

DR & AJU Weekly Legislative Report

For the week of May 22, 2023 – May 26, 2023



DR&AJU LLC

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 lc@draju.com.

Executive Summary


Legislation Type	Keyword(s)	Name of Bill	Highlights
Proposed	Corporate Finance	① Partial Amendment to the Motor Vehicle Management Act	This Amendment mandates the investigation of the cause of a car accident involving suspected sudden unintended acceleration and requires car manufacturers to submit relevant materials to substantiate the accident.
	IP	② Partial Amendment to the Content Industry Promotion Act	This Amendment requires content producers to indicate when they create AI-generated content, whether it is text, image, or music.
Pending	Antitrust & Competition, Finance and Capital Market Response, Corporate Finance	③ Partial Amendment to the Financial Investment Services and Capital Markets Act	This Amendment introduces fines of up to twice the amount of profits obtained or losses avoided for engagement in unfair trade practices, including the utilization of material nonpublic information, market price manipulation, and stock manipulation.
Promulgated	ESG	④ Special Act on the Promotion of Business Conversion in Small and Medium Enterprises	This Bill allows preferential approval for the business conversion plans of small and medium business operators who promote business conversion for the purpose of environmental protection, social responsibility, and governance enhancement.
Undergoing Pre-Announcement of Legislation/ Administration	IP	⑤ Partial Amendment to the Enforcement Decree of the Personal Information Protection Act	This Amendment specifies the principle of collecting and processing private data, ensuring that individuals can recognize they are giving consent based on their right of choice. It also requires data controllers to provide separate options for granting or denying consent when obtaining consent regarding private data.

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>Jun Ho HAN (Democratic Party of Korea)</p>	Partial Amendment to the Motor Vehicle Management Act	<p>■ The current Act allows performance testing agents to investigate car accidents such as car fires to determine the cause of the accident. It also allows a particular make or model of car to be categorized as a lemon car if fire accidents occur repeatedly in the same car model and the car manufacturer fails to submit relevant materials.</p> <p>However, amidst the series of recent car accidents involving suspected sudden unintended acceleration, it has been pointed out that there are limitations for car accident victims to prove the causality between a car defect and the accident, as highly specialized knowledge and access to core information held by the car manufacturer is required to establish such connection.</p> <p>Therefore, this Amendment aims to uncover the cause of car accidents involving sudden unintended acceleration and protect car accident victims by requiring performance testing agents to investigate the cause of such accidents and presuming a car to be defective when sudden unintended acceleration is suspected if the car manufacturer fails to submit relevant materials (Article 31(6), Article 31-3(1) and Article 33(3)5).</p>	https://view.asiae.co.kr/article/2023051815303474724	Proposed on May 18, 2023

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_K2L3K0K5G1E5F0D9D1C4D5K0L9K5I2

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
2	 <p>Sang Heon LEE (Democratic Party of Korea)</p>	Partial Amendment to the Content Industry Promotion Act	<p>■ Whether it is text, image, or music, AI technology can now generate quality content from the data it learns from the internet, and such technologies are projected to grow at an accelerated rate.</p> <p>Given the rapid development and significant influence of AI-generated content, there is a pressing need to prepare relevant laws and systems that will enable people to recognize whether the content they are using is generated by AI technology.</p> <p>Therefore, this Amendment aims to prevent user confusion and reinforce the credibility and accountability of AI-generated content by requiring content producers to indicate whether the content they produced had been generated by AI technologies prescribed under the Presidential Decree (Articles 26(3) and (4) Newly Inserted).</p> <p>Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_R2P3Q0X5Y1X7X1V3W4V4C5D6B5C8A2</p>	https://www.hankyung.com/it/article/202305221208i	Proposed on May 22, 2023

