

DR & AJU Weekly Legislative Report



DR&AJU LLC

For the week of June 6, 2022 – June 10, 2022

As the first-ever Korean law firm to issue specialized legislative journals, DR & AJU LLC has been publishing the monthly *Policy & Business (P&B) Report* since August 2019. The *P&B Report* provides analyses of plenary sessions of the National Assembly, as well as standing committee and subcommittee meetings. In addition, the firm has been co-hosting the *Future Leaders Forum* with the Herald Business, inviting chairpersons of standing committees to discuss relevant legislative issues and tasks.

As an extension of this service, DR & AJU has also been issuing the *Weekly Legislative Report*, which covers various legal issues at the center of public debate along with editorials and columns on the Serious Accidents Punishment Act (“SAPA”) from major daily news outlets. The report will be released with an update on newly proposed or pending bills. Enclosed is this week’s legislative report, and please refer to the *P&B Report* for further details.

If you wish to subscribe to the *P&B Report* or have any other queries, please contact us at pr@draju.com.

Executive Summary

Legislation Type	Keyword(s)	Name of Bill	Highlights
Proposed	Construction & Real Estate	① Partial Amendment to the Act on the Safety and Maintenance of Educational Facilities	This Amendment applies strengthened installation standards to fire-fighting facilities prescribed by the Presidential Decree, such as sprinklers, and mandates the observance of seismic-resistant design standards under the “Act on Fire Prevention and Installation, Maintenance, and Safety Control of Firefighting Systems” when educational facilities, such as special-education schools, dormitories, boarding houses, etc., are constructed.
	Labor & Employment	② Partial Amendment to the Equal Employment Opportunity and Work-family Balance Assistance Act	This Amendment extends the period of paternity leave from 10 days to 20 days and the period of childcare leave from one year to within three years for workers with children aged under nine or in grades two and below in elementary school.
Pending	Antitrust & Competition	③ Fair Online Platform Intermediary Transactions Act	This Bill stipulates the obligation to deliver online platform intermediary contracts, standards of unfair trade practices by online platform intermediaries, dispute resolution systems between business operators, the Korea Fair Trade Commission (“KFTC”)’s investigation and processing of violations, and online platform intermediaries’ liability for damages incurred by the violations.
Promulgated	Energy & Infrastructure	④ Enforcement Rule of the High-pressure Gas Safety Control Act	This Bill mandates the conduction of safety impact assessments to reflect risk evaluation results regarding location conditions, such as population density of nearby areas, when establishing hydrogen fueling stations.
Undergoing Pre-Announcement of Legislation/ Administration	Construction & Real Estate	⑤ Partial Amendment to the Public Notice of Detailed Standards for Construction Orders	This Bill allows the Ministry of Land, Infrastructure and Transport to restrict the participation of general construction businesses in specialty construction projects with costs estimated to be KRW 200 million or more and less than KRW 350 million by next year.

1. Proposed Bill(s)

*Please refer to the link at the bottom of each section for the full text of the legislative bill or examination report.

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
1	 <p>Young Deok YOON (Democratic Party of Korea)</p>	<p>Partial Amendment to the Act on the Safety and Maintenance of Educational Facilities</p>	<ul style="list-style-type: none"> Scores of fire accidents continue to occur every year in school education facilities. Thus, it is necessary to establish measures to prevent fire in schools, improve fire-vulnerable facilities, and improve initial countermeasures in case of fire. <p>There are voices demanding for a safe educational environment to be established by mandating the installation of fire-fighting facilities, such as sprinklers, and the compliance to seismic-resistant design standards because it may be difficult for students to evacuate quickly in the event of fire, especially in special schools, dormitories, or boarding houses for athletic clubs.</p> <p>Accordingly, this Amendment aims to strengthen installation standards applied to fire-fighting facilities, including sprinklers, when establishing educational facilities, such as special-education schools, dormitories, boarding houses, etc. The Amendment also mandates compliance to the seismic-resistant design standards when equipping fire-fighting facilities (Article 10-3 Newly Inserted).</p>		<p>Proposed on May 30, 2022</p>

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_P2O2V0H5L2E3O1R7O0M4X1Y1I2L6N8

