

FIRE AND PANIC ACT

Act of Apr. 27, 1927, P.L. 465, No. 299

Cl. 35

AN ACT

To provide for the safety of persons employed, housed, or assembled in certain buildings and structures by requiring certain construction and ways of egress, equipment, and maintenance; providing for the licensing of projectionists, except in cities of the first class and second class; requiring the submission of plans for examination and approval; providing for the promulgation of rules and regulations for the enforcement of this act; providing for the enforcement of this act by the Department of Labor and Industry, the Department of Health, boards of school directors and, in certain cases, by the chiefs of fire departments in cities of the third class; providing penalties for violations of the provisions of this act; and repealing certain acts. (Title amended Dec. 21, 1988, P.L.1315, No.168)

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Section 1. Be it enacted, &c., That,
General Requirement.--Every building enumerated in this act, erected or adapted for any of the purposes of the several classes of buildings covered by this act, shall be so constructed, equipped, operated, and maintained, with respect to type of construction and materials used, fireproofing, number and type of ways of egress, aisles and passageways, stairs and fire escapes, wall openings, exits and exit signs, doors and doorways, shaftways and other vertical openings, emergency lighting, automatic sprinkler systems, fire alarm systems, fire

drills, electrical equipment, inflammable and explosive materials, heating apparatus and fuel storage, number of occupants, ventilation, arrangement of seating and standing space, construction and equipment of stages, projection rooms, and dressing rooms, and all other fire and panic protection as to provide for the safety and health of all persons employed, accommodated, housed, or assembled therein. Whenever any building designated in this act shall, in the opinion of the Department of Labor and Industry, become dangerous to further occupancy because of structural or other defects, it shall immediately be closed to further occupancy, and a sign posted thereon to that effect. Such building shall not again be occupied until all recommendations of the department to eliminate hazardous conditions are complied with.

The Department of Labor and Industry shall have the power, and its duty shall be, to make, alter, amend, or repeal rules and regulations for carrying into effect all of the provisions of this act, applying such provisions to specific conditions, and prescribing means, methods and practices to make effective such provisions.

(1 amended May 28, 1937, P.L.1016, No.281)

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 1.

Section 2. Classes of Buildings.--(2 repealed Nov. 10, 1999, P.L.491, No.45)

Section 3. Special Requirements.--(3 repealed Nov. 10, 1999, P.L.491, No.45)

Section 3.1. Automatic Fire Detection Devices for the Hearing Impaired.--(3.1 repealed Nov. 10, 1999, P.L.491, No.45)

Section 3.2. Automatic Fire Detection Devices in Class IV Buildings.--(3.2 repealed Nov. 10, 1999, P.L.491, No.45)

Section 3.3. Information Concerning Protection from Fire.--(3.3 repealed June 23, 2016, P.L.365, No.51)

Section 3.4. Installation of Teletypewriters.--(a) Any municipality may install in its police headquarters or other location designated by the municipality a teletypewriter which will enable deaf residents of the municipality to communicate requests for assistance in emergencies to the police or other designated emergency response organizations.

(b) The Department of Labor and Industry shall reimburse municipalities for the expense of implementing subsection (a), subject to the availability of funds.

(c) The Department of Labor and Industry shall promulgate regulations to set standards for teletypewriters eligible for reimbursement under this section to be installed by municipalities, and to establish reimbursement procedure for municipalities within the limitations of subsection (b).

(d) Notwithstanding the provisions of section 15, this section shall be applicable throughout this Commonwealth.

(3.4 added Dec. 21, 1988, P.L.1315, No.168)

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 3.4.

Section 3.5. School Tobacco Control.--(3.5 repealed Nov. 27, 2019, P.L.669, No.93 and Nov. 27, 2019, P.L.759, No.111)

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 3.5.

Compiler's Note: Section 3 of Act 145 of 1996 provided that section 3.5 is repealed insofar as it is inconsistent with the requirements of 18 Pa.C.S. § 6306.1.