2. Pending Bill(s)

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
3	 <p>Yong Jin PARK (Democratic Party of Korea)</p>	Partial Amendment to the Financial Investment Services and Capital Markets Act	<p>■ Unfair trade practices, such as the use of material nonpublic information, market price manipulation, and unfair trading, are serious financial crimes that harm investors and damage the pricing capabilities of the capital market.</p> <p>Despite the existence of penalty provisions in the current Act that imposes imprisonment or fines for unfair trade practices, concerns have been raised regarding the leniency of the punishments for unfair trade practices in comparison to other economic violations. Often justified by the perception that these violations are light in nature, many cases are not even indicted, and cases that are indicted often receive suspended execution of sentence or lenient rulings.</p> <p>Therefore, this Amendment aims to eradicate unfair trade practices and address the absence of sufficient criminal sanctions in dealing with such practices by imposing monetary sanctions, such as penalty surcharges, in addition to criminal punishments. This Amendment also redeems unfair gains obtained from unfair trade practices (Article 429-2(1) Newly Inserted).</p>	<p>https://www.joonggang.co.kr/article/25163990</p>	<p>Proposed on September 22, 2020</p> <p>Presented Before Standing Committee/Explanation of Proposal Given/Report on Examination Made/General Discussion Closed/Tabled to Subcommittees on November 24, 2020</p> <p>Presented Before Subcommittee/Explanation of Proposal Given on February 23, 2021</p> <p>Presented Before Subcommittee/Explanation of Proposal Given on March 17, 2021</p> <p>Presented Before Subcommittee/Explanation of Proposal Given on March 22, 2021</p> <p>Presented Before Subcommittee on April 26, 2021</p> <p>Presented Before Subcommittee on June 23, 2021</p> <p>Presented Before Subcommittee on November 17, 2021</p> <p>Presented Before Subcommittee on November 23, 2021</p> <p>Presented Before Subcommittee on November 22, 2022</p> <p>Presented Before Subcommittee on December 26, 2022</p> <p>Presented Before Subcommittee on January 16, 2023</p> <p>Presented Before Subcommittee/Resolved (Repealed and Reflected in the Alternative) on February 27, 2023</p> <p>Presented Before Standing Committee/Reported on Examination by Subcommittees/Resolved (Repealed and Reflected in the Alternative) on April 6, 2023</p>

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_I2B0EQJ9F2V2A1U5W4A6M2R3V7U9G4

3. Promulgated Bill(s)

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Date
4	Ministry of SMEs and Startups	Special Act on the Promotion of Business Conversion in Small and Medium Enterprises	<p>■ Previously, the value of a company was primarily decided by its financial factors with a strong focus on the amount of interest it generates. However, in recent times, there has been a growing focus on non-financial factors, such as environmental protection, social responsibility, and corporate governance. This new global trend has led to an increased demand from countries and businesses to incorporate these factors in business management. Unfortunately, many small and medium enterprises (SMEs) in Korea are still unaware of the necessity for such changes, and their response to these developments is lacking compared to their counterparts in developed countries and larger domestic enterprises. Accordingly, there is a need to introduce incentives that encourage such changes in SMEs.</p> <p>Therefore, this Bill aims to establish grounds that enable SMEs to swiftly adapt to the changing external landscape by allowing SME operators to receive preferential approval for business conversion plans that promote environmental protection, social responsibility, and governance.</p>		<p>Partially Amended on November 15, 2022</p> <p>Enforced on May 16, 2023</p>

Source (Korean): <https://www.law.go.kr/법령/중소기업사업전환촉진에관한특별법>

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

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
5	Personal Information Protection Commission	Partial Amendment to the Enforcement Decree of the Personal Information Protection Act	<p>■ This Amendment specifically prescribes the matters delegated by the amended Personal Information Protection Act (Act No. 19234), including the standards and procedures of personal information protection. To effectively secure the right of data subjects to informational self-determination, this Amendment clarifies the principle of obtaining valid consent and requires data subjects to explicitly be given the choice to refuse consent, enabling data subjects to clearly recognize and exercise their right of choice. Moreover, it specifies the object and criteria of the privacy policy assessment and supplements the dispute mediation procedure by requiring all data controllers to participate in the mediation procedure in the event that a dispute arises over personal information.</p> <p>Furthermore, it standardizes provisions that were regulated differently by online and offline contexts to align with global standards and changes wrought by the transition to the digital era, including matters on the notification of the source of personal information collected, notification of use and disclosure history, reporting and notification of data breaches, protection of children's personal information, criteria for safety measures, criteria for imposing penalty surcharges and administrative fees, and conditions for overseas data transfer. It also supplements and modifies the provisions regarding the operation of fixed or mobile visual data processing devices, reflecting the characteristics of image information. Moreover, in order to prevent data breach accidents that frequently occur in the public sector, this Amendment expands the registration of personal information files in public institutions, discloses the result of privacy impact assessment, and modifies the safety measures for public institutions that operate major public systems.</p> <p>■ Main Content</p> <p>I. Streamlines standards for notification of data collection sources (Article 15-2) and notification for data use and disclosure history (Article 15-3).</p> <p>Unifies the scope of subjects for notifying the sources of data collection with subjects for notifying data use and disclosure history to prevent duplicate notifications, and modifies the notification method to better reflect reality.</p>	https://www.edaily.co.kr/news/read?newsId=02496086635610232&mediaCodeNo=257&OutLnkChk=Y	May 19, 2023 – June 28, 2023

