

TECHNICAL REQUIREMENTS, RESTRICTIONS AND PROHIBITIONS TO THE PLACES FOR SMOKING

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Abstract. The article deals with the issues of arrangement of places for smoking in accordance with the requirements established by the legislation on the restriction and prohibition of smoking in enterprises, workers and in public places, as well as financial sanctions in case of violation of these requirements.

Key words: smoking area, smoking restrictions, smoking ban, Fire Security, fire mode, responsibility, fine.

Анотація. У статті розглянуті питання облаштування місць для куріння відповідно з вимогами, встановленими законодавством, щодо обмеження та заборони куріння на підприємствах, робочих та у громадських місцях, а також відповідальності та фінансових санкцій у разі порушення цих вимог.

Ключові слова: місце для куріння, обмеження куріння, заборона куріння, пожежна безпека, протипожежний режим, відповідальність, штраф.

Introduction. The legislation of Ukraine establishes that the provision of fire safety is a necessary and direct duty of officials, employees of enterprises, institutions, organizations and enterprises. The constituent of the fire-prevention regime of any enterprise is to determine the possibility or the prohibition of smoking in the premises of the enterprise and on its territory.

Analysis of the question. Today, the possibility and restrictions of smoking in public places and at workplaces are governed by a large number of legal acts – Order of the Ministry of Internal Affairs of Ukraine ‘On Approval of Fire Safety Rules in Ukraine’ of December 30, 2014 №1417; Order of the Ministry of Economy and European Integration of Ukraine ‘On approval of the Rules of operation of restaurants (restaurants) enterprises’ of July 6, 2018, №219; Order of State mining industrial oversight ‘On Approval of the Rules of Occupational Safety for Workers of Marine Fish Ports’ of December 18, 2006№12; Order of the Ministry of Ukraine on Emergencies and Affairs of Population Protection from the Consequences of the Chernobyl Catastrophe ‘On Approval of Labor Safety Rules for Workers of Coastal Fish Processing Enterprises’ dated September 10, 2012 №365; Order of State mining industrial oversight ‘On Approval of Safety Rules during the Operation of Main Oil Pipelines’ dated May 23, 2007№110; Order of State mining industrial oversight ‘On Approval of Labor Protection Rules for Forestry and Forestry Workers’ dated November 27, 2007 №119 and others.

Objective. The refore, the aim of the work is to consider the most important aspects of legislation on the prohibition (restriction) of smoking and the arrangement of special places for smoking.

Materials and results. According to Article 13 of the Law №2899-IV «On measures to prevent and reduce the use of tobacco products and their harmful effects on the health of the population.» *smoking tobacco products are prohibited:*

- 1) in elevators and payphones;
- 2) in the premises and on the territory of health facilities;
- 3) in premises and on the territory of educational establishments;
- 4) on children's playgrounds;
- 5) in premises and on the territory of sports grounds and athletic and recreational facilities and facilities of physical culture and sports;
- 6) in the entrances of residential buildings;
- 7) in underground passages;
- 8) in public transport used for the carriage of passengers;
- 9) in the premises of restaurant facilities;
- 10) in premises of cultural objects;
- 11) in the premises of state authorities and bodies of local self-government, other state institutions;
- 12) on stationary equipped stops of route vehicles.

In places and institutions where smoking is prohibited, *visual information* should be provided, which consists of a pictorial sign of the prohibition of smoking and the text of the following content: 'Smoking is prohibited!' in accordance with Article 13 of Law №2899 [1].

The graphic sign 'Smoking prohibited!' must comply with the requirements of GSTU ISO 6309:2007 'Fire protection. Signs of safety'. Features of the sign is a round shape with a red round rim, on a white background the sign is depicted a black cigarette with a red cross line. This mark should be used in places where smoking may result in fire hazards.

Also, GSTU ISO 6309:2007 provides another sign – 'Open flame is prohibited. Smoking is prohibited'. The given sign has similar features, but, unlike the previous one, it shows a match with a flame. Use of the mark is expedient in areas of increased danger of causing fire or blast [2].

Prohibitions and restrictions on smoking in the territory and in the premises of the object are approved by the order of the head of the facility.

According to Article 13 of Law №2899, on the territory of facilities where smoking is permitted, the owner, the person authorized by him or the tenant of the corresponding facilities or separate premises is obliged to remove special places for smoking, the total area of which must not exceed 10% of the total area of the building or premises approved by the relevant order of the head of the facility.

