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SERIOUS ACCIDENTS PUNISHMENT ACT

[Enforcement Date 27. Jan, 2022.] [Act No.17907, 26. Jan, 2021., New Enactment]

법무부 (공공형사과)02-2110-3539

 **법제처 국가법령정보센터**

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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose) The purpose of this Act is to prevent serious accidents and protect the lives and physical safety of citizens and workers by prescribing the punishment, etc. of business owners, responsible managing officers, public officials, and corporations that have caused casualties in violation of their duties to take safety and health measures while operating businesses, places of business, public-use facilities, or public transportation vehicles or handling materials or products harmful to human bodies.

Article 2 (Definitions) The terms used in this Act are defined as follows:

1. The term "serious accident" means a "serious industrial accident" or a "serious civic accident";
2. The term "serious industrial accident" means an industrial accident defined in subparagraph 1 of Article 2 of the Occupational Safety and Health Act, which causes any of the following:
 - (a) At least one person has died;
 - (b) At least two persons have been injured due to the same accident, requiring medical treatment for at least six months;
 - (c) At least three persons have developed occupational diseases prescribed by Presidential Decree, such as acute poisoning attributable to the same hazardous factor, within one year;
3. The term "serious civic accident" means an accident resulting from a defect in the design, manufacture, installation, and management of a specific raw material or product, public-use facility, or public transportation vehicle, which causes any of the following: Provided, That an accident classified as a serious industrial accident shall be excluded herefrom:

- (a) At least one person has died;
 - (b) At least 10 persons have been injured due to the same accident, requiring medical treatment for at least two months;
 - (c) At least 10 persons have developed diseases for the same cause, requiring medical treatment for at least three months;
4. The term "public-use facility" means a facility prescribed by Presidential Decree, taking into account the scale, area, etc. of the relevant facility, among the following facilities: Provided, That the businesses or places of business of micro enterprises defined in Article 2 of the Act on the Protection of and Support for Micro Enterprises, non-profit facilities equivalent thereto, and educational facilities defined in subparagraph 1 of Article 2 of the Act on the Safety and Maintenance of Education Facilities shall be excluded herefrom:
- (a) A facility under Article 3 (1) of the Indoor Air Quality Control Act (excluding business places under Article 2 (1) 1 of the Special Act on the Safety Control of Publicly Used Establishments);
 - (b) An establishment under subparagraph 1 of Article 2 of the Special Act on the Safety Control and Maintenance of Establishments (excluding multi-family housing buildings);
 - (c) A place of business specified in Article 2 (1) 1 of the Special Act on the Safety Control of Publicly Used Establishments, whose total floor area (referring to the area calculated pursuant to Article 84 of the Building Act) used for the relevant business is at least 1,000 square meters;
 - (d) Any other facility corresponding to those specified in items (a) through (c), which is highly likely to endanger a human life or cause physical damage when any accident occurs;
5. The term "public transportation vehicle" means any of the following used by the general public:
- (a) Urban rolling stock used for operating the urban railroad defined in subparagraph 2 of Article 2 of the Urban Railroad Act;
 - (b) A locomotive or passenger coach (excluding those used for exclusive railroads under subparagraph 5 of Article 2 of the Railroad Service Act) among rolling stock defined in subparagraph 4 of Article 3 of the Framework Act on Railroad Industry Development;
 - (c) A motor vehicle for passengers and freight used for route passenger transport business under subparagraph 1 (d) of Article 3 of the Enforcement Decree of the Passenger Transport Service Act;

- (d) A passenger ship defined in subparagraph 1-2 of Article 2 of the Marine Transportation Act;
- (e) An aircraft used for air transport service defined in subparagraph 7 of Article 2 of the Aviation Business Act;
- 6. The term "product" means any movable property that is manufactured or processed (including those incorporated into another movable or immovable properties);
- 7. The term "worker" means any of the following persons:
 - (a) An employee under the Labor Standards Act;
 - (b) A person who provides labor for the purpose of consideration in conducting the business, irrespective of the form of contract, such as contracting, outsourcing, and entrustment;
 - (c) Where the business is conducted in accordance with several tiers of contracts, the contractor in each phase and the person who has relations under item (a) or (b) with the contractor;
- 8. The term "business owner" means a person who operates his or her own business or a person who conducts business by using the labor of others;
- 9. The term "responsible managing officer, etc." means any of the following persons:
 - (a) A person who represents the business and is authorized and responsible to exercise general supervision over the business, or a person who takes charge of safety and health affairs in a corresponding manner;
 - (b) The head of a central administrative agency, the head of a local government, the head of a local public enterprise under the Local Public Enterprises Act, and the head of a public institution designated pursuant to Articles 4 through 6 of the Act on the Management of Public Institutions.

CHAPTER II SERIOUS INDUSTRIAL ACCIDENTS

Article 3 (Scope of Application) The provisions of this Chapter shall not apply to business owners or responsible managing officers, etc. of businesses or places of business with fewer than five full-time employees (limited to private business owners; hereinafter the same shall apply).