Section 3.6. Standards for Class VI Buildings.--(a) ((a) repealed Nov. 10, 1999, P.L.491, No.45)

(b) ((b) repealed Nov. 10, 1999, P.L.491, No.45)

(c) ((c) repealed Nov. 10, 1999, P.L.491, No.45)

(d) ((d) repealed Nov. 10, 1999, P.L.491, No.45)

(e) ((e) repealed Nov. 10, 1999, P.L.491, No.45)

(f) (1) (i) As to family child day-care homes, a facility registered by the Department of Public Welfare as of April 4, 1992, shall be permitted one full registration period of twenty-four (24) months beyond the expiration of the current certificate of registration to comply with the requirements of this section.

(ii) ((ii) repealed Nov. 10, 1999, P.L.491, No.45)

(iii) ((iii) repealed Nov. 10, 1999, P.L.491, No.45)

(2) ((2) repealed Nov. 10, 1999, P.L.491, No.45)

(f.1) (1) The smoke detection devices required under this section need not be interconnected or electronically connected for family child day-care homes. For the purposes of this act, noninterconnected smoke detection devices shall be deemed acceptable where:

(i) each device is an enclosed nonreplacable battery smoke detector unit which meets applicable UL standards and has a minimum ten-year limited warranty commencing with the date of purchase; and

(ii) the activation of each detector results in an alarm that is audible to persons in the indoor child-care space with all intervening doors closed.

(2) Family child day-care home operators shall maintain, in their fire drill logs, proof of purchase, including the date of purchase of the smoke detector.

((f.1) added May 22, 1996, P.L.309, No.47)

(g) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Family child day-care home" means a home other than the child's own home in which child day care is provided at any one time to four (4), five (5) or six (6) children unrelated to the operator.

"Group child day-care home" means a home other than a child's own home in which child day care is provided at any one time for more than six (6) but fewer than thirteen (13) children who are unrelated to the operator.

(3.6 added July 1, 1992, P.L.349, No.75)

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 3.6(f)(1)(i), (f.1) and (g).

Section 4. Ways of Egress.--(4 repealed Nov. 10, 1999, P.L.491, No.45)

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: The act of July 10, 1980, P.L.493, No.105, which amended the act of June 13, 1967, P.L.31, No.21,

known as the "Public Welfare Code," also repealed section 4 of this act "insofar as it relates to personal care boarding homes."

Section 4.1. Fire Extinguishers.--(4.1 repealed Nov. 10, 1999, P.L.491, No.45)

Section 4.2. Legislative Review of Certain Rules and Regulations.--(4.2 repealed Nov. 10, 1999, P.L.491, No.45)

Section 5. Theatres, Motion Picture Theatres and Places of Public Assembly.--(5 repealed Nov. 10, 1999, P.L.491, No.45)

Section 6. Permit for Motion Pictures.--(6 repealed Nov. 10, 1999, P.L.491, No.45)

Section 7. Licensing of Projectionists Except in Cities of the First Class and Second Class.--(7 repealed Nov. 10, 1999, P.L.491, No.45)

Compiler's Note: The act of July 7, 1989, P.L.241, No.42 repealed this section insofar as inconsistent with fees.

Section 8. Approval of Plans.--(8 repealed Nov. 10, 1999, P.L.491, No.45)

Compiler's Note: The act of July 1, 1981, P.L.143, No.48, which provided for the fixing of fees charged by administrative agencies also repealed section 8 of this act insofar as it establishes a set fee for any activity inconsistent with the fees set forth in the 1981 act.

Section 9. Permits for Use or Occupancy.--(9 repealed Nov. 10, 1999, P.L.491, No.45)

Section 10. Discontinuance of Use.--(10 repealed Nov. 10, 1999, P.L.491, No.45)

Section 10.1. Clean Indoor Air.--(a) The purpose of this section is to protect the public health and to provide for the comfort of all parties by regulating and controlling smoking in certain public places and at public meetings and in certain workplaces.

(b) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Bar areas" means those areas which are devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.

"Public meetings" means all meetings open to the public pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act."

"Public place" means either of the following:

(1) An enclosed, indoor area owned or operated by a State or local governmental agency and used by the general public or serving as a place of work for public employes or a meeting place for a public body, including an office, educational facility, health facility, auditorium, arena, meeting room or public conveyance.

