



SPONSOR: Sen. Richardson & Sen. Poore & Rep. Michael Smith & Rep. K. Williams
Sens. Buckson, Gay, Hocker, Huxtable, Lawson, Pettyjohn, Sokola, Walsh, Wilson; Reps. Baumbach, Collins, Heffernan, Minor-Brown, Ramone

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 43

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE DISPLAY OF HUMAN TRAFFICKING PUBLIC AWARENESS SIGNS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 787, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating Delaware Code provisions accordingly:

3 § 787. Trafficking an individual, forced labor and sexual servitude; class D felony; class C felony; class B felony;
4 class A felony.

5 (a) For the purposes of this ~~section, the following definitions shall apply:~~ section:

6 (2) “Adult entertainment establishment” means as defined in § 1602 of Title 24.

7 (3) “Along a major highway” means abutting Interstate 95, Interstate 295, Interstate 495, Route 1, Route 9,
8 Route 13, Route 40, Route 113, Route 141, or Route 202.

9 (4) “Bar” means “cabaret”, “taproom”, or “tavern”, as defined in § 101 of Title 4.

10 (5) “Casino” means “video lottery agent”, as defined in § 4803 of Title 29.

11 (9) “Department” as used in subsection (l) of this section, means the Department of Labor, unless a different
12 Department is specified by name.

13 (10) “Establishment” means an individual, partnership, limited liability company, corporation, firm, trust,
14 association, society, or other entity engaged in a business, industry, profession, trade, or other enterprise, including a
15 nonprofit entity, with a physical premises open to employees or the public in the State of Delaware.

16 (12) “Hotel” means “hotel”, “motel”, or “tourist home”, as defined in § 2301 of Title 30.

17 (17) “Massage establishment” means as defined in § 5302 of Title 24.

18 (20) “Public awareness sign” as used in subsection (l) of this section, means the sign created under paragraph
19 (k)(3)e. of this section or a sign created by an establishment that meets all of the following requirements:

- 20 a. Is at least 8 inches wide by 11 inches long.
- 21 b. Contains at least all of the information required to be in a sign under paragraph (k)(3)e. of this section.
- 22 c. Meets any other requirements established by regulation.

23 (21) “Residential child care facility” means as defined in the Office of Child Care Licensing regulations
24 promulgated under Chapter 30A of Title 14.

25 (22) “Restaurant with a liquor license” means a “restaurant”, as defined in § 101 of Title 4, with a “license”,
26 as defined in § 101 of Title 4.

27 (26) “Shopping mall” means an enclosed indoor retail complex containing a variety of shops and restaurants,
28 whether contained in a series of connected or adjacent buildings or in a single large building, and usually anchored by
29 department stores.

30 (29) “Wellness center” means an urgent care clinic, walk-in health clinic, school-based health center, as
31 defined in § 3571G of Title 18, substance abuse treatment clinic, psychiatric treatment facility, family planning clinic,
32 or community health clinic.

33 (l) Display of public awareness sign; civil penalty for failure to display.

34 (1)a. Display of a public awareness sign in State of Delaware facilities. ~~The Delaware Department of~~
35 ~~Transportation shall display a public awareness sign required by this section~~ public awareness sign in every State of
36 Delaware-operated transportation station, rest area, and welcome center ~~in the State~~ which is open to the public.

37 b. The Department of Health and Social Services shall display a public awareness sign in every State of
38 Delaware Service Center and wellness center that is operated by the Department of Health and Social Services.

39 c. The Department of Services for Children, Youth and Their Families shall display a public awareness
40 sign in every residential child care facility that is operated by the Department of Services for Children, Youth and
41 Their Families.

