tourist Promotion Law.”

*“Regional tourist promotion activities,” services, activities, facilities and events which result in a significant number of nonresidents visiting a county of the second class for recreational, cultural or educational purposes.*

“Room,” a space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation provided therein.

“Temporary,” a period of time not exceeding thirty (30) consecutive days.

“Transaction,” the activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

“Transient,” any individual who obtains accommodation in any hotel for himself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the operator of the facility a fee in consideration therefor.

(b) The county commissioners in each county of the second class are hereby authorized to impose an excise tax at **[three per centum (3%)] five per centum (5%)** on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients. The county commissioners in each county of the second class A are hereby authorized to impose an excise tax not to exceed three per centum (3%) on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the county as herein provided.

*(b.1) The treasurer of each county of the second class electing to impose the tax authorized under this section is hereby directed to collect the tax and*

*to deposit the revenues received from the tax in a special fund. The revenues shall be distributed by the county commissioners as follows:*

*(1) Two-fifths (2/5) of all revenues received by the county from the excise tax shall be distributed to a tourist promotion agency pursuant to section 2199.14.*

*(2) One-third (1/3) of the five per centum (5%) excise tax collected by hotels within a municipality wherein a convention center or exhibition hall is located (less the cost of collecting the tax) shall, at the request of such municipality, be returned to that municipality wherein such convention center or exhibition hall is located, for deposit in that municipality's special fund established solely for purposes of paying for promotional programs implemented by a nonprofit organization which are designed to stimulate and increase the volume of conventions and visitors within the municipality: Provided, however, That an audited report on the income and expenditures incurred by the municipality receiving funds from the excise tax on hotel room rentals shall be made annually to the board of county commissioners; And provided further, That the members of the board of directors or other governing body of the nonprofit organization utilized by the municipality to provide the aforementioned promotional programs be appointed by the governing body of the municipality.*

*(3) All remaining revenues from the five per centum (5%) excise tax received by the county, less a five per centum (5%) fee for collecting the tax, shall be used for operational and maintenance expenditures of the convention center or exhibition hall as provided in subsection (d) and for regional tourist promotion activities.*

*(c) The treasurer of each county of the second class A electing to impose the tax authorized under this section is hereby directed to collect the tax [and in counties of the second class to deposit the revenues received from the tax in a special fund established solely for purposes of a convention center or exhibition hall. The revenues shall be distributed as follows:*

*(1) One-third (1/3) of all revenues received by the county from the excise tax shall be distributed to a tourist promotion agency pursuant to section 2199.14.*

*(2) One-third (1/3) of the three per centum (3%) excise tax collected by hotels within a municipality wherein a convention center or exhibition hall is located (less the cost of collecting the tax) shall, at the request of such municipality, be returned to that municipality wherein such convention center or exhibition hall is located, for deposit in that municipality's special fund established solely for purposes of paying for promotional programs implemented by a nonprofit organization which are designed to stimulate and increase the volume of conventions and visitors within the municipality: Provided, however, That an audited report on the income and expenditures incurred by the municipality receiving funds from the excise tax on hotel room rentals shall be made annually to the board of county commissioners.*

*(3) All remaining revenues from the three per centum (3%) excise tax received by the county shall be used exclusively for operational and main-*

**tenance expenditures of the convention center or exhibition hall as provided in subsection (d).**

**In counties of the second class A the revenues shall be deposited] and to deposit the revenues** in a special fund established solely for purposes of travel and tourism promotion and advertising related to such promotion. The treasurer is hereby authorized to establish rules and regulations concerning the collection of the tax.

(d) In counties of the second class, expenditures from the fund established pursuant to subsection [(c)] (b.1) shall be used for all purposes which a public authority may determine to be reasonably necessary to the support, operation and maintenance of a convention center or exhibition hall, including but not limited to the following:

(1) advertising and publicizing tourist attractions in the area served by the agency;

(2) promoting and otherwise encouraging the use of the facilities in the area served by the agency by the public as a whole;

(3) promoting and attracting conventions, exhibitions and other functions to utilize facilities in the area served by the agency;

(4) precompletion advertising and publicizing of any convention center or exhibition hall;

(5) promoting and attracting conventions, exhibitions and other functions to utilize the convention center or exhibition hall;

(6) promoting and otherwise encouraging the use of the premises by the public as a whole, or any segment thereof;

(7) operating, furnishing and otherwise maintaining and equipping the premises and realty appurtenant thereto;

(8) furnishing and equipping the building and grounds. It is the intention of this section that the receipts from any tax imposed pursuant to the provisions of this act be used in counties of the second class to offset the entire operating deficit, if any, of any convention center or exhibition hall including, equally, shares of any cooperating political subdivision or agency of government incurred pursuant to any agreement presently existing or executed hereafter. The operating deficit shall be determined by any public authority which is the designated operating agency of any convention center or exhibition hall.

(d.1) In counties of the second class A, expenditures from the fund established pursuant to subsection (c) shall be annually appropriated by the county commissioners for tourist promotion activities, to be executed by the designated tourist promotion agency for:

(1) marketing the area served by the agency as a leisure travel destination;

(2) marketing the area served by the agency as a convention and business travel destination;

(3) marketing the area served by the agency to the public as a whole for use of its tourist and convention facilities;

(4) using all appropriate marketing tools to accomplish these purposes, including advertising, publicity, publications, direct marketing, direct sales, participation in travel trade shows, etc.

The county commissioners may deduct from the funds collected any direct or indirect costs attributable to the collection of the tax.

(e) (1) The provisions of this section relating to counties of the second class shall remain in force from year to year. Revenues in excess of amounts needed to offset operating deficits shall be determined by the public authority and may be accumulated, and any revenues may be used to provide part or all of any annual payment to be paid by a county or a political subdivision under any agreement with any public authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," which has been designated as the operating agency for a convention center or exhibition hall in support of bonds issued by the public authority; or to effect necessary expansion or further capital improvements, within the discretion of the cooperating political subdivisions and the public authority.

(2) The provisions of this section relating to counties of the second class A shall remain in force and effect for three (3) years from the date of this reenactment and may be continued thereafter by ordinance or resolution of the county commissioners of the respective counties.

(f) Each tax year for any tax imposed hereunder shall run concurrently with the calendar year.

Section 5. Section 2199.14(a) of the act, amended December 10, 1982 (P.L.1079, No.252), is amended to read:

Section 2199.14. Appropriations to Tourist Promotion Agencies.—

(a) (1) The board of commissioners of any county of the second class shall appropriate annually a portion of the funds derived from the excise tax on hotel room rentals to the recognized tourist promotion agency operating within the county. Such funds shall represent **[one third (1/3)] two-fifths (2/5)** of the revenues received by the county from the excise tax levied on hotel room rentals as authorized by section 1970.2.

(2) Moneys received by the tourist promotion agency shall be limited to promotional programs designed to stimulate and increase the volume of conventions and visitors within the county.

(3) An audited report on the income and expenditures incurred by the tourist promotion agency receiving funds from the excise tax on hotel room rentals shall be made annually to the board of county commissioners.

**(4) *The county controller of a county of the second class may conduct audits of the funds used by a recognized tourist promotion agency received from the excise tax levied on hotel room rentals.***

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Section 6. This act shall take effect in 60 days.

APPROVED—The 17th day of December, A. D. 1990.

ROBERT P. CASEY