

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 858 Session of
2005INTRODUCED BY KITCHEN, LAVALLE, RAFFERTY AND KASUNIC,
SEPTEMBER 19, 2005SENATOR PILEGGI, URBAN AFFAIRS AND HOUSING, AS AMENDED,
SEPTEMBER 26, 2006

AN ACT

1 Providing for requirements relating to portable fire
2 extinguishers and for enforcement and penalties.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Residential
7 Transfer Portable Fire Extinguisher Act.

8 Section 2. Definitions.

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

12 "Agency." An enforcing municipality.

13 "Department." The Department of Labor and Industry of the
14 Commonwealth.

15 ~~"Dwelling unit." A structure, or a room or group of rooms~~ <—
16 ~~within a structure, used or intended for use, in whole or in~~
17 ~~part, for residential purposes where the occupants are permanent~~

1 ~~in nature. This term shall exclude:~~

2 ~~(1) a structure, room or groups of rooms within a~~
3 ~~structure used or intended for use, in whole or in part, for~~
4 ~~residential purposes where the occupants are transient in~~
5 ~~nature; and~~

6 ~~(2) a seasonal rental dwelling unit.~~

7 "DWELLING UNIT." ANY HOUSE OR BUILDING OR ANY PORTION OF <—
8 EITHER WHICH IS LEASED FOR OCCUPATION AS A DOMICILE OR OCCUPIED
9 AS HOME OR RESIDENCE FOR TWO OR MORE HOUSEHOLDS LIVING IN
10 SEPARATE ROOMS OR SUITES OF TWO OR MORE ROOMS AND HAS FACILITIES
11 FOR COOKING ON THE PREMISES. THIS TERM SHALL NOT INCLUDE ANY
12 STRUCTURE WHICH IS OCCUPIED BY A PERSON HAVING AN OWNERSHIP
13 INTEREST IN THE PREMISES.

14 "Enforcing municipality." A city, borough, incorporated
15 town, township or home rule municipality that administers and
16 enforces Chapter 3 of the act of November 10, 1999 (P.L.491,
17 No.45), known as the Pennsylvania Construction Code Act.

18 "Officer." A code official certified by the Department of
19 Labor and Industry and:

20 (1) designated by an enforcing municipality to
21 administer and enforce Chapter 3 of the act of November 10,
22 1999 (P.L.491, No.45), known as the Pennsylvania Construction
23 Code Act; or

24 (2) retained by a seller, owner or transferor for
25 inspection of the dwelling unit where the municipality is not
26 an enforcing municipality.

27 "Portable fire extinguisher." An operable portable device
28 carried and operated by hand, containing an extinguishing agent
29 that can be expelled under pressure for the purpose of
30 suppressing or extinguishing fire, and which is:

(1) rated for residential use consisting of an A-B-C classification;

(2) no larger than a ten-pound rated extinguisher; and

(3) mounted within ten feet of the kitchen area, unless otherwise permitted by the enforcing agency.

~~"Residence."~~

<—

~~(1) A one or two family home as defined in the 2003 ICC Residential Code for One and Two Family Dwellings.~~

~~(2) A residential occupancy with fewer than three dwelling units, where the occupants are primarily permanent in nature and an adult or child care facility that provides accommodations for five or fewer persons of any age for less than 24 hours, that are classified as R-3 residential group occupancies under the 2003 ICC Building Code, as adopted by the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.~~

~~"Seasonal rental dwelling unit." A dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent place of residence elsewhere. The term shall not include use or rental of living quarters for seasonal, temporary or migrant farm workers in connection with any work or place where work is being performed.~~

Section 3. Requirement.

(a) Portable fire extinguisher.--Notwithstanding any provision of law to the contrary, every dwelling unit located in a building ~~with fewer than three dwelling units~~ WITHOUT A SPRINKLER SYSTEM, upon its sale, lease or transfer, shall be equipped with at least one portable fire extinguisher, at the expense of the seller, landlord or transferor, as appropriate, in conformance with rules and regulations promulgated by the

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1 department. The regulations shall address the required
2 maintenance and periodic testing of portable fire extinguishers.

3 (b) Notification.--A municipality shall provide notification
4 to all ~~owners and~~ landlords of dwelling units located within the <—
5 municipality of the requirements under this act within 60 days
6 of its effective date. Such notice may be achieved through
7 publication in a newspaper or newspapers of general circulation,
8 which are available or distributed throughout the municipality,
9 for a period of three consecutive weeks.