(2) An enclosed, indoor area which is not owned or operated by a State or local governmental agency, which is used by the general public and which is any of the following:

- (i) A workplace.
- (ii) An educational facility.
- (iii) A health facility.
- (iv) An auditorium.
- (v) An arena.
- (vi) A theater.
- (vii) A museum.
- (viii) A restaurant.
- (ix) A concert hall.

(x) Any other facility during the period of its use for a performance or exhibit of the arts.

"Restaurant" means any eating establishment which offers food for sale to the public.

"Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

"Workplace" means an enclosed, indoor area serving as a place of employment, occupation, business, trade, craft or profession.

(c) No person shall smoke in an area designated nonsmoking by the proprietor or person in charge in a public place or at a public meeting.

(d) The following places shall be exempt from this section:

(1) Private social functions where the area utilized is under the control of the sponsor and not the proprietor.

(2) Factories, warehouses and similar places of work not frequented by the general public.

(3) Restaurants seating fewer than seventy-five (75) persons.

(4) Bar areas in a liquor licensee establishment.

(5) Areas in public places commonly referred to as lobbies and hallways.

(6) Hotel and motel rooms.

(7) Retail stores, the primary business of which is the sale of tobacco or tobacco-related products.

(e) The regulation of smoking in restaurants with seventy-five (75) or more seats shall be governed by the following:

(1) Restaurants shall provide for their patrons smoking and nonsmoking areas reasonably calculated to address the needs of their clientele, the size of which may be increased or decreased, by the proprietor or person in charge, according to need.

(2) Restaurants shall make reasonable efforts to prevent smoking in the designated nonsmoking section by:

(i) Posting appropriate signs which are readily visible. The color, size and placement of the signs shall be left to the discretion of the proprietor or person in charge in keeping with the decor or aesthetics of the establishment.

(ii) Arranging seating so that smokers and nonsmokers are placed in contiguous groupings.

(iii) Asking smokers to refrain from smoking in the nonsmoking areas.

(f) The regulation of smoking in restaurants with fewer than seventy-five (75) seats shall be left to the discretion of the proprietor, provided that:

(1) Restaurants which choose not to provide a nonsmoking area nor develop a no-smoking policy based upon customer preference shall post notice of such lack of policy at each entranceway.

(2) Restaurants which choose to provide a nonsmoking area shall develop a policy in accordance with subsection (e).

(g) Except as otherwise provided in this section, employers shall develop, post and implement a policy to regulate smoking in the workplace, provided that nothing in this section or any local law, rule or regulation shall be construed as to impair or diminish or otherwise affect any contractual agreement, collective bargaining agreement, collective bargaining rights or collective bargaining procedures. The employer shall provide a copy of the policy to any employee upon request.

(h) No proprietor or person in charge of a public place who establishes a policy or designates areas pursuant to this section shall be subject to any action in any court by any party other than the Department of Health or local board or department of health under this section.

(i) A violation of this section shall be punishable by a civil fine of not more than fifty dollars (\$50.00).

(j) The Department of Health shall promulgate and adopt rules and regulations as are necessary and reasonable to implement the provisions of this section.

(10.1 added Dec. 21, 1988, P.L.1315, No.168)

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 10.1.

Section 11. Failure to Submit Plans or Obtain Approval.--(11 repealed Nov. 10, 1999, P.L.491, No.45)

Section 12. Failure to Comply with Provisions of this Act.--(12 repealed Nov. 10, 1999, P.L.491, No.45)

Section 13. Prosecutions.--Any person who shall violate any of the provisions of this act, or the rules and regulations of the Department of Labor and Industry, or who shall fail or refuse to observe orders for the enforcement of the said provisions or rules and regulations issued by duly authorized officers of the Department of Labor and Industry, or who shall hinder or delay or interfere with any officer charged with the enforcement of this act in the performance of his duty, shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars (\$5,000.00) and costs, or not more than three (3) months imprisonment in the county jail, or either, or both, in the discretion of the court.

