

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 339

Session of  
1985

INTRODUCED BY BURNS AND J. L. WRIGHT, FEBRUARY 13, 1985

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 13, 1985

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as  
2 reenacted and amended, "An act defining the liability of an  
3 employer to pay damages for injuries received by an employe  
4 in the course of employment; establishing an elective  
5 schedule of compensation; providing procedure for the  
6 determination of liability and compensation thereunder; and  
7 prescribing penalties," exempting the Commonwealth and its  
8 political subdivisions from the requirement that coverage be  
9 provided by the fund or an insurance company.

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

12 Section 1. Section 305 of the act of June 2, 1915 (P.L.736,  
13 No.338), known as The Pennsylvania Workmen's Compensation Act,  
14 reenacted and amended June 21, 1939 (P.L.520, No.281) and  
15 amended December 5, 1974 (P.L.782, No.263) and repealed in part  
16 April 28, 1978 (P.L.202, No.53), is amended to read:

17 Section 305. Every employer liable under this act to pay  
18 compensation, except the Commonwealth and its political  
19 subdivisions, shall insure the payment of compensation in the  
20 State Workmen's Insurance Fund, or in any insurance company, or  
21 mutual association or company, authorized to insure such

1 liability in this Commonwealth, unless such employer shall be  
2 exempted by the department from such insurance or unless the  
3 employer is the Commonwealth or one of its political  
4 subdivisions, in which case it shall be automatically exempted.  
5 Such insurer shall assume the employer's liability hereunder and  
6 shall be entitled to all of the employer's immunities and  
7 protection hereunder except, that whenever any employer shall  
8 have purchased insurance to provide benefits under this act to  
9 persons engaged in domestic service, neither the employer nor  
10 the insurer may invoke the provisions of section 321 as a  
11 defense. An employer desiring to be exempt from insuring the  
12 whole or any part of his liability for compensation shall make  
13 application to the department, showing his financial ability to  
14 pay such compensation, whereupon the department, if satisfied of  
15 the applicant's financial ability, shall, upon the payment of a  
16 fee of one hundred dollars (\$100.00), issue to the applicant a  
17 permit authorizing such exemption. The department shall  
18 establish a period of twelve (12) calendar months, to begin and  
19 end at such times as the department shall prescribe, which shall  
20 be known as the annual exemption period. Unless previously  
21 revoked, all permits issued under this section shall expire and  
22 terminate on the last day of the annual exemption period for  
23 which they were issued. Permits issued under this act shall be  
24 renewed upon the filing of an application, and the payment of a  
25 renewal fee of one hundred dollars (\$100.00). The department  
26 may, from time to time, require further statements of the  
27 financial ability of such employer, and, if at any time such  
28 employer appear no longer able to pay compensation, shall revoke  
29 its permit granting exemption, in which case the employer shall  
30 immediately subscribe to the State Workmen's Insurance Fund, or

1 insure his liability in any insurance company or mutual  
2 association or company, as aforesaid.

3 Any employer who fails to comply with the provisions of this  
4 section for every such failure, shall, upon summary conviction  
5 before any official of competent jurisdiction, be sentenced to  
6 pay a fine of not less than five hundred dollars (\$500) nor more  
7 than two thousand dollars (\$2,000), and costs of prosecution, or  
8 imprisonment for a period of not more than one (1) year, or  
9 both. Every day's violation shall constitute a separate offense.  
10 It shall be the duty of the department to enforce the provisions  
11 of this section; and it shall investigate all violations that  
12 are brought to its notice and shall institute prosecutions for  
13 violations thereof. All fines recovered under the provisions of  
14 this section shall be paid to the department, and by it paid  
15 into the State Treasury.

16 In any proceeding against an employer under this section, a  
17 certificate of non-insurance issued by the official Workmen's  
18 Compensation Rating and Inspection Bureau and a certificate of  
19 the department showing that the defendant has not been exempted  
20 from obtaining insurance under this section, shall be prima  
21 facie evidence of the facts therein stated.

22 When any employer fails to secure the payment of compensation  
23 under this act as provided in sections 305 and 305.2, the  
24 injured employe or his dependents may proceed either under this  
25 act or in a suit for damages at law as provided by article II.

26 Section 2. This act shall take effect in 60 days.