42 (2)a. ~~A public awareness sign created under paragraph (k)(3)e. of this section shall~~ must be displayed at
43 ~~locations designated by the Council in a place that is clearly conspicuous and visible to employees. These locations~~
44 ~~must include~~ in an establishment within a category designated by the Delaware Anti-Trafficking Action Council
45 (Council) and within all of the following categories:

- 46 1. ~~adult~~ Adult entertainment facilities, establishment.
- 47 2. ~~entities~~ Entity found to be maintaining a criminal nuisance involving prostitution under § 7104 of
48 Title ~~10,~~ 10.
- 49 3. ~~job~~ Job recruitment centers, center.

50 4. hospitals, and Hospital.

51 5. emergency care providers. [Repealed.]

52 6. Wellness center other than those covered in paragraph (l)(1)b. of this section.

53 7. Shelter or residential service designed to serve victims of domestic violence or sexual assault, or
54 individuals experiencing homelessness or food insecurity.

55 8. Residential child care facility other than those covered in paragraph (l)(1)c. of this section.

56 9. Independent and transitional living service provider for youth aging out of foster care.

57 10. Hotel.

58 11. Convenience store along a major highway.

59 12. Gas station along a major highway.

60 13. Casino.

61 14. Restaurant with a liquor license.

62 15. Poultry processing plant.

63 16. Bus or train station other than those covered in paragraph (l)(1)a. of this section.

64 17. Bar.

65 18. Massage establishment.

66 19. Shopping mall.

67 b.1. The Council may promulgate regulations to designate a category of establishments that must display
68 a public awareness sign in addition to those categories identified in paragraph (l)(2)a. of this section.

69 2. The Council may promulgate regulations to designate a specific location on the premises for a
70 category of establishments where a public awareness sign must be displayed. If the Council designates a
71 specific location, the Council shall include the specific location requirement within the list under paragraph
72 (l)(2)d. of this section.

73 c. The Council may promulgate regulations to change the requirements as to what constitutes a public
74 awareness sign so long as the regulations are consistent with paragraph (k)(3)e. of this section and subsection (a)
75 of this section. If the Council promulgates regulations under this paragraph (l)(2)c., the Executive Director of the
76 Council, or their designee, shall inform the Director of the Department's Division of Industrial Affairs, Office of
77 Labor Law Enforcement of the changes.

78 d. The Council shall ~~approve~~ publish a list of ~~locations~~ categories of establishments that must display a
79 public awareness sign on an annual ~~basis~~. basis for notification and outreach purposes. The publication must occur
80 in all of the following:

81 1. A newspaper with statewide circulation.

82 2. The Register of Regulations.

83 3. Department website.

84 e.1. Except as otherwise provided in (l)(2)e.2. through (l)(2)e.8. of this section, an establishment shall
85 display a public awareness sign in a place that is clearly conspicuous and visible to employees and the public. To
86 comply with the requirement that a public awareness sign be clearly conspicuous and visible to employees and the
87 public, an establishment may need to display a public awareness sign at more than one location on its premises.

88 2. An establishment with a location on its premises designated by the Council through promulgation
89 of regulations under paragraph (l)(2)b.2. of this section shall comply with the specific location requirement. If
90 the establishment does not have that specific location on its premises, then the establishment shall display the
91 public awareness sign as described in paragraph (l)(2)e.1. of this section unless the regulations state otherwise.

92 3. An establishment that is a hotel may not be required to display a public awareness sign in guest
93 bedrooms. However, a public awareness sign must be displayed in a manner that is clearly conspicuous and
94 visible in all public restrooms, all staff breakrooms, and at least one of the following publicly accessible
95 locations that is present on the premises:

96 A. All lobbies.

97 B. All elevators.

98 C. All stairwells.

99 D. All vending machine or ice machine areas.

100 4. An establishment that is a restaurant with a liquor license must display a public awareness sign in
101 a manner that is clearly conspicuous and visible in all staff breakrooms, or if no staff breakrooms, where
102 clearly conspicuous and visible to employees.

103 5. An establishment that is a poultry processing plant must display a public awareness sign in a
104 manner that is clearly conspicuous and visible in all staff breakrooms, or if no staff breakrooms, where clearly
105 conspicuous and visible to employees.

