

FIRE AND PANIC ACT

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

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)

Section 1. Definitions. — 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. — The following are the classes of buildings and structures which it is intended that this act shall cover:

Class I Buildings. — Factories, power plants, mercantile buildings, hotels, office buildings, hospitals, asylums, public and private institutions, convalescent and nursing homes, schools, colleges, school and college auditoriums and gymnasiums when used for public assemblages, airports, airport buildings, airplane hangars, dormitories, warehouses, garages, farm buildings, except those farm buildings, occupied by less than ten employes, which are used for the production or storage, or both, of agricultural products, or used in the storage of farm equipment by the owner or tenant of the building, and all other buildings specified by the department, not enumerated in Classes II, III, IV, V and VI, wherein persons are employed, housed or assembled, except those farm buildings excluded herein.

Class II Buildings. — Theatres and motion picture theatres.

Class III Buildings. — Public halls, dance halls, banquet halls, lodge halls, churches, skating rinks, armory halls, or any other auditorium in which the public assembles, not used for any of the other purposes mentioned in this act.

Class IV Buildings. — Tenement houses, apartment houses, apartment hotels, club houses, lodging houses, and rooming houses.

Class V Buildings. — Grandstands, stadiums and amphitheatres, and summer theatres.

Class VI Buildings. — Family child day-care homes and group child day-care homes, as defined in section 3.6.

(2 amended July 1, 1992, P.L.349, No.75)

Section 3. Special Requirements. — There shall be installed such emergency lighting systems, sprinkler systems, and fire alarm systems, in such of the buildings enumerated in this act as the Department of Labor and Industry may specify and which in its judgment are necessary to give proper protection from fire and panic to those employed, assembled, lodged or housed therein. No such systems shall be installed unless they are of a type approved by the Department of Labor and Industry.

(3 amended Apr. 11, 1939, P.L.18, No.17)

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 section 6306.1 of Title 18 of the Pennsylvania Consolidated Statutes.

Section 3.1. Automatic Fire Detection Devices for the Hearing Impaired. —

(a) In addition to such other rules and regulations as the Department of Labor and Industry shall adopt relating to the locations, types and number of automatic fire detection devices required in the several classes of buildings covered by this act, it shall require that specialized automatic fire detection devices for the deaf or hearing impaired, of a type approved by the department, be made available in public lodging houses, hotels and motels for the use of such guests as shall request and have need of their use. Notice of the availability of specialized automatic fire detection devices for the deaf and hearing impaired shall be posted in the area of guest registration. The lodging house, hotel or motel shall maintain at least one such specialized automatic fire detection device for each fifty dwelling units, with a maximum of ten and a minimum of two specialized automatic fire detection devices for each such lodging house, hotel or motel. Guests shall not be charged for the use of such specialized automatic fire detection devices, but a refundable deposit may be required for their use. The Department of Labor and Industry shall, by regulation, determine the existing and newly constructed lodging houses to which this section shall be applicable.

(b) Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city.

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

Section 3.2. Automatic Fire Detection Devices in Class IV Buildings. —

(a) The owner of every Class IV building shall install an automatic fire detection device within each dwelling unit and in each hall and stairwell. The Department of Labor and Industry shall, by regulation, determine the type and numbers necessary for adequate fire protection.

(b) An owner of a building having one (1) or more apartments who complies with subsection (a) shall not be responsible for any damage or injury to any person or property due or as a result of any misuse or tampering with the automatic detection device caused by a person other than the owner or his agent.

(c) Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city.

(d) Unless specified otherwise in the lease agreement, it shall be the responsibility of the tenant to inspect and test the operation of the automatic detection device at the beginning of the tenant's occupancy and then monthly thereafter and to replace batteries if needed in order to keep the automatic detection device operable at all times. The tenant shall also be

responsible for notifying the owner in case the automatic detection device is not properly functioning. In addition, the owner or his agent shall inspect the automatic fire detection devices on a yearly basis. Notwithstanding the provisions of section 15, this section shall apply throughout this Commonwealth. In cities of the first class, second class and second class A, this section shall be enforced by the city. For the purpose of this section, "tenant" means a person who will occupy a Class IV building for thirty (30) days or longer.

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

Section 3.3. Information Concerning Protection from Fire. — The management of hotels and motels shall, upon the request of travel agents and other persons interested in utilizing their facilities, furnish information concerning the measures which have been taken at the hotel or motel for protection from fire. The information shall be provided in writing, free of charge, and shall be in such detail as the Department of Labor and Industry may prescribe by regulation.

(3.3 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 3.3.