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
			<p>II. Revises principle regarding methods of obtaining consent (Article 17(1)) and requirements for additional use and disclosure of personal information (Article 14-2(2)).</p> <p>Ensures data subjects their right to consent by clarifying the principles of obtaining consent and requires providers to supplement the privacy policy when additional use or provision of personal information becomes foreseeable due to frequent reoccurrence.</p> <p>III. Protects children's personal information (Article 17-2).</p> <p>Integrates and consolidates provisions related to the protection of children's personal information, which were previously divided into general provisions (Article 17(4) of the previous Act) and special provisions (Article 48-3 of the previous Act).</p> <p>IV. Modifies the rules for operating fixed visual data processing devices (Article 22(1)).</p> <p>Modifies the provision to allow the operation of fixed visual data processing devices for statistical purposes, etc., if the devices do not store the recorded image information.</p> <p>V. Excludes the operation of mobile visual data processing devices from restrictions (Articles 27-2 and 27-3).</p> <p>Allows the operation of mobile visual data processing devices in a "situation of crime, disaster, or fire, or other equivalent situations," when such operation is necessary for life-saving or rescue and permits notification of the recording via webpage notices when it is difficult to otherwise announce the recording due to the characteristics of the recording methods such as aerial photography using drones.</p> <p>VI. Overseas data transfers and order to cessation (Articles 29-7 to 29-13).</p> <p>Newly adds cases where overseas data transfer is permitted, including cases where the data protection of the recipient countries or international organizations satisfies a certain level and where the data controller has obtained certification notified by the Personal Information Protection Commission. Supplements procedural provisions, such as the deliberation of a special committee for overseas transfers, and provides in detail the standards for ordering the cessation of overseas data transfers and procedures for filing objections.</p>		

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
			<p>VII. Measures to secure the safety of personal information (Article 30).</p> <p>Consolidates the provisions related to safety measures, which were previously divided into general provisions (Article 30 of the previous Act) and special provisions (Article 48-2 of the previous Act) to apply the same safety standard to all data controllers. Supplements the provisions by incorporating the principle of technological neutrality to avoid limiting potential technological advancement in the field of safety measures.</p> <p>VIII. Special cases including measures to secure the safety of public system operating institutions (Article 30-2).</p> <p>Strengthens the standards for safety measures by including safety measures for each public systems of public institutions operating major public systems into the internal management plan, specifying the necessary measures for safe management of access rights, and requiring notification without delay of any instances of access that exceed the authorized scope of access rights.</p> <p>IX. Evaluation of Privacy Policy (Articles 31-2 and 31-3).</p> <p>Prescribes specific details regarding privacy policies such as the evaluation subjects, standards, and procedures in response to the introduction of assessment and improvement recommendations for privacy policies under the newly inserted Article 30-2 of the Personal Information Protection Act.</p> <p>X. Designation of local representative (Article 32-2).</p> <p>Deletes the standard of sales revenue in the information and communications service sector from the requirements for persons required to designate local representatives, as the provision regarding the application of local representatives, which was previously limited to information and communication service providers, has been expanded to encompass all data controllers.</p> <p>XI. Registration and disclosure of personal information files (Article 33).</p> <p>Provides detailed specifications regarding the scope of matters exempted from personal information files registration such as matters deemed to require a low level of continuous management, including the payment of meeting attendance allowance and personal information files collected with no intention of storing or recording.</p>		