In accordance with Article 13 of Law №2899 it *is prohibited, in addition to the places specifically designated for this purpose, to smoke tobacco products:*

- in the premises of enterprises, institutions and organizations of all forms of ownership;
- in hotels and similar accommodation facilities;
- in the rooms of dormitories;
- at airports and at train stations.

In the smoking area:

- display visual information consisting of a graphic sign and a text with the following contents: ***‘Place for smoking. Smoking is harmful to your health!’***;
- set the urn or ashtray from non-combustible materials;
- install exhaust ventilation or other means for the removal of tobacco smoke;
- outline information on the harm to human health of smoking tobacco products (for example, ‘Smoking kills’, ‘Smoking causes lung cancer’, ‘Smoking causes tobacco dependence (nicotine addiction) – do not start smoking’, etc.).

When creating places for smoking should take into account the psychological aspects of smoking. First of all, it is stress relief and communication. Therefore, in order to combat smoking, it is not appropriate to create comfortable conditions for smoking in these places [1].

When leasing an object in a lease agreement, separate premises (parts of the premises) and the obligations of the parties regarding the provision of fire safety of the leased property shall be determined.

Usually, both sides guarantee fire safety equally. However, the tenant must, in any case, comply with the fire-control regime established by the lessor, including the prohibition or authorization of smoking in specially designated places.

Obligations of the parties to the agreement regarding the arrangement of places for smoking can be defined in the lease agreement.

Responsibility for violation of the legislation on smoking.

Article 175 of the Code of Ukraine on Administrative Offenses provides that violations of fire safety requirements established by law entails the prevention or imposition of fines from 0.5 to 7 non-taxable minimum incomes of citizens (8.50-119 UAH). And for officials from 2 to 10 (34-170 UAH).

Violation of the safety rules (in particular fire regulations) established by the legislation, which caused a fire that caused damage to people's health or property damage of a large size, according to Article 272 of the Criminal Code of Ukraine, is punishable by a fine of 100 to 200 non-taxable minimum incomes of citizens (850-1700 UAH) or corrective labor for a term up to two years, or restraint of liberty for a term up to three years. If the actions of the subject caused death of people, property damage in especially large amounts or other grave consequences, then it is punishable by restraint of liberty for a term up to five years or imprisonment for a term up to eight years, with the disqualification to occupy certain positions or engage in certain activities for a term up to three years [3].

When smoking tobacco products in places prohibited by current legislation, as well as in places determined by the decision of the respective village, settlement and city councils, in accordance with Article 175-1 of the Code of Ukraine on Administrative Offenses, it entails warning or imposing of a fine in the amount from 3 to 10 non-taxable minimum incomes (51-170 UAH). In the event of repeated violation of this violation within a year, a fine of 10 to 20 non-taxable minimum incomes of citizens (170-340 UAH) is stipulated.

The right to formulate administrative protocols is authorized by the executive committees of village, settlement, city councils and members of public formations.

For the non-allocation of special places for smoking, not the equipment for their exhaust ventilation or other means for the removal of tobacco smoke, the non-placement of visual information provides for a fine of one thousand hryvnia to ten thousand hryvnia in accordance with Article 20 of Law №2899.

Conclusion. On the commission of an offense by an authorized person of a specially authorized central executive body in the field of consumer protection, standardization, metrology, confirmation of conformity an act is drawn up, which, together with written explanations of the head of this economic entity and documents related to the case, is sent to an official within three days, who are entitled to impose financial sanctions. Within ten days after the receipt of documents, a decision is made to impose financial sanctions. Decisions on imposing financial sanctions shall be executed by a resolution sent to the subject of economic sanctions imposed and to the banking institution in which the current account of this legal entity has been opened.

The imposition of financial sanctions does not release those guilty of violating this Law from disciplinary, administrative, civil or criminal liability established by the laws of Ukraine.

References

1. The Law of Ukraine ‘On Measures to Prevent and Reduce Tobacco Use and Their Harmful Influence on the Health of the Population’ of September 22, 2005 №2899-IV (with amendments and supplements).

2. GSTU ISO 6309:2007 ‘Fire protection. Signs of safety. Shape and color’ Order of the Ministry of Emergencies ‘On Approval of Fire Safety Rules in Ukraine’ of October 19, 2004 №126, registered with the Ministry of Justice on November 4, 2004 №1410/10009 (with amendments and supplements).

3. Code of Ukraine on Administrative Offenses of December 7, 2004 №8073-X (with amendments and supplements).