106 6. An establishment that is a casino must display a public awareness sign in a manner that is clearly
107 conspicuous and visible in all public restrooms, all staff breakrooms, and all lobbies.

108 7. An establishment that is a massage establishment must display a public awareness sign in a
109 manner that is clearly conspicuous and visible in all staff breakrooms, or if no staff breakrooms, where clearly
110 conspicuous and visible to employees.

111 8. An establishment that is a shopping mall must display a public awareness sign in a manner that is
112 clearly conspicuous and visible in all food courts and all public restrooms provided by the management of the
113 shopping mall.

114 f. The Executive Director of the Council, or their designee, shall oversee the distribution of public
115 awareness signs to State of Delaware facilities and establishments. The public awareness signs must be provided
116 free of cost to all State of Delaware facilities and establishments that request them.

117 ~~(3) The Delaware Department of Labor shall impose a fine of \$300 per violation on an employer that~~
118 ~~knowingly fails to comply with paragraph (k)(3)e. of this section. The fine is the exclusive remedy for failure to~~
119 ~~comply. The Department may enforce the public awareness sign requirements in paragraphs (l)(2)a. and (l)(2)e. of this~~
120 ~~section, as well as determine whether a sign not distributed by the Council satisfies the definition of “public awareness~~
121 ~~sign” under subsection (a) of this section, using the rules and procedures of the Administrative Procedures Act, Chapter~~
122 ~~101 of Title 29.~~

123 (4)a. The Department may conduct an inspection of an establishment following receipt of a complaint alleging
124 that the establishment is noncompliant with public awareness sign requirements. If the Department conducts an
125 inspection and confirms that the establishment has failed to comply with 1 or more public awareness sign requirements,
126 the Department shall provide the establishment with public awareness signs, if needed, and written notice of all the
127 following:

128 1. What noncompliance has occurred, including a citation to the specific law or regulation with
129 which the establishment has not complied.

130 2. The date the Department inspected and determined there was noncompliance.

131 3. The possible civil penalties for noncompliance.

132 4. A prominently displayed statement that this notice serves as a warning.

133 b. If, within 3 years from the postmark date or date of hand delivery of the warning notice under
134 paragraph (l)(4)a. of this section, the Department determines the establishment is exhibiting the same, or a
135 substantially similar, noncompliance that was identified in the warning notice under paragraph (l)(4)a. of this
136 section, then the Department shall assess a civil penalty against the noncompliant establishment. The Department

137 shall provide the noncompliant establishment with public awareness signs, if needed, and written notice of all the
138 following:

139 1. What noncompliance has occurred, including a citation to the specific law or regulation with
140 which the establishment has not complied.

141 2. The dates the Department inspected and determined there was noncompliance.

142 3. The postmark or hand delivery date of the warning notice under paragraph (l)(4)a. of this section.

143 4. Whether this is a first or subsequent violation.

144 5. The civil penalty assessed.

145 6. That the owner of the establishment may file an appeal, including instructions on how to request a
146 hearing.

147 c.1. A request for a hearing must be made in writing, addressed to the Secretary of the Department
148 (Secretary), and made within 10 business days from the postmark date or the date of hand delivery of the notice
149 under paragraph (l)(4)b. of this section.

150 2. If a hearing is not requested under paragraph (l)(4)c.1. of this section, the determination made by
151 the Department under paragraph (l)(4)b. of this section is final.

152 3. The Department shall review a request for a hearing under paragraph (l)(4)c.1. of this section to
153 determine if the dispute can be resolved at an informal settlement conference. If the Department determines a
154 dispute cannot be resolved at an informal settlement conference or if the Department holds an informal
155 settlement conference and a settlement is not reached, the Department shall forward the hearing request to the
156 Secretary to schedule a hearing.

157 4. The Secretary shall issue a final case decision at the conclusion of a hearing held under paragraph
158 (l)(4)c. of this section as required under Chapter 101 of Title 29.

