

existing regulations alone merits vetoing the bill. It would be a betrayal to the citizens of this State to enact legislation containing language that could be twisted by a skilled lawyer to attack this worker protection initiative.

The danger that the bill could invalidate existing regulations extends beyond those regulations relating to environmental tobacco smoke in the work place adopted in COMAR 09.12.23. As noted in the Attorney General's Opinion 95-009, other regulations such as those restricting smoking where workers are exposed to asbestos, lead, or arsenic could have been jeopardized had this bill been allowed to take effect.

Furthermore, the bill would require additional regulations to be adopted by the Commissioner in order for certain of its parts to be implemented. While the General Assembly created certain exemptions from the regulations, those provisions can be implemented without the need for additional regulations. Unfortunately, as confirmed by the Attorney General, that portion of the bill which constitutes an affirmative grant to the Commissioner to limit smoking in specified areas (to be not less than 50% nor more than 60% of the premises) would require additional implementing regulations. Thus, the bill as drafted could immediately create major exemptions to the regulations for certain clubs, motel and hotel bars, homes, and certain non-restaurant establishments, yet the permissible restrictions on restaurants would be delayed while the new regulations were proposed and finally adopted.

Although I have focused on the more technical and legal flaws of Senate Bill 860, substantively the bill is overly broad in its reach. Of particular significance is the need to ensure that the bill would not preempt the efforts of local jurisdictions to enact more restrictive smoking restrictions. Also, Senate Bill 860 would allow for smoking in 40% of all restaurants with an alcoholic beverage license, regardless of whether the restaurant contained a bar area and without the need for structural modification. I believe that, at a minimum, smoking should be allowed only in a separate room or bar area, and House Bill 1368 was amended to reflect these concerns.

For these reasons, I have vetoed Senate Bill 860.

Sincerely,
Parris N. Glendening
Governor

Senate Bill No. 860

AN ACT concerning

~~Occupational Safety and Health~~ Smoking - Adoption of Regulations to Restrict Smoking

FOR the purpose of prohibiting the Secretary of Licensing and Regulation and the Commissioner of the Division of Labor and Industry from proposing ~~or~~, adopting, or enforcing any regulation that restricts smoking ~~or possessing~~ certain tobacco products under certain circumstances; authorizing the Secretary and Commissioner to adopt certain regulations under certain circumstances; ~~providing for the application of this Act;~~ providing that this Act shall be construed retroactively and shall be applied to and interpreted to affect the enforcement of certain previously