Article 4 (Duties of Business Owners and Responsible Managing Officers to Secure Safety and Health) (1) A business owner or a responsible managing officer, etc. shall take the

following measures to prevent hazards or risks to the safety and health of workers in the business or place of business that the business owner, corporation, or institution actually controls, operates, or manages, in consideration of the characteristics, scale, etc. of the business or place of business:

1. Measures concerning the establishment and implementation of a safety and health management system, such as human resources and budget necessary to prevent accidents;
2. Measures concerning the formulation and implementation of schemes to prevent recurrence of accidents, when any accident occurs;
3. Measures concerning the compliance with an order to improve, correct, or take other measures issued by central administrative agencies or local governments under the relevant statutes or regulations;
4. Managerial measures necessary to perform duties under safety and health-related statutes or regulations.

(2) Details of the measures under paragraph (1) 1 and 4 shall be prescribed by Presidential Decree.

Article 5 (Duties to Secure Safety and Health in Relation to Contracting, Outsourcing, and Entrustment) Where a business owner, a corporation, or an institution has awarded a contract or outsourced, entrusted, etc. any work to a third party, the business owner or responsible managing officer, etc., shall take measures under Article 4 to prevent the third party's workers from suffering a serious industrial accident: Provided, That this shall be limited to cases where the business owner, corporation, or institution is actually responsible for controlling, operating, and managing the relevant facility, equipment, place, etc.

Article 6 (Punishment of Business Owners and Responsible Managing Officers for Serious Industrial Accidents) (1) Any business owner or responsible managing officer, etc. who has violated Article 4 or 5, resulting in a serious industrial accident defined in subparagraph 2 (a) of Article 2 shall be punished by imprisonment with labor for at least one year or by a fine not exceeding one billion won. In such cases, imprisonment with labor and a fine may be imposed concurrently.

(2) Any business owner or responsible managing officer, etc. who has violated Article 4 or 5, resulting in a serious industrial accident defined in subparagraph 2 (b) or (c) of Article 2

shall be punished by imprisonment with labor for not more than seven years or by a fine not exceeding 100 million won.

(3) Any person who has been sentenced to a punishment for committing a crime provided in paragraph (1) or (2) and recommitts a crime provided in paragraph (1) or (2) within five years from the date his or her sentence becomes final and conclusive shall be punished aggravatingly by up to 1/2 of the corresponding punishment prescribed in each paragraph.

Article 7 (Joint Penalty Provisions for Serious Industrial Accidents) If a responsible managing officer, etc. of a corporation or an institution commits any violations described in Article 6 in conducting the business affairs of the corporation or institution, the corporation or institution shall be punished by a fine prescribed in the following, in addition to punishing the violators accordingly: Provided, That this shall not apply where such corporation or institution has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent such violations:

1. In the case of Article 6 (1): A fine not exceeding five billion won;
2. In the case of Article 6 (2): A fine not exceeding one billion won.

Article 8 (Participation in Safety and Health Education Programs) (1) The responsible managing officer, etc. of a corporation or institution that has caused a serious industrial accident shall complete safety and health education programs, as prescribed by Presidential Decree.

(2) A person who fails to complete safety and health education programs under paragraph (1) without good cause shall be subject to an administrative fine not exceeding 50 million won.

(3) The administrative fines under paragraph (2) shall be imposed and collected by the Minister of Employment and Labor, as prescribed by Presidential Decree.

CHAPTER III SERIOUS CIVIC ACCIDENTS

Article 9 (Duties of Business Owners and Responsible Managing Officers to Secure Safety and Health) (1) A business owner or a responsible managing officer, etc. shall take the following measures to protect the lives and physical safety of the users or other persons from any defect in the design, manufacture, and management of raw materials or products produced, manufactured, sold, or distributed at a business or place of business which is actually controlled, operated, and managed by the relevant business owner, corporation, or

institution:

1. Measures concerning the establishment and implementation of a safety and health management system, such as human resources, budget, and inspection necessary to prevent accidents;
2. Measures concerning the formulation and implementation of schemes to prevent recurrence of accidents, when any accident occurs;
3. Measures concerning the compliance with an order to improve, correct, or take other measures issued by central administrative agencies or local governments under the relevant statutes or regulations;
4. Managerial measures necessary to perform duties under safety and health-related statutes or regulations.

(2) A business owner or a responsible managing officer, etc. shall take the following measures to protect the lives and physical safety of the users or other persons from any defect in the design, installation, and management of public-use facilities or public transportation vehicles which are actually controlled, operated, or managed by the relevant business owner, corporation, or institution:

1. Measures concerning the establishment and implementation of a safety and health management system, such as human resources, budget, and inspection necessary to prevent accidents;
2. Measures concerning the formulation and implementation of schemes to prevent recurrence of accidents, when any accident occurs;
3. Measures concerning the compliance with an order to improve, correct, or take other measures issued by central administrative agencies or local governments under the relevant statutes or regulations;
4. Managerial measures necessary to perform duties under safety and health-related statutes or regulations.