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
			<p>XII. Modifies standards for designating public institutions where privacy impact assessment is required (Articles 35 to 38).</p> <p>Requires a privacy impact assessment to be conducted prior to the operation or modification of personal information files, and allows the disclosure of a summary of the privacy impact assessment report when operating personal information files that have undergone an impact assessment.</p> <p>XIII. Data breach notification and report (Articles 39 and 40).</p> <p>Consolidates the provisions related to the standards and procedures for data breaches, which were previously separated into cases to report to the personal information protection commission and expert agencies and cases to notify data subjects, to apply consistent standards to all data controllers.</p> <p>XIV. Modifies the mediation system for disputes involving personal information (Articles 51-2 to 51-5).</p> <p>Modifies the detailed procedural provisions on principles and procedures of fact-finding investigation as well as methods of presenting and notifying the dispute mediation committee's mediation plan based on presumed acceptance. This is in response to the amendment to the Act, which requires fact-finding investigation when the confirmation of facts is necessary for dispute mediation and presumes acceptance if a party of dispute fails to notify their acceptance or rejection.</p> <p>XV. Criteria for the imposition of penalty surcharges (Articles 60-2 to 60-4 and attached Table 1-5).</p> <p>Includes "cases where there is no sales revenue by reason of not operating a profit-making business" to the cases of no sales revenue or difficulties in calculating sales revenue. Specifies the scope of sales revenue unrelated to violations as "sales revenue of goods or services explicitly irrelevant to the process of personal information." Establishes grounds for extending the deadline for payment of penalty surcharges and allowing installment payments and provides detailed specifications regarding the standard and procedures of calculating penalty surcharges prescribed under the attached Table 1-5.</p>		

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
			<p>XVI. Disclosure of results and order of disclosure (Article 61).</p> <p>Provides specific details such as the standards and procedures for issuing a disclosure order in response to the order of disclosure provision newly established in the Act.</p> <p>XVII.Criteria for the imposition of administrative fines (Article 63 and attached Table 2).</p> <p>Introduces additional considerations to the criteria for imposing administrative fines in response to the amendment to the Act, which allows exemption for administrative fines and modifies the amount of administrative fines based on the number of violations.</p> <p>Source (Korean): https://opinion.lawmaking.go.kr/gcom/ogLmPp/73202</p>		

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

[Sedaily] The MOEL Determines "A Company's Headquarters Will Not Be Subject to the SAPA with Its Stake in Subsidiaries"

<https://www.sedaily.com/NewsView/29PN2U1D1B/GK0115>

SUMMARY According to the “Q&A Report on the Serious Accidents Punishment Act” recently released by the Ministry of Employment and Labor (“MOEL”), responsible managing officers of a company's headquarters is not liable under the SAPA in principle when a serious industrial accident occurs at its subsidiaries. The MOEL determined that a responsibility relation of an accident cannot be directly established based on an equity relation, and it determined to hold the responsibility with a practical influence on the accident. Such judgment is expected to resolve the management's vague fear of the owner of the headquarters being criminally punished and the inconsistency that occurred from the labor community's excessive interpretation of the SAPA. However, in cases where the headquarters actually controls, operates, and manages its subsidiaries, a responsibility relation can be established. In addition, the MOEL determined that when a worker from a domestic corporation is dispatched or travels on business to a foreign corporation established under foreign law and practically operated by the domestic corporation, the responsible managing officer of the domestic corporation is subject to the SAPA. However, according to the nationality principle, the SAPA does not apply when a foreign corporation employs a Korean worker.

[The Herald Business] Untimely Hot Weather Causes Increasing "Suffocation Cases" in Confined Spaces... Labor Authority Issues Warnings

<http://news.heraldcorp.com/view.php?ud=20230521000085>

SUMMARY On May 15, two workers who entered a manhole to dredge sanitary sewage pipes were killed. Half of the victims (154 out of 362 people) have died in the past ten years due to suffocation in confined spaces. Suffocation accidents in confined spaces are mainly caused by hydrogen sulfide from wastewater treatment, septic tanks, and livestock manure treatment, and hydrogen sulfide and oxygen deficit from treating inside of various pipes, manholes, collecting wells, and tanks. In addition, the causes of suffocation accidents include pipes using argon gas, oxygen deficit occurring while welding tanks, and carbon monoxide intoxication from operating water pumps in a space without sufficient ventilation. The MOEL plans to give self-improvement periods so that companies can improve themselves by the 15th of next month. Then the ministry will select high-risk workplaces among those with enclosed spaces and conduct an intensive inspection by August. In addition, the Korea Occupational Safety and Health Agency (“KOSHA”) plans to support the self-improvement of workplaces by operating a rental service of equipment for preventing suffocation and providing training (certification) programs for measuring oxygen and harmful gas concentration.

