

No. 389

AN ACT

Defining analytical-biochemical-biological laboratory; regulating the operation of the same; requiring such laboratories to obtain permits, and to be operated under the direct supervision of qualified persons; imposing certain duties upon the Department of Health; and providing penalties.

Whereas, the health and lives of the citizens of this Commonwealth are endangered by incompetent supervision of analytical-biochemical-biological laboratory tests; and

Preamble.

Whereas, a due regard for public health and preservation of human life demands that none but scientists competent and properly qualified by sufficient training in the fundamental sciences and experienced in their applications in the analytical-biochemical-biological laboratory shall be permitted to supervise the work of such laboratories.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

"The Analytical-Biochemical-Biological Laboratory Act."

Section 1. Short Title.—This act shall be known and may be cited as "The Analytical-Biochemical-Biological Laboratory Act."

Section 2. Definitions.—The term "Analytical-Biochemical-Biological Laboratory" means any place, establishment or institution organized and operated primarily for the performance of all or any bacteriological, biochemical, microscopical, serological, or parasitological tests by the practical application of one or more of the fundamental sciences to material originating from the human body, by the use of specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health.

The term "Department" means the Department of Health.

Section 3. Limitations.—*An analytical-biochemical-biological laboratory shall be under the direct and personal supervision of:

1. A holder of a doctor of science degree or its equivalent in the basic sciences, including professional degrees in public health, pharmacy, dentistry and veterinary medicine, from a college or university recognized by the National Committee of Regional Accrediting Agencies or the Department of Public Instruction, in chemistry, biology or bacteriology, and who has had two years of experience in a laboratory acceptable to the department.

* "A" in original.

2. The holder of a master of science degree or its equivalent in the basic sciences from a college or university recognized by the National Committee of Regional Accrediting Agencies or the Department of Public Instruction, in chemistry, biology or bacteriology, and who has had a minimum of four years' experience in a laboratory acceptable to the department.

3. The holder of a bachelor of science degree or its equivalent in the basic sciences from a college or university recognized by the National Committee of Regional Accrediting Agencies or the Department of Public Instruction, in chemistry, biology or bacteriology, and who has had a minimum of five years' experience in laboratory work in a laboratory acceptable to the department.

4. An individual who holds no degree, but who has had a minimum of ten years of experience in an acceptable analytical-biochemical-biological laboratory and whose experience covers all of the fields of analytical-biochemical-biological laboratory work and whose individual qualifications are acceptable to the department. This clause shall remain effective until December thirty-first, one thousand nine hundred fifty-five.

5. The foregoing limitations shall not apply to those persons operating an analytical-biochemical*-biological laboratory prior to the effective date of this act.

Section 4. Application for Permit.—All persons now operating or hereafter desiring to operate **an analytical-biochemical-biological laboratory shall make written application to the department for a permit to operate, which application shall be accompanied by a fee of twenty-five dollars (\$25), payable to the department, and shall be retained by the department.

Section 5. Contents of Application.—The application shall contain at least the following:

(a) The name and address of the persons owning the place, establishment or institution in which the analytical-biochemical-biological laboratory is to be or is operated.

(b) The name and address of the persons operating or to operate such laboratory.

(c) The name and address of the qualified person under whose direct and personal supervision such laboratory is to be or is operated.

(d) The kind and nature of the laboratory work to be or is being done.

(e) The description of the building, its location, facilities, equipment, apparatus and appliances to be furnished or used in the operation of such laboratory.

* "and" in original.

** "a" in original.

(f) Such additional information as the department may require by any rule or regulation.

The facts as set forth in the application shall be duly sworn to or affirmed by one of the owners of such laboratory.

Section 6. Revocation of Permit.—(a) Permits shall become void upon change of director and also upon the removal of the laboratory to other quarters. A new permit may be issued without charge when the department has passed upon the qualifications of the new director or upon the adequacy of the new quarters and equipment.

(b) A permit may be revoked at any time for failure to maintain proper standards of accuracy, for unethical practice or for unethical advertising, or for any other cause deemed adequate by the department.

Section 7. Investigation by Department.—Upon the filing of any application for a permit or for renewal, the department shall investigate the facts set forth in the application.

Section 8. Issuance of Permit.—If the department finds the statements contained in the application are true, the said department shall issue a permit.

Section 9. Contents and Signing of Permit.—The permits shall contain at least the following:

(a) The name and address of the laboratory and of its owner.