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
2	 <p>Jong Bae LEE (People Power Party)</p>	<p>Partial Amendment to the Equal Employment Opportunity and Work-family Balance Assistance Act</p>	<ul style="list-style-type: none"> The existing law provides workers with 10 days of paternity leave to protect motherhood and support work-family balance and 10 days of annual family care leave if they have to take care of the family due to childcare. However, it does not stipulate whether the workers are paid during this period. <p>In response, there have been concerns that the 10-day paternity leave is insufficient for workers to take care of their spouses and newborn infants and that it is relatively short compared to the women's maternity leave period, which might propagate the perception that childbirth and childcare are the exclusive responsibilities of women. It has also been argued that the family care leave should be paid for workers to utilize the leave without any burden.</p> <p>In addition, under the existing law, a worker can apply for one year of childcare leave to raise children aged under nine or in grades two and below in elementary school. However, given that subparagraph 7 of Article 72 of the "State Public Officials Act" and subparagraph 8 of Article 64 of the "Local Public Officials Act" stipulate that a person can apply for up to three years of childcare leave, a one-year leave is deemed insufficient to take care of children under the age of nine.</p> <p>Accordingly, this Amendment aims to improve workers' parenting environments by extending the period of maternity leave from 10 days to 20 days, providing half-yearly one day's paid leave per the number of a child when a worker uses family care leave for childcare, and extending the period of childcare leave from one year to three years (Articles 18-2 (1), 19-2 (2) and 22-2 (10) Newly inserted).</p>	<p>https://www.secdaily.com/NewsView/266672CTEA</p>	<p>Proposed on May 30, 2022</p>

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_X2X2W0Q5B1Q8K1G3Y3J0G3J7Y511F8

2. Pending Bill(s)

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
3	Government	Fair Online Platform Intermediary Transactions Act	<p>■ Grounds for Amendment</p> <p>The recent rapid growth of the online platform transaction market has strengthened the economic status of online platform service providers, setting the stage for continuous unfair trade practices toward online platform business users, the majority of whom are micro-enterprises. However, since it is difficult to respond effectively to such unfair trade practices under the current fair-trade system, this Bill aims to establish an institutional basis for a fair online platform intermediary transaction order by stipulating matters concerning the obligation to deliver online platform intermediary contracts, standards of unfair trade practices by online platform intermediaries, dispute resolution systems between business operators, the Korea Fair Trade Commission ("KFTC")'s investigation and processing of violations, and online platform intermediaries' liability for damages incurred by the violations.</p> <p>■ Main Content</p> <p>I. Obligation to Deliver Online Platform Intermediary Contracts (Article 6)</p> <p>i. The Bill mandates online platform intermediaries to deliver online platform intermediary contracts, including the term, contract change and termination, etc., in writing to online platform business users when executing contracts related to online platform intermediary transactions with online platform business users.</p> <p>ii. The KFTC shall prepare a standard form of contract for online platform intermediary transactions and encourage its use, if deemed necessary, to establish a fair online platform intermediary transaction order.</p>	<p>https://www.sedaily.com/NewsView/2673PNCJVK</p>	<p>Proposed on January 28, 2021</p> <p>Presented Before Standing Committee/ Explanation of Proposal Given/Report on Examination Made/General Discussion Closed/ Tabled to Subcommittees on February 16, 2021</p> <p>Presented Before Subcommittee on June 30, 2021</p> <p>Presented Before Subcommittee/ Explanation of Proposal Given on November 18, 2021</p> <p>Presented Before Subcommittee/ Explanation of Proposal Given on November 24, 2021</p>

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
			<ul style="list-style-type: none"> II. Online Platform Intermediaries' Obligation of Advance Notification (Article 7) <ul style="list-style-type: none"> i. If an online platform intermediary intends to terminate an online platform intermediary transaction contract, the intermediary shall notify the reason to online platform business users within 30 days before the scheduled termination date. The termination of the intermediary transaction contract in violation of the obligation of advance notice shall not be recognized as effective. ii. If an online platform intermediary intends to restrict or suspend an online platform intermediary service, it shall notify online platform business users of the reason and details thereof seven days prior to the scheduled date of restriction or suspension. III. Establishment of the Standards of Online Platform Intermediaries' Unfair Trade Practices (Article 9) <ul style="list-style-type: none"> i. This Bill specifies unfair trade practices by online platform intermediaries, such as coercing online platform business users into purchasing goods or services or providing economic benefits by unfair use of their bargaining position. ii. Unfair trade practices by online platform intermediaries shall be applied only to transactions where the online platform intermediary has a superior bargaining position compared to the online platform business user. Detailed standards shall be determined and announced by the KFTC taking into consideration the structure and current status of the online platform intermediary market. IV. Mediation of Disputes Between Business Operators (Articles 12 and 16 through 18) <ul style="list-style-type: none"> i. The Korea Fair Trade Mediation Agency establishes the Online Platform Intermediary Dispute Mediation Council (hereinafter the "Council") for dispute settlement between online platform intermediaries and online platform business users, and the Council shall consist of nine members, including one chairperson. ii. Parties to a dispute or the KFTC may apply for or request dispute mediation to the Council on disputes under this Act, and when the Council terminates the mediation procedure, the Council shall report the mediation process or reason for termination of the mediation procedure to the KFTC and notify the parties to the dispute of the details. 		

