

Resolution of the City of Atlantic City

No. 446

Approved as to Form and Legality on Basis of Facts Set Forth
by

Factual contents certified to

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Prepared by Legislative

Council Members ALL COUNCIL Present the following Resolution:

WHEREAS, the City Council of the City of Atlantic City received testimony calling for the implementation and protections of the New Jersey Smoke Free Air Act (the “Act”) (N.J.S.A. 26:3D-55) to be applied to public places and places of employment; and

WHEREAS, the legislature through the January 15, 2006 approval of the “Act” sought to preserve and advance the public health and welfare of those within the State of New Jersey; and

WHEREAS, the “Act”, within N.J.S.A. 26:3D-59 pronounced “AREA AND BUSINESSES EXEMPT FROM SMOKING RESTRICTION.” Therein, (e)(1) specifically exempted casino floors by stating “*any casino as defined in Section 6 of P.L. 1977, C.110 C.5:12-6 approved by the Casino Control Commission that contains at least 150 stand – alone slot machines, ten table games or some combination thereof approved by the Commission, which machines and games are available to the public for wagering*”; and

WHEREAS, the Act, within N.J.S.A. 26:3D-59(e)(2) further exempted simulcasting facilities by stating that the provisions of the “Act” shall not apply to “*any casino simulcasting facility approved by the Casino Control Commission pursuant to Section 4 of P.L. 1992, C.19 (C.5:12-194) that contains a simulcast counter and dedicated seating for at least 50 simulcast patrons or a simulcast operation and at least ten table games, which simulcast facilities and games are available to the public for wagering*”; and

WHEREAS, Subsection 63 of the “Act” provides that “*the provisions of this Act shall supersede any other statute, Municipal Ordinance and rule or regulation adopted pursuant to law concerning smoking in an indoor public place or workplace, except where smoking is prohibited by Municipal Ordinance under authority of R.S.40:48-1 or 40:48-2, or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire or protecting public health, and except for those provisions of a*

Municipal Ordinance which provide restrictions on or prohibitions against smoking equivalent to, or greater than, those provided under this Act."

WHEREAS, Council found that as a result of Subsection 63 of the "Act", it was empowered to create legislation to preserve and advance the public health by implementing legislation greater than that provided by the "Act"; and

WHEREAS, on February 15, 2007, City Council adopted Ordinance #86, which prohibited smoking in various enclosed public places and public areas of employment. It was also decided by City Council, pursuant to Ordinance #86, not to regulated smoking in various places, such as Gaming Floors within licensed casino hotel facilities; and

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WHEREAS, the City Council sought to reach a amicable agreement by including a provision in Ordinance #86 which states that not more than twenty-five percent (25%) of such Gaming Floor, as particularly determined by the Casino license operator of the casino hotel facility within which the Gaming Floor is located, may be so designated (as a smoking area and therefore exempt from regulation); and further provided (1) that the exempt areas so designated shall be (a) enclosed by solid walls or windows, a ceiling and a solid door; and (b) equipped with a ventilation system separately exhausted from the nonsmoking areas of the casino hotel facility so that air from the exempt areas is not recirculated to and smoke is not back streamed into such nonsmoking areas; (2) that the casino licensee operator, not later than five months from the effective date of this Ordinance, submits plans for such designated exempt areas to the New Jersey Department of Community Affairs and such other government agencies as may be necessary and, not later than ninety (90) days from receipt of all such approvals as may be necessary, commences and thereafter expeditiously completes the construction of such separately ventilated enclosures; and (3) that, during the pendency of the design and construction of such exempt area enclosures, not more than the above stated percentage of such Gaming Floor, as particularly determined by the casino licensee operator, may, without such enclosures, be so designated as exempt; and

WHEREAS, prior to passing Ordinance #86 with the 25% Casino Floor exemption, City Council was assured that casino employees would be selected to work in the designated smoking areas on a volunteer basis only, that no employee would be forced to work in the smoking area and that casino operators were already in possession of a list of volunteers to work in the designated 25% smoking areas; and

WHEREAS, at the May 9, 2007 City Council meeting, members of the community

and individuals representing various special interest groups expressed concern for the health and safety of casino workers who they indicate are scheduled to work in the smoking areas of the casinos; and

WHEREAS, it was brought to the attention of City Council that there is no list of persons volunteering to work in the designated smoking areas and as a result, employees are required to work in heavily concentrated smoking areas; and

WHEREAS, the reduction of smoking areas from 100% of the casino floor down to a concentrated area of 25% places a greater burden on the employees who are forced to work in the smoking areas; and

WHEREAS, members of the community begged City Council to reconsider Ordinance #86 and either make the Casino Floor 100% smoke free or to revert back and make it a 100% smoking environment for the good of the employees; and

WHEREAS, members of City Council were acting in the best interest of the community upon adopting Ordinance #86 but after hearing comments from the public, Council is of the belief that the New Jersey State Legislature must intervene and address this serious matter.

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NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Atlantic City, that said Council hereby recommends and urges the New Jersey State Legislature to become more aggressively involved with amending the New Jersey Smoke Fee Air Act, N.J.S.A. 26:3D-55, to include language which prohibits smoking 100% in all Atlantic City Casinos.