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. —

(a) (1) Tobacco use or possession by pupils is prohibited in school buildings; and on buses, vans or other vehicles owned by, leased by or under the control of a school district; and on property owned by, leased by or under the control of a school district.

(2) Tobacco use by any person other than a pupil is prohibited in school buildings; and on buses, vans or other vehicles owned by, leased by or under the control of a school district; and on property owned by, leased by or under the control of a school district.

(3) The board of school directors may designate certain areas on property owned by, leased by or under the control of the school district where tobacco use by persons other than pupils is permitted. Such areas shall be no less than fifty (50) feet from school buildings, stadiums or bleachers.

(b) (1) The board of school directors shall establish policy to enforce the prohibition of tobacco use under this section and may further establish policy relating to tobacco use at school-sponsored events which are held off school premises.

(2) The board of school directors shall notify employees, pupils and parents of the policy developed in subsection (b)(1)

by publishing the information in a student handbook and parent newsletter and on posters or other efficient means. (b.1) An offense under this section shall be deemed an offense under 18 Pa.C.S. § 6306.1 (relating to use of tobacco in schools prohibited).

(c) This section supersedes any municipal ordinance or school board regulation to the contrary.

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

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

"Adult education program" means any general extension education services provided and administered by a school board of directors under Article XIX of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," an adult literacy program offered pursuant to the act of October 22, 1986 (P.L.1452, No.143), known as the "Pennsylvania Adult Basic and Literacy Education Act," or any other program for adults approved by a school board of directors.

"Pupil" means a person who is at least six (6) years of age but not more than twenty-one (21) years of age and who is enrolled in a school. For purposes of this section, this definition shall not include an individual eighteen (18) years of age or older who is enrolled in an adult education program.

"School" means a school operated by a joint board, board of directors or school board where pupils are enrolled in compliance with Article XIII of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949." The term includes elementary schools, secondary schools, area vocational-technical schools and intermediate units.

"Tobacco" includes a lighted or unlighted cigarette, cigar, pipe or other smoking product or material and smokeless tobacco in any form.

(3.5 reenacted and amended Dec. 20, 2000, P.L.944, No.128)

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) Family child day-care homes shall be required to:

(1) Comply with 34 Pa. Code Ch. 56 (relating to division C-3 small group habitation).

(2) Develop a fire-evacuation plan, conduct at least four (4) fire drills per year and maintain a written record of all fire drills.

(b) Group child day-care homes which provide care to twelve (12) children or less at any one time shall be required to:

(1) Comply with 34 Pa. Code Ch. 56.

(2) Develop a fire-evacuation plan, conduct at least six (6) fire drills per year and maintain a written record of all fire drills.

(3) Maintain, from each floor used for day care, one (1) direct grade exit which shall be an exit discharge door to the outside, stair tower or ramp.

(4) Provide single-station detection devices listed as meeting Underwriter's Laboratory 217 (1980 Edition) in each sleeping area used for day care.

(c) Group child day-care homes which provide care to thirteen (13) or more children at any one time shall be required to comply with 34 Pa. Code Ch. 54 (relating to group B educational).

(d) Any statute or regulation to the contrary notwithstanding, the fee to be charged by the Department of Labor and Industry for field inspection and issuance of an occupancy permit relating to a family child day-care home shall be twenty-five dollars (\$25.00).

(e) The Industrial Board shall have authority to grant variances from the requirements of this section and to hear appeals arising from enforcement proceedings under this section, as provided in section 2214 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," and the regulations promulgated thereunder.

(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) A facility registered by the Department of Public Welfare between April 4, 1992, and April 4, 1994, is required to provide:

(A) An operable smoke detector placed on each level of the facility used by day-care children.

(B) An operable smoke detector on each level of exit from the facility.

(C) A portable fire extinguisher located in the kitchen and in other cooking areas. A fire extinguisher shall be equipped with a pressure gauge and shall be suitable for a class B fire.

(iii) Subparagraph (ii) applies for a maximum of twenty-four (24) months from the date the facility is registered by the Department of Public Welfare. Following expiration of the twenty-four (24) month period, a facility shall comply with all the requirements of this section.

(2) (i) As to group child day-care homes, a facility certified by the Department of Public Welfare as of April 4, 1992, shall be permitted twelve (12) months beyond the expiration date of the current certificate of compliance to comply with the requirements of this section.

(ii) A facility certified by the Department of Public Welfare as of April 4, 1993, will be permitted until April 4, 1994, to comply with the requirements of this section.