Any person who shall fail or refuse to vacate a building or portion of a building, or who shall fail to cease work in the erecting, remodeling, adapting or altering of a building, or who shall fail to vacate or place out of service any structure, after due notice having been served upon him by an officer of the Department of Labor and Industry and proper notice having been placed upon the building or structure by such officer, shall be liable for a penalty of one hundred fifty dollars (\$150.00) a day for each day he shall have so failed or refused to vacate, cease work on, or place out of service the building, portion of building or structure upon which such notice has been placed, the said penalty to be collectible in the same manner as any fine payable to the Commonwealth.

Prosecutions for violations of this act, or the rules and regulations of the Department of Labor and Industry, may be instituted by the Secretary of Labor and Industry, or under his directions by any authorized representative of the said department, or by duly appointed chiefs of fire departments for violations of the portions of this act, they are especially called upon by this act to enforce, and shall be in the form of summary criminal proceedings instituted before a magistrate, alderman, or justice of the peace. Upon conviction after a hearing, the sentences provided in this act shall be imposed, and shall be final unless an appeal be taken in the manner prescribed by law.

All fines collected under this act shall be forwarded to the Department of Labor and Industry, who shall pay the same into the State Treasury for the use of the Commonwealth.

(13 amended Dec. 17, 1990, P.L.706, No.175)

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 13.

Section 14. Liability of Owner.--In case of fire or panic occurring in any of the buildings enumerated in the foregoing sections of this act, in the absence of such safeguards and ways of egress which it is the intent and purpose of this act and the rules and regulations of the department to have provided, the owner or owners aforesaid shall be liable for damages in case of death or personal injury, the result of fire or panic in any of the said buildings, and such action for damages may be maintained by any person now authorized by law to sue as in other case of loss by death or injuries.

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 14.

Section 15. Enforcement.--The provisions of this act shall apply to every building enumerated in this act, including buildings owned, in whole or in part, by the Commonwealth, or any political subdivision thereof, and shall be enforced by the Secretary of Labor and Industry, by and through his authorized representatives: Provided, That nothing in this act shall be construed as affecting buildings in cities of the first class, second class, and second class A, or the licensing of projectionists in cities of the first class and second class, and that duly appointed chiefs of fire departments shall be equally responsible with the Secretary of Labor and Industry for the enforcement of the provisions of this act and the regulations of the Department of Labor and Industry pertaining to the removal of obstructions to and maintenance of exits, aisles, passageways, and stairways leading to or from exits in all buildings covered by this act, and the inspection and maintenance of emergency lighting systems, fire alarms and fire extinguishing apparatus.

For the purpose of enforcing the provisions of this act, all the officers charged with its enforcement shall have the power to enter any of the buildings or structures enumerated in section two of this act, and no person shall hinder or delay, or interfere with, any of the said officers in the performance of his duty, nor refuse information necessary to determine whether the provisions of this act, and the rules and regulations herein provided for, are or will be complied with.

(15 amended Jan. 14, 1952, 1951 P.L.1889, No.518)

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect section 15.

Section 15.1. Preemption.--(a) This act shall preempt and supersede any local ordinance or rule concerning the subject matter of sections 3.5 and 10.1 of this act.

(b) This act shall preempt and supersede any local ordinance or rule concerning the subject matter of section 10.1 of this act except that:

(1) The provisions of section 10.1 of this act shall not apply to local rules or ordinances concerning the subject matter of section 10.1 of this act which have been adopted by cities of the second class and were in effect prior to September 1, 1988.

(2) In the event that the local rule or ordinance is amended, suspended, rescinded or rendered, in whole or in part, ineffective by a court decision, the exemption shall not apply;

and the city of the second class shall be subject to the provisions of section 10.1 of this act.

(15.1 added Dec. 21, 1988, P.L.1315, No.168)

Compiler's Note: Section 15.1 was repealed by the act of November 10, 1999, P.L.491, No.45. As much of section 1102(a) of Act 45 as repeals section 15.1 was itself repealed by the act of December 20, 2000, P.L.944, No.128. Because the 1999 repeal had not taken effect at the time section 2 of Act 128 of 2000 took effect, section 15.1 was saved from repeal. Therefore, notwithstanding the 1999 repeal, section 15.1 is still in effect.