

2031.

LIQUID USED IN DRY CLEANING AND DRY DYEING INDUSTRY—TESTS SET OUT IN SECTION 843-19 G. C. DETERMINE QUESTION OF FACT, IS LIQUID INFLAMMABLE OR NON-INFLAMMABLE?

SYLLABUS:

Whether or not a liquid used in the dry cleaning and dry dyeing industry is inflammable or non-inflammable is a question of fact, the answer to which can only be determined by placing the liquid under consideration to the tests set out in Section 843-19, General Code.

Columbus, Ohio, March 15, 1940.

Hon. Ray R. Gill, State Fire Marshal,
Columbus, Ohio.

Dear Sir:

Your recent request for my opinion reads as follows:

“‘X’ Company is desirous of placing dry cleaning machines within this state, which machines use dry cleaning fluids with Flash Points of 138.2 degrees F. The said fluids have a flash point of only 16 to 40 degrees F. above the fluids commonly used by the Petroleum Solvent cleaners, known as ‘Stoddard Solvent.’

Both dry cleaning fluids have received the approval of the Underwriters’ Laboratories, Inc.

‘X’ Company claims that because their fluids have a higher flash point than the ‘Stoddard Solvent,’ theirs must be considered as non-inflammable.

An opinion is desired as to whether, according to the Dry Cleaning and Dry Dyeing Laws, such fluids as are used in machines of the ‘X’ Company come within installation and structural requirements of the Dry Cleaning and Dry Dyeing Laws.”

Section 843-19, General Code, was amended by the Ninety-third General Assembly and, in so far as is pertinent to your inquiry, reads as follows:

“For the purposes of this act a dry cleaning business is defined to be the business of removing dirt, grease, paints and other spots and stains from wearing apparel, hats, caps or similar headgear, felts, fur, hair, feathers, leather, rugs and all other textile fabrics

by immersion or agitation in an inflammable or non-inflammable liquid solvent except water in open vessels or closed machines, or by any hazardous process, or by brushing or scouring with such solutions.

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Inflammable liquid is defined as any liquid or mixture of liquids, which in its original state, or after continued use or agitation, or by distillation will burn in an open cup tester, or which in any state when mixed with air gives off vapors which are combustible or explosive.

Non-inflammable liquid is defined as any liquid or mixture of liquids, which in its original state or after continued use or agitation or by distillation will not burn in an open cup tester or which in any state when mixed with air gives off vapors which are non-combustible or non-explosive.

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Provided, however, that the provisions of sections 843-20 to 843-49 of the General Code, shall not apply to dry cleaning and dry dyeing establishments wherein non-inflammable liquids, as herein defined, are used in cleaning processes, excepting only those provisions thereof relating to licensing and inspection.

Such establishments engaged in dry cleaning and dry dyeing with non-inflammable liquids shall be authorized to have on hand not to exceed ten (10) gallons of inflammable liquid for use in scrubbing and brushing which shall be kept in a safety can or cans of not more than five (5) gallons capacity as defined by Underwriter's Laboratories, Inc., and which shall be used as prescribed in section 843-34 of the General Code."

Section 843-26, General Code, reads as follows:

"All buildings to be used for the purpose of dry cleaning or dry dyeing as above defined, shall be of a fire-resistive design and construction, not to exceed one story in height, and shall be without basement, cellar, or open space below the floor and without attic. All doors in the building shall be of approved design and be provided with fusible link or automatic self-closing devices and arranged for closing by a remote control device. All doors shall be arranged for ready opening from either side in case of emergency and so arranged that automatic re-closing will not be retarded. There shall be no sewer connections with such building. The floor of the same shall be of concrete or other equivalent material properly laid, approved by the state fire marshal, and in direct contact with and not lower than the surface of the earth surrounding the wall and be pitched at such a grade from all the walls to secure perfect drainage and flow of all liquids to an underground cement lined pit or well. Such pit or well shall be outside of said building and of sufficient capacity to hold below the level of the floor of the building, twice the quantity of liquid that may be used or kept in said build-

ing. The top of said pit or well to extend not less than twelve inches above the level of the floor of the building, to be provided with a tight fitting cover, properly vented and to be kept locked when not in use."

Sections 843-27, 843-28 and 843-29, General Code, set forth the specifications for walls of dry cleaning and dry dyeing establishments, their locations and the type of ventilating systems which each should have.

The sole question raised by your inquiry is whether or not the dry cleaning fluids to be used in the machines of the "X" Company are inflammable or non-inflammable liquids as defined by the terms of Section 843-19, supra.

It will be noted that the definition of an inflammable liquid contained in said section makes no reference whatsoever to flash points, that is, no line of demarcation between an inflammable and non-inflammable liquid is made therein as to flash points in terms of degrees Fahrenheit. Therefore, the facts stated in your letter with respect to the flash points of the fluids to be used in said machines are of no help in determining the answer to your question.

An analysis of the statute in question discloses that any liquid used in the dry cleaning business is defined therein as inflammable when it will burn in an open cup tester under the following conditions: (1) in its original state; (2) after continued use or agitation; (3) by distillation; or (4) when mixed with air gives off vapors which are combustible or explosive.

Your question, therefore, is purely a question of fact, the answer to which can only be determined by placing the liquid under consideration to tests set out in Section 843-19, supra. If the liquid is found to burn in an open cup tester in its original state or after continued use or agitation or by distillation or if when mixed with air such liquid gives off vapors which are combustible or explosive, it is then, under the definition contained in said section, an inflammable liquid and the buildings or structures in which such liquid is used must meet the installation and structural requirements set forth in Sections 843-26, 843-27, 843-28 and 843-29, General Code. However, if under such tests the liquid in question does not burn, or when mixed with air gives off non-combustible or non-explosive vapors it is non-inflammable and the structural requirements contained in said sections would have no application.

Respectfully,

THOMAS J. HERBERT,
Attorney General.