(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)

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. — From every floor of buildings, enumerated in section two of this act, there shall be proper

and sufficient ways of egress and means of escape from fire and panic. The Department of Labor and Industry shall promulgate rules and regulations concerning the proper and sufficient ways of egress and means of escape from fire and panic from buildings enumerated in section 2. The Department of Labor and Industry may order fire walls, smoke barriers, additional fireproofing, or the enclosure of vertical openings, to be built in buildings already erected, or which may hereafter be erected, where in its judgment the erection of such fire walls, smoke barriers, additional fireproofing, or the enclosure of vertical openings is necessary to the reasonable safe protection of the occupants. The ways of egress shall be free from obstruction, lighted, and ready for instant use at all times. Fire escapes, now in use or hereafter erected, shall be kept in safe condition, and up to such standard requirements as may be specified by the Department of Labor and Industry.

(4 amended July 10, 1981, P.L.253, No.83)

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. — In addition to such other rules and regulations as the Department of Labor and Industry shall adopt relating to the locations, types and number of fire extinguishers in the several classes of buildings covered by this act, it shall require that all fire extinguishers which are installed or stored in a closet or recessed in a wall or otherwise obscured from view shall be marked over the door to such closet or over such recess or at the nearest point to such obscured location which is readily visible with a light of such size and color as the said department may prescribe, so that the location of any such fire extinguisher may be immediately ascertained in emergencies.

(4.1 added Aug. 4, 1961, P.L.926, No.405)

Section 4.2. Legislative Review of Certain Rules and Regulations. —

(a) Whenever the department proposes rules or regulations or amendments thereto pursuant to the provisions of section 4 and before the department adopts finally any such rules or regulations or amendments thereto pursuant to the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, the department shall submit such rules or regulations or amendments thereto to the General Assembly pursuant to the provisions of this section.

(b) The department shall transmit such proposed rules or regulations or amendments thereto to the Speaker of the House of Representatives and to the President pro tempore of the Senate who shall authorize and direct an appropriate committee to review the proposals. Either committee may within thirty (30) calendar days or five (5) legislative days, whichever is later, recommend disapproval of the proposed rules or regulations or amendments thereto to the General Assembly. Subsequent to a recommendation for disapproval by either committee, the General Assembly may by concurrent resolution, within thirty (30) calendar days or five (5) legislative days, whichever is later, disapprove the proposed rules, regulations or amendments thereto.

(c) Any rule or regulation or amendment thereto not disapproved by the General Assembly within the allotted time may be finally adopted by the department pursuant to the Commonwealth Documents Law. Any rule or regulation or amendment thereto which has not been submitted to the General Assembly pursuant to this section or which has been disapproved shall be null and void and without effect.

(4.2 added July 10, 1981, P.L.253, No.83)

Section 5. Theatres, Motion Picture Theatres and Places of Public Assembly. — In every theatre, motion picture theatre, and place of public assembly, the construction of the building, the exits from the stage, dressing rooms and auditorium, the type and location of exit lights and signs, the width and location of aisles and the arrangement of seats, the construction and use of projection rooms and the equipment contained therein, the height of ceilings and the ventilation of the auditorium, the construction and type of proscenium walls, arches and curtains, drop curtains and sky borders, and the amount, type and location of fire preventing and extinguishing equipment for the stage, dressing room, projection rooms, or other parts of the building, shall be such as to provide reasonable and adequate protection for all persons who may assemble therein. Neither on or about the stage, auditorium, balconies or galleries, nor in any other part of the

buildings covered by this section, shall any inflammable or explosive oil or material be used or stored, except when special permission is granted by the Department of Labor and Industry and in accordance with specifications set forth by the said department. There shall be no smoking in any auditorium, balcony or gallery of any theatre or motion picture theatre. All electrical wiring and appliances in such buildings shall be installed in a safe manner, and so maintained.

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

Section 6. Permit for Motion Pictures. — Whenever any building, or portion of a building, is intended to be used for the occasional non-theatrical exhibition of motion pictures, such building or portion of building shall be approved for such by the Department of Labor and Industry and a permit obtained from the said department before such motion picture exhibitions are held.

(6 amended May 2, 1929, P.L.1523, No.453)

Section 7. Licensing of Projectionists Except in Cities of the First Class and Second Class. — Except as otherwise provided herein, no person shall be permitted to project any motion picture, either theatrical or nontheatrical, until he has obtained a license from the Department of Labor and Industry, after passing an examination prescribed by the said department, for which fees shall be charged as hereinafter provided; and no person shall be permitted in any projection room during any performance, except licensed projectionists, apprentice projectionists, the manager or owner of the theater, or authorized officials of the Department of Labor and Industry. Any license may be suspended or revoked for due cause, but no license shall be revoked until the projectionist or apprentice projectionist has been granted a hearing before the Secretary of Labor and Industry. The amendment providing for the licensing of projectionists in cities of the second class A to become effective as of the first day of January, one thousand nine hundred fifty-two.