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
			<p>iii. If a dispute is settled, the Council shall prepare a mediation report signed or sealed by the members of the Council and the parties to the dispute, and the parties to the dispute shall submit the results of the implementation of the agreements to the KFTC.</p> <p>V. Investigation and Handling of Violations by the KFTC (Articles 20, 22, 24 and 26)</p> <p>i. The Bill allows the KFTC to investigate violations based on reporting or by authority, and according to the investigation results, whether the KFTC issues dispositions under this Act or not, it shall notify the parties involved of the details and reasons of the disposition in writing.</p> <p>ii. The KFTC can issue a correction order or impose a fine on online platform intermediaries who fail to fulfill the obligation to deliver an online platform intermediary transaction contract in written form including the sign and seal, or fail to fulfill obligations that prohibit unfair trade practices and retaliatory acts.</p> <p>iii. This Bill introduces commitment decisions for corrective measures for online platform intermediaries under the KFTC's investigation or review to voluntarily resolve unfair transactions and actively relieve damages incurred by online platform business users</p> <p>VI. The KFTC's Documentary Inspection on Actual Conditions (Article 29)</p> <p>i. i. To establish a fair transaction policy, the KFTC shall conduct a documentary fact-finding investigation on actual conditions regarding transactions between online platform intermediaries and online platform business users, and publish the investigation results.</p> <p>ii. When the KFTC conducts a documentary fact-finding investigation, it shall establish a plan for the investigation regarding the scope, the subjects, the period, the contents and methods, and the publication of the investigation results, and the KFTC can request materials required for the investigation, including transaction and operation status, from the subjects of the investigation.</p>		

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
			<p>VII. Online Platform Intermediary's Liability for Damages (Article 30)</p> <ul style="list-style-type: none"> i. In cases where online platform intermediaries violate this Act and cause damages to online platform business users, they shall be liable for the losses, except where they prove absence of intention or negligence. ii. This Bill allows the court to order online platform intermediaries to submit materials to prove losses or determine the amount of losses in a suit for losses caused by unfair trade practices by online platform intermediaries. In addition, upon the court's order to submit materials, no online platform intermediaries shall refuse to submit materials if doing so is necessary to prove losses or determine the amount of losses, even if said materials contain trade secrets. 		

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=ARC_O2P1D0W1H2R8Z1U6K1I7B3F7G9F3E7

3. Promulgated Bill(s)

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Date
4	Ministry of Trade, Industry and Energy	Enforcement Rule of the High-pressure Gas Safety Control Act	<ul style="list-style-type: none"> This Bill was designed to improve and supplement imperfections in the operation of the existing system to strengthen the safety management of hydrogen fueling stations with the expansion of the supply of hydrogen vehicles by i) mandating receipt of approval for modification and completion inspection in case of any changes in the location, number, and volume of compressed gas facilities within hydrogen fueling stations, ii) mandating safety impact assessment for the location and placement of hydrogen fueling stations, and iii) building protective walls around high-pressure gas facilities if there are offices and convenient facilities near the gas facilities to protect employees and others working in the fueling station. 	http://news.heraldoorp.com/view.php?ud=20220602000054	Partially Amended on June 2, 2022 Enforced on June 2, 2022

Source (Korean): [https://www.law.go.kr/법령/고압가스안전관리법시행규칙/\(00469,20220602\)](https://www.law.go.kr/법령/고압가스안전관리법시행규칙/(00469,20220602))

4. Bill(s) Undergoing Pre-Announcement of Legislation/Administration

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
5	Ministry of Land, Infrastructure and Transport	Partial Amendment to the Public Notice of Detailed Standards for Construction Orders	<ul style="list-style-type: none"> ■ Grounds for Amendment Since the abolition of regulations for work areas of the construction industry (January 1, 2021), the amount of orders for specialty constructors' general construction businesses have significantly decreased compared to that of general constructors' specialty construction businesses, raising controversy over the equity of the Bill. Accordingly, this Amendment aims to improve the ordering method of specialty construction businesses to protect small construction business owners. ■ Main Content The amended Bill allows the Ministry of Land, Infrastructure and Transport to restrict prime contracts for specialty construction projects with the estimated amount of KRW 200 million or more and less than KRW 350 million to construction business owners who are not registered as construction businesses of such specialty areas of the construction industry. (Article 8 (4)) <p>Source (Korean): http://m.molit.go.kr/viewer/skin/doc.html?fn=f6cb86956efc6c33c10df04559111e46&rs=/viewer/result/20220602</p>	<p>https://www.mk.co.kr/news/realstate/view/2022/06/484665/</p>	<p>May 31, 2022</p> <p>-</p> <p>June 9, 2022</p>