[Yonhap News] “Six out of Ten Worksites Give Up Risk Assessment” ... The Labor Ministry Simplifies and Diversifies Risk Assessment

<https://www.yna.co.kr/view/AKR20230519104100530>

SUMMARY

The MOEL announced that the Amendment to the “Guidelines on Workplace Risk Assessment” will be implemented from May 22. The Amendment includes the method of dividing the risks into three stages (high, medium, and low) instead of quantifying the risks, the method of making a checklist based on pre-agreed criteria, and the one-point sheet (OPS) that briefly assesses risk factors, the scope of victims, and safety measures. The labor ministry simplified and diversified risk assessment methods because the research on work environment status in 2019 says that only 33.8% of total workplaces were implementing risk assessment. A labor ministry official said, “Six out of ten workplaces are not implementing risk assessment,” and “Some small and medium-sized companies without personnel for risk assessment were found to give up risk assessment due to the difficulty and complexity of risk assessment.” To prevent underestimating risks in the process of simplifying the assessment methods, the ministry expanded the scope of worker participation, which was not included in the process of identifying harmful and risk factors, to the entire process. In addition, the deadline of the initial assessment was set clearly as “within one month after the establishment of the workplace,” and if a regular assessment is conducted on a monthly, weekly, or daily basis, occasional and regular assessments are not required. The MOEL plans to operate the “intensive expansion period for new risk assessments” by next month and prepare and distribute guidelines and casebooks. It also emphasized that conducting risk assessments does not fully exempt companies from the responsibility for the occurrence of serious accidents.

[Financial News] The KOSHA Releases Its New Slogan, “Work Safety Leads to People’s Safety”

<https://www.fnnews.com/news/202305231003446043>

SUMMARY

The KOSHA, a MOEL-affiliated agency, announced its new slogan “Work Safety Leads to People’s Safety” to express its will to make safer and healthier workplaces and a more liveable country on May 23. As the government announced a roadmap for reducing serious accidents last year, new changes to reduce industrial accidents took place, such as establishing a self-regulation prevention system at workplaces and spreading safety awareness through workers’ participation and cooperation. Accordingly, the KOSHA designed a new slogan in line with the government’s new safety and health paradigm to expand the safety culture that both labor and management participate in and the whole nation can empathize with. The slogan “Work Safety Leads to People’s Safety” highlights where safe workplaces are secured, society will become more liveable and healthy. The KOSHA plans to use the new slogan in various projects, including on-site technical support, campaigns for expanding safety culture, promotion projects, etc.

Attorneys and Experts

Legislation & Government Relations Consulting Center:



Dong Eon CHA

Partner

T : +82 2 3016 8720

E : decha@draju.com



Min Jae PARK

Co-Head of Center
Partner

T : +82 2 3016 8717

E : parkmj@draju.com



Won Hyeok CHOI

Attorney

T : +82 2 3016 8737

E : whchoi@draju.com



Gi Won KWON

Co-Head of Center

T : +82 2 3016 8743

E : gwkwon@draju.com



Seung Cheol LEE

Senior Advisor

T : +82 2 3016 8706

E : sclee@draju.com

Corporate Litigation PG:



Soo Hyung KIM

Partner

T : +82 2 563 2900

E : shkim@draju.com

IP PG:



Jong Sun CHOI

Partner

T : +82 2 3016 5288

E : jschoi@draju.com

Antitrust & Competition PG:



Sang Mo KOO

Partner

T : +82 2 3016 5349

E : smkoo@draju.com

Finance and Capital Market Response Team



Ki Ho MIN

Managing Partner

T : +82 2 563 2900

E : minkki21@gmail.com

Corporate Finance PG



In Jin KIM

Partner

T : +82 2 3016 8761

E : kij@draju.com

ESG Advisory Group:



Sang Bong LEE

Partner

T : +82 2 3016 5276

E : sblee@draju.com

Serious Accidents Advisory Group:



Young Kyu KIM

Partner

T : +82 2 3016 8723

E : ykkim@draju.com