Every application for examination as a projectionist shall be accompanied by a fee. If the applicant is successful, a certificate of competency and a license shall be issued upon payment of an additional fee for projectionists of theatrical or commercial motion pictures, or a fee for projectionists of nontheatrical motion pictures. There shall be no examination fee required from apprentice projectionists, but there shall be a license fee required, the same to accompany application from the apprentice projectionist. For the annual renewal of license for a theatrical or commercial projectionist, there shall be a fee charged, the same to accompany the application for renewal of license, and for nontheatrical projectionists. A renewal fee for apprentice license shall be charged. The Department of Labor and Industry shall establish the fees required under this section by regulation. All fees shall be paid to the Department of Labor and Industry and by the said department paid to the State Treasurer, through the Department of Revenue, for the use of the Commonwealth: Provided, however, That no registration, examination, license or fee shall be required for any one to operate approved sixteen millimeter or smaller projectors, using cellulose acetate film or similar nonflammable film, with or without sound equipment, not being exhibited in theaters or public places of entertainment regularly used as such at which admission fees are charged.

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

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. — It shall be the duty of the owner, architect, or contractor of every building or structure, as described in this act, hereafter erected, adapted, remodeled, or altered, to submit to the Department of Labor and Industry for approval, architectural drawings, specifications, or other data showing compliance with the provisions of this act and the rules and regulations of the said department which may be promulgated for the enforcement of the provisions of this act. No such building or structure shall be erected, adapted, remodeled, or altered, until such plans have been examined and approval given by the Department of Labor and Industry, and a building permit obtained in municipalities where such permit is required by ordinance.

The department shall establish, by regulation, the fee for making the necessary examination for approval of architectural drawings, specifications, or other data, and for related field inspections performed to verify compliance with the approved architectural drawings, specifications or other data, and no such drawings, specifications, or other data shall be approved until payment is made of the fee charged therefor. All fees received by the said department for making such examinations shall be paid into the State Treasury through the Department of Revenue.

Any such owner, architect, or contractor, whose drawings or specifications have been submitted to and approved by said department as herein provided, may proceed with the erection, adapting, remodeling, or altering of such building or structure without submitting such drawings or specifications to or obtaining the approval of any other department, board, or agency of the State government.

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

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. — Before any building or structure hereafter erected, adapted, remodeled, or altered shall be used or opened for occupancy, the owner thereof shall notify the Department of Labor and Industry of the completion of the erection, adoption, remodeling, or alteration of the said building or structure. If the Department of Labor and Industry finds, after proper investigation, that the building or structure complies with the requirements of this act, and the rules and regulations promulgated for the enforcement of the provisions of this act, then the said department shall issue to the owner of the building or structure a permit authorizing the occupancy or use of the building or structure.

Section 10. Discontinuance of Use. — When for any reason the ways of egress required for buildings, prior used for purposes set forth in the various titles of this act, cannot be provided, or when the owner of the building has been served with a written notice by the Department of Labor and Industry to provide such ways of egress and has failed or neglected to do so within the time specified in such written notice, then that portion of the building for which such additional ways of egress are required, or the entire building as the case may be, shall be immediately vacated and a notice placed in the same by the direction of the Secretary of Labor and Industry, or his duly authorized representative, forbidding its occupation or use or the occupation or use of the portion affected until the requirements of this act have been complied with.

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 employees 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. — Whenever the owner of any building or structure to be erected or adapted, remodeled or altered shall fail to submit plans to the Department of Labor and Industry, or, having submitted plans, shall have failed to obtain approval of such plans, and shall nevertheless proceed with the work of erecting, adapting, remodeling, or altering the said building, the Department of Labor and Industry shall serve notice on the said owner, or his contractor or his architect, to immediately cease all work on the said building or structures; and a notice shall be placed on the premises prohibiting such work being performed until the said plans have been submitted and approval given by the Department of Labor and Industry.

Section 12. Failure to Comply with Provisions of this Act. — Whenever the owner of any building or structure, as described in this act, shall fail to comply with the provisions of this act, or the rules and regulations of the Department of Labor and Industry formulated under the authority of this act, and upon whom a written order shall have been served by the Department of Labor and Industry to comply with the said provisions of this act and the rules and regulations of the Department of Labor and Industry, and who nevertheless shall have failed to comply with the said written order within the time specified in the same, the Department of Labor and Industry shall be authorized to immediately order the building or structure to be vacated or placed out of service until such time as the requirements of this act and the rules and regulations of the Department of Labor and Industry shall have been fully complied with.

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 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)