159 5. An establishment owner may seek judicial review of the Secretary's final case decision by
160 commencing an action in Superior Court within 30 days of the date of the final decision under paragraph
161 (l)(4)c.4. of this section.

162 d. The notices required under paragraphs (l)(4)a. and (l)(4)b. of this section may be hand delivered or
163 mailed to the noncomplying establishment.

164 e. The notice under paragraph (l)(4)a. of this section is not a case decision for purposes of the
165 Administrative Procedures Act, Chapter 101 of Title 29.

166 f. All civil penalties collected under this subsection must be paid to the State of Delaware General Fund.

167 g. If the Council becomes aware of potential noncompliance with the public awareness sign requirements,
168 the Executive Director of the Council, or their designee, shall report the potential noncompliance to the Director of
169 the Department’s Division of Industrial Affairs, Office of Labor Law Enforcement and the Department may
170 conduct an inspection.

171 h. The Department has the same authority under this subsection as in § 107 of Title 19.

172 i. Nothing in this subsection may be interpreted to prevent the Department from initiating its own
173 inspections into an establishment’s compliance with the public awareness sign requirements independent of a
174 report from the Council or a complaint.

175 (5) The civil penalties for noncompliance with the public awareness sign requirements in paragraphs (l)(2)a.
176 and (l)(2)e. of this section or for failure to use a sign that satisfies the definition of “public awareness sign” under
177 subsection (a) of this section are as follows:

178 a. If an establishment does not correct the same, or a substantially similar, noncompliance identified in
179 the warning notice under paragraph (l)(4)a. of this section, the establishment owner is subject to a civil penalty of
180 not more than \$500.

181 b. On a second or subsequent failure by an establishment to correct the same, or a substantially similar,
182 noncompliance identified in the warning notice under paragraph (l)(4)a. of this section, the establishment owner is
183 subject to a civil penalty of not more than \$2,500.

184 (6)a. The Department shall submit to the General Assembly and the Council an annual written report that
185 contains all of the following information:

186 1. Number of inspections conducted by the Department to check compliance with the public
187 awareness sign requirements in paragraphs (l)(2)a. and (l)(2)e. of this section, as well as determine whether a
188 sign not distributed by the Council satisfies the definition of “public awareness sign” under subsection (a) of
189 this section.

190 2. Number of warning notices under paragraph (l)(4)a. of this section issued by the Department,
191 disaggregated by category of establishments.

192 3. Number of noncompliance notices under paragraph (l)(4)b. of this section issued by the
193 Department, disaggregated by first, second, and subsequent violations and further disaggregated by category
194 of establishments.

195 4. Total amount of civil penalties collected by the Department from enforcement of subsection (l) of
196 this section.

197 b. For purposes of submitting the report to the General Assembly, the Department shall submit the report
198 to the Secretary of the Senate, Chief Clerk of the House, the Director and Librarian of the Division of Research,
199 and the Controller General of the Office of the Controller General.

200 c. The Department shall submit its report by December 1 of each year, beginning [the first December 1
201 after this Act is implemented]. If the deadline falls on a weekend or State holiday, then the report is due by the
202 State of Delaware's next following business day.

203 Section 2. This Act is effective immediately and is to be implemented 1 year from the date of this Act's enactment.

204 Section 3. The Department of Labor may promulgate regulations regarding enforcement of this Act.

205 Section 4. This Act is known as the "Signs of Hope Act".

SYNOPSIS

This Act is a substitute for Senate Bill No. 43. Both this Act and SB 43 add additional State facilities and categories of establishments to § 787 of Title 11 which would be required to display public awareness signs about human trafficking. The additional State facilities and categories are as follows:

- (1) State service centers.
- (2) Wellness centers.
- (3) Residential child care facilities.
- (4) Transitional and independent living service providers for youth aging out of foster care.
- (5) Shelters for victims of domestic violence or sexual assault or individuals experiencing homelessness or food insecurity.
- (6) Hotels.
- (7) Convenience stores along a major highway.
- (8) Gas stations along a major highway.
- (9) Casinos.
- (10) Restaurants with liquor licenses.
- (11) Poultry processing plants.
- (12) Bus or train stations.
- (13) Bars.
- (14) Massage establishments.
- (15) Shopping malls.