(3) Where a business owner, a corporation, or an institution has awarded a contract or outsourced, entrusted, etc. any work to a third party in relation to public-use facilities or public transportation vehicles, the business owner or responsible managing officer, etc. shall take measures under paragraph (2) to protect the lives and physical safety of the users or other persons: Provided, That this shall be limited to cases where the business owner, corporation, or institution is actually responsible for controlling, operating and managing the relevant facility, equipment, place, etc.

(4) Details of the measures under paragraphs (1) 1 and 4 and (2) 1 and 4 shall be prescribed by Presidential Decree.

Article 10 (Punishment of Business Owners and Responsible Managing Officers for Serious Civic Accidents)

(1) Any business owner or responsible managing officer, etc. who has violated Article 9, resulting in a serious civic accident defined in subparagraph 3 (a) of Article 2 shall be punished by imprisonment with labor for at least one year or by a fine not exceeding one billion won. In such cases, imprisonment with labor and a fine may be imposed concurrently.

(2) Any business owner or responsible managing officer, etc. who has violated Article 9, resulting in a serious civic accident defined in subparagraph 3 (b) or (c) of Article 2 shall be punished by imprisonment with labor for not more than seven years or by a fine not exceeding 100 million won.

Article 11 (Joint Penalty Provisions for Serious Civic Accidents) If a responsible managing officer, etc., of a corporation or an institution commits any violations described in Article 10 in conducting the business affairs of the corporation or institution, the corporation or institution shall be punished by a fine prescribed in the following, in addition to punishing the violators accordingly: Provided, That this shall not apply where such corporation or institution has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent such violations:

1. In the case of Article 10 (1): A fine not exceeding five billion won;
2. In the case of Article 10 (2): A fine not exceeding one billion won.

CHAPTER IV SUPPLEMENTARY PROVISIONS

Article 12 (Notification of Determination of Punishment) When the sentence for a crime specified in Article 6, 7, 10, or 11 becomes final and conclusive, the Minister of Justice shall notify the fact of such crime to the head of the relevant administrative agency.

Article 13 (Publication of Occurrence of Serious Industrial Accidents) (1) With regard to a serious industrial accident resulting from violation of the duties provided in Article 4, the Minister of Employment and Labor may publish the occurrence of such industrial accident, including the name of the place of business, the date, time, and place of the occurrence, and the details and cause of the accident.

(2) The methods, criteria, procedures, etc. for publication under paragraph (1) shall be prescribed by Presidential Decree.

Article 14 (Special Cases concerning Hearing Procedures) (1) In a criminal trial as to whether this Act has been violated, the court may, ex officio, examine a victim or his or her legal representative (including the victim's spouse, lineal relatives, and siblings, if the victim dies or is unable to make a statement) as a witness, pursuant to Article 294-2 of the Criminal Procedure Act.

(2) In a criminal trial as to whether this Act has been violated, the court shall designate an expert in the relevant field as a professional examiner and shall have him or her participate in the litigation procedures upon receipt of a request by the prosecutor or the criminal defendant of his or her defense counsel, unless any extenuating circumstance exists.

Article 15 (Liability for Damages) (1) Where a business owner or a responsible managing officer, etc. has violated any duty prescribed in this Act intentionally or by gross negligence, resulting in a serious accident, the relevant business owner, corporation, or institution shall be liable for damages to the person who has sustained the damage caused by the serious accident within the limit not exceeding five times the amount of such damage: Provided, That this shall not apply where such corporation or institution has not been negligent in giving due attention and supervision concerning the relevant business affairs.

(2) Where a court determines the amount of damages under paragraph (1), it shall take into account the following:

1. The degree of such intention or gross negligence;
2. The types and details of the violation of duties prescribed in this Act;
3. The scale of damage caused by the violation of duties prescribed in this Act;
4. The economic benefits that the business owner, corporation, or institution acquired by committing the violation of duties prescribed in this Act;
5. The period, frequency, etc. of the violation of duties prescribed in this Act;
6. The current status of property of the business owner, corporation, or institution;
7. The degree of efforts made by the business owner, corporation, or institution to remedy damage and prevent recurrence thereof.

- Article 16 (Support for Business Owners and Report by Government)** (1) The Government shall implement the following so as to secure the safety and health of citizens and workers by preventing serious accidents:
1. Establishment and implementation of comprehensive measures to prevent serious accidents and analysis of causes of such accidents;
 2. Support for business owners, corporations, and institutions to establish a safety and health management system;
 3. Technical support and guidance for business owners, corporations, and institutions to prevent serious accidents;
 4. Providing education and conducting public relations to achieve the purpose of this Act.
- (2) The Government may, within the budget, fully or partially subsidize business owners, corporations, or institutions for expenses incurred in projects for preventing serious accidents, such as the improvement of hazardous or risky facilities, the purchase of protective gear, and the health checkup and health care of workers.
- (3) The Government shall report the progress of implementation of measures to prevent serious accidents, etc. and the status of support for the relevant projects under paragraphs (1) and (2), to the competent standing committee of the National Assembly semiannually.