(b) The name and address of the person charged with the operation of the laboratory.

(c) The name of the qualified person under whose supervision the laboratory is operated.

(d) All permits shall be signed or counter-signed by the Secretary of Health.

Section 10. Statement of Grounds for Denial of Permits.—If the department does not, within six months after the filing of the application, issue a permit, it shall state the grounds and reasons for its refusal, in writing, furnishing a copy to the applicant.

Section 11. Inspection.—The department may at any time visit, enter, examine and inspect the premises occupied, maintained and conducted by any laboratory, and may examine all matters in relation thereto.

Section 12. Hearings and Appeals.—If an application for a permit is denied, as provided in section ten hereof, the applicant may request and be entitled to a hearing before the Secretary of Health, if such request was made within thirty days after the permit was denied. A permit issued under the provisions of this act may be revoked or suspended by the department for cause: Provided, That the permittee is permitted to be heard by the department, either personally, by counsel,

or both: And provided further, That a written copy of the causes be furnished him, by registered mail, ten days in advance of the date set for hearing. Said notice shall fix the time and place for said hearing, which shall not be more than thirty days from the date of the mailing of said notice.

Any person who shall be aggrieved by any action of the department under this act or by any rule or regulation promulgated by the department shall have the right to file a complaint with the Secretary of Health and to have a hearing thereon before the Secretary of Health. Such hearing shall be conducted and the decision of the Secretary of Health on the issue involved shall be rendered in accordance with the provisions of the Administrative Agency Law and its amendments, approved June fourth, one thousand nine hundred forty-five (Pamphlet Laws 1388), relating to adjudication procedure. Any person aggrieved by any adjudication of the Secretary of Health shall have the right to appeal therefrom to the Court of Common Pleas of Dauphin County, and have a judicial review of such adjudication within the time and in the manner and with the same effect as is provided by the Administrative Agency Law and the Rules of Civil Procedure promulgated by the Supreme Court for judicial review of adjudications of agencies of the Commonwealth. Such appeal shall not act as a supersedeas, but the permittee may continue to operate the laboratory up to the date of the final decision of the court without being held to have violated the provisions of this act.

Section 13. Exemptions.—This act shall not include nor apply to any laboratory or laboratories maintained and operated by the Federal, State, county or municipal government; nor to any laboratory or laboratories maintained and operated purely for research or teaching purposes; nor shall it apply to a laboratory operated by a physician licensed to practice in this Commonwealth, or to laboratories maintained and operated in hospitals; nor shall it apply to a laboratory maintained and operated by any industrial organization, provided such laboratory be in charge of a duly licensed physician.

Section 14. Penalty.—Any person operating *an analytical-biochemical-biological laboratory without first having obtained a permit from the Department of Health shall, upon conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars (\$500) or to imprisonment not exceeding one (1) year, or both.

Section 15. Interpretation of Act.—The provisions of this act are severable and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions

* "a" in original.

of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Section 16. Effective Date.—This act shall become effective on the first day of January, one thousand nine hundred fifty-two.

APPROVED—The 26th day of September, A. D. 1951.

JOHN S. FINE

No. 390

AN ACT

To further amend section 506 of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," *by providing for the increase or decrease of support orders in bastardy cases.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 506 of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," as amended by the act, approved the twenty-first day of May, one thousand nine hundred forty-three (Pamphlet Laws 306), is hereby further amended to read as follows:

Section 506. Fornication and Bastardy.—Whoever commits fornication, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars (\$100), for the use of the institution district where the offense was committed.

It shall be sufficient to convict an unmarried woman to show that a child was born of her body.

Any man charged by an unmarried woman with being the father of her bastard child, shall be the reputed father and if she persists in the charge in the time of her extremity of labor, or afterwards in open court, the same shall be given in evidence in order to convict such person of fornication. Such man, being thereof convicted, shall be sentenced, in addition to the fine aforesaid, to pay the expenses incurred at the birth of such child, and if such child is born dead, or shall die during the continuance of the order for the maintenance of said child, to also pay the reasonable funeral expenses thereof, and to give security, by one or more sureties, and in such sum as the court shall direct, to the institution district where such child was born, to perform such

"The Penal Code."

Section 506, act of June 24, 1939, P. L. 872, as amended by act of May 21, 1943, P. L. 306, further amended.

* "by" omitted in original.