This Act is also the same as SB 43 in that it:

- (1) Provides definitions of some of the existing State facilities and categories of establishments where public awareness signs are required to be displayed, as well as some of the new State facilities and categories added by SB 43 (and retained by this Act).
- (2) Includes specific locations on the premises where establishments that are hotels, casinos, restaurants with liquor licenses, poultry processing plants, massage establishments, and shopping malls must display a public awareness sign.
- (3) Adjusts the process by which the Delaware Anti-Trafficking Action Council (Council) may designate establishments required to display public awareness signs. SB 43 and this Act allow the Council to promulgate regulations to designate other categories of establishments that must display public awareness signs in addition to the categories required under § 787 and this Act; designate a specific location on the premises for a category of establishments where a public awareness sign must be displayed; and change requirements for what must be included in a "public awareness sign", as defined in this Act.
- (4) Requires the Council to annually publish a list of categories of establishments that must display a public awareness sign and any specific location requirements for the purposes of providing notice.
- (5) Clarifies that enforcement fines are civil penalties.
- (6) Distinguishes between the responsibilities of the Council and establishments, as well as rewrites the responsibilities to clarify the current law regarding the display of public awareness signs.

(7) Establishes an enforcement process, including the requirement that establishments will receive a warning before any civil penalties are assessed. The Department of Labor may promulgate regulations.

(8) Requires the Department of Labor to submit an annual report about enforcement to the Council and the General Assembly.

(9) This Act takes effect immediately and is to be implemented 1 year from the date of this Act's enactment to allow for the promulgation of regulations by the Department of Labor and the Council, as well as to ensure public awareness signs will be ready for distribution before implementation.

(10) This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Act differs from Senate Bill No. 43 by:

(1) Removing the mandate that the Department of Labor (Department) conduct enforcement. The Department still has enforcement authority but may exercise its discretion in whether to pursue enforcement.

(2) Changing enforcement to a complaint-based system whereby the Department may inspect an establishment about which it receives a complaint. While the complaint-based system may be the main way that the Department will receive notice of possible noncompliance with public awareness sign requirements, the Department may still initiate inspections independent of a report from the Delaware Anti-Trafficking Action Council or a complaint.

(3) Changing the enforcement process and timeframes as follows:

When the Department conducts enforcement, it shall provide public awareness signs, if needed, to an establishment to immediately enable compliance with the public awareness sign display requirements. If, within 3 years, the Department determines the establishment is exhibiting the same, or a substantially similar, noncompliance identified in the warning notice, then the Department shall assess a civil penalty against the noncompliant establishment.

(4) Removing the safe harbor provision since all establishments will now receive copies of the proper signage during inspection, if new signs are needed.

(5) Updating the civil penalty to conform to the changes made in the enforcement process and timeframes. The civil penalty is as follows: if an establishment does not correct the same, or a substantially similar, noncompliance identified in the warning notice, the establishment owner is subject to a civil penalty of not more than \$500. On a second or subsequent failure by an establishment to correct the same, or a substantially similar, noncompliance identified in the warning notice, the establishment owner is subject to a civil penalty of not more than \$2,500. The current fine under § 787 is \$300 per violation.

(6) Naming this Act the "Signs of Hope Act". This name reflects the purpose that the human trafficking public awareness signs serve: a way to reach, give hope, and save victims of human trafficking.

(7) Removing repetitive language and correcting a grammatical error.

To make compliance with and enforcement of this Act feasible, a fiscal note is attached to this bill to finance the creation of the public awareness signs, which will be provided free to State of Delaware facilities and establishments and to fund a Department of Labor enforcement position.

Author: Senator Richardson