10 SECTION 4. DEDUCTIONS FOR PORTABLE FIRE EXTINGUISHER. <—

11 (A) SECURITY DEPOSIT.--THE LANDLORD, LESSOR OR TRANSFEROR
12 MAY DEDUCT THE COST OF THE PORTABLE FIRE EXTINGUISHER FROM THE
13 SECURITY DEPOSIT PROVIDED BY THE TENANT, LESSEE OR TRANSFEROR
14 IF:

15 (1) THE PORTABLE FIRE EXTINGUISHER HAS BEEN DISCHARGED.

16 (2) THE PORTABLE FIRE EXTINGUISHER HAS BEEN REMOVED FROM
17 THE DWELLING UNIT UPON THE LESSEE'S DEPARTURE.

18 (B) RENT.--AN OCCUPANT OF A DWELLING UNIT MAY DEDUCT THE
19 COST OF THE PORTABLE FIRE EXTINGUISHER FROM THE MONTHLY RENT AT
20 ONE POINT DURING THE COURSE OF HIS AGREEMENT WITH THE LANDLORD,
21 LESSOR OR TRANSFEROR PROVIDED THAT:

22 (1) A RECEIPT IS PROVIDED AS EVIDENCE THAT A PORTABLE
23 FIRE EXTINGUISHER WAS PURCHASED.

24 (2) A PORTABLE FIRE EXTINGUISHER WAS NOT LOCATED IN THE
25 DWELLING UNIT AT THE BEGINNING OF THE LEASE TERM.

26 Section 4 5. Certificate of occupancy. <—

27 (a) Change of occupancy.--In any case in which a change of
28 occupancy of any dwelling unit in a building ~~with fewer than~~ <—
29 ~~three dwelling units~~ WITHOUT A SPRINKLER SYSTEM INSTALLED IN <—
30 ACCORDANCE WITH SECTION 903.3 (RELATING TO AUTOMATIC SPRINKLER

1 SYSTEMS) OF THE INTERNATIONAL BUILDING CODE is subject to a
2 municipal ordinance requiring the issuance of a certificate of
3 occupancy, certificate of inspection or other documentary
4 certification of compliance with laws and regulations relating
5 to the safety and maintenance of the premises, no such
6 certificate shall be issued until the officer or agency
7 responsible for its issuance has determined that the dwelling
8 unit is equipped with at least one portable fire extinguisher as
9 required by section 3. THE OFFICER OR AGENCY SHALL ALSO VERIFY <—
10 THE PROPER FUNCTIONALITY OF THE PORTABLE FIRE EXTINGUISHER AS
11 PART OF THEIR ROUTINE INSPECTION IN DETERMINING WHETHER A
12 DOCUMENT OF COMPLIANCE SHOULD BE ISSUED.

13 (b) Initial occupancy.--In the case of an initial occupancy
14 or a change of occupancy of any dwelling unit in a building with <—
15 ~~fewer than three dwelling units~~ to which the provisions of
16 subsection (a) do not apply, no owner shall sell, lease or
17 otherwise permit occupancy for residential purposes of that
18 dwelling unit without first obtaining from the ~~municipal~~ <—
19 ~~enforcing~~ officer or agency a certificate indicating that the
20 dwelling unit is equipped with at least one portable fire
21 extinguisher as required by section 3.

22 (c) Fees.--An enforcing municipality may establish a fee
23 which covers the cost of inspection and of issuance of the
24 certificate; however, if an inspection is conducted for the
25 issuance of a certificate evidencing compliance with Chapter 3
26 of the act of November 10, 1999 (P.L.491, No.45), known as the
27 Pennsylvania Construction Code Act, the fee authorized therein
28 shall cover the cost of complying with this section.

29 Section 5 6. Regulations. <—

30 The department shall promulgate regulations to implement this

1 act within 90 days of the effective date of this act.

2 Section ~~6~~ 7. Violation.

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3 (a) Penalty.--A seller, landlord or transferor who sells,
4 leases or transfers or otherwise permits the occupancy of a
5 dwelling unit without complying with this act shall be subject
6 to a fine of not more than \$100.

7 (b) Disposition of fines.--An ~~enforcing municipality~~ AGENCY
8 is authorized to impose and collect fines authorized under
9 subsection (a) and utilize the proceeds for the administration
10 and enforcement of this act. The department is authorized to
11 impose and collect fines authorized under subsection (a) in a
12 municipality that is not an enforcing municipality and utilize
13 the proceeds for the administration and enforcement of this act.

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14 Section ~~7~~ 8. Effective date.

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15 This act shall take effect in 30 days.