Editorials and Columns on the Serious Accidents Punishment Act (SAPA)

[The Hankyoreh] Managers Given the Freedom to “Manage Serious Accidents”

<https://www.hani.co.kr/arti/opinion/because/1045912.html>

SUMMARY Complying with the sustained requests of the business sector, it is anticipated that Yoon Administration will begin revising the SAPA to include specific details of the obligations of the responsible management personnel. Businesses have been protesting that the obligations of the top decision-maker entailed in the SAPA are too ambiguous and are asking for specific regulations that establish the baseline for securing safety and health. However, the demand for a specific description of the management obligations contradicts the autonomy of management system for workplace safety and health prescribed in the existing regime of the Occupational Safety and Health Act (OSHA). Moreover, in an era of high technology where work patterns change rapidly by the day, not only it is difficult to establish safety regulations that accommodate all circumstances, but the uncertainty and unpredictability that come with complicated production technology and methods and the diversity of work environments make it difficult for external inspection to investigate the possible hazards and supervise accordingly. Rather than waiting for the law to stipulate regulations for securing safety and health, it is imperative that businesses take the initiative to assess the potential dangers and risks and secure effective safeguards against these risks.

[Sedaily] Companies Consider Downsizing After SAPA Enforcement

<https://www.sedaily.com/NewsView/267531HWL3>

SUMMARY According to a survey conducted by the Korea Industry Alliance Forum (KIAF) to mark the 100th day since the SAPA went into effect, more than half of domestic companies are considering reducing the number of new hires or downsizing their business due to the implementation of this new law. The survey results were made public on May 17th, showing that out of the total 295 companies that responded, 35.3% were considering either replacing human resources with machines or reducing the number of new hires, and 25.4% were thinking about scaling down or even dissolving their businesses. Regarding the issue on how the SAPA should be amended, a whopping 44.1% responded that the causal relationship between the workplace accident and the penalty needs to be clarified.

[Yonhap News] Minister of Employment and Labor Calls for a Visible Reduction of Workplace Fatalities Before the Amendment of SAPA

<https://www.yna.co.kr/view/AKR20220602140200530?input=1195m>

SUMMARY The Minister of Employment and Labor adamantly declared that preceding the amendment of the SAPA, companies must prioritize safety and actively implement safety measures to discernably reduce the number of workplace fatalities and occupational illnesses. Last month, the Korean Enterprises Federation (KEF) tabled a motion to the Ministry of Labor and other relevant ministries, requesting for the revision of the SAPA on the grounds that the vague regulations under the SAPA coupled with the strict monitoring of the government are causing confusion at the work site and increasing the burden of business managers. The Minister of Labor and Employment asserted that the number of fatalities will never reduce if we refuse to change and that the nature of corporations must be reformed to internalize safety awareness in the management system for business management and safety values to be in concordance.

[Maeil Business News Korea] Investigations Begin on the Controversial SAPA for Requesting an Indictment Draft from a Former Chief Prosecutor

<https://www.mk.co.kr/news/economy/view/2022/06/494679/>

SUMMARY Recently, accusations have been brought forth by legal circles that the Occupational Safety and Health Office of the Ministry of Employment and Labor (MOEL) had requested a lawyer, who had served as a chief prosecutor, to draft sample indictments for each type of criminal liabilities enumerated in the SAPA. An expert specializing in serious accident cases wryly notes that "if the allegations are true, not only will the Occupational Safety and Health Office have proven a complete lack of investigative capabilities, but will also have created the possibility of a conflict in interest if the lawyer in question takes on a serious accident case in the future." This criticism hinges on the fact that the legal dispute between the prosecution and the defense attorney is especially intense in serious accident cases. Thus, a more desirable course of action would have been for the Occupational Safety and Health Office to request aid from either the Ministry of Justice or the Supreme Prosecutors' Office. Four months into its implementation, statistics reveal that the SAPA fails to neither prevent workplace fatalities nor facilitate businesses' fulfillment of SAPA obligations.

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