

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 713

Session of
1975

INTRODUCED BY MESSRS. PITTS, NOVAK, PETRARCA, A. K. HUTCHINSON,
VROON, E. H. SMITH, MORRIS, TURNER, RHODES, McCLATCHY,
MRS. FAWCETT AND MR. HASAY, MARCH 12, 1975

AS AMENDED ON SECOND CONSIDERATION, IN SENATE,
SEPTEMBER 21, 1976

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 amended, "An act defining the liability of an employer to pay
3 damages for injuries received by an employe in the course of
4 employment; establishing an elective schedule of
5 compensation; providing procedure for the determination of
6 liability and compensation thereunder; and prescribing
7 penalties," MAKING CERTAIN EDITORIAL CHANGES, PROVIDING FOR <—
8 THE ASSESSMENT OF INSURANCE CARRIERS, SELF-INSURERS, AND THE
9 STATE WORKMEN'S INSURANCE FUND, ~~REPEALING AN APPROPRIATION~~ <—
10 AUTHORIZING THE TEMPORARY TRANSFER OF FUNDS FROM THE GENERAL <—
11 FUND TO THE WORKMEN'S COMPENSATION SUPPLEMENTAL PAYMENT FUND,
12 AND providing an additional coverage.

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

15 SECTION 1. THE NEXT TO THE LAST PARAGRAPH OF CLAUSE (C) AND <—
16 CLAUSE (H) OF SECTION 306, ACT OF JUNE 2, 1915 (P.L.736,
17 NO.338), KNOWN AS "THE PENNSYLVANIA WORKMEN'S COMPENSATION ACT,"
18 REENACTED AND AMENDED JUNE 21, 1939 (P.L.520, NO.281), CLAUSE
19 (C) AMENDED AND CLAUSE (H) ADDED DECEMBER 5, 1974 (P.L.782,
20 NO.263), ARE AMENDED, AND ~~A CLAUSE IS~~ CLAUSES ARE ADDED TO READ: <—

21 SECTION 306. THE FOLLOWING SCHEDULE OF COMPENSATION IS

1 HEREBY ESTABLISHED:

2 * * *

3 (C) * * *

4 COMPENSATION UNDER PARAGRAPHS (1) THROUGH (24) OF THIS CLAUSE
5 SHALL NOT BE MORE THAN THE MAXIMUM COMPENSATION PAYABLE NOR LESS
6 THAN FIFTY PER CENTUM OF THE MAXIMUM COMPENSATION PAYABLE PER
7 WEEK [FOR TOTAL DISABILITY AS PROVIDED IN SUBSECTION (A) OF THIS
8 SECTION, BUT IN NO EVENT MORE THAN THE STATEWIDE AVERAGE WEEKLY
9 WAGE].

10 * * *

11 (H) ANY PERSON RECEIVING COMPENSATION UNDER SECTIONS 306(A),
12 306(B), 306(C)(23), OR SECTION 307, AS A RESULT OF AN ACCIDENT
13 WHICH OCCURRED PRIOR TO THE EFFECTIVE DATE OF THE AMENDATORY ACT
14 OF JANUARY 17, 1968 (P.L.6, NO.4) SHALL HAVE [THE] HIS
15 COMPENSATION [RATE] ADJUSTED TO [THE LEVEL THEY] THAT WHICH HE
16 WOULD HAVE RECEIVED HAD THE INJURY OCCURRED ON THE EFFECTIVE
17 DATE OF THE AMENDATORY ACT OF JANUARY 17, 1968 (P.L.6, NO.4) AND
18 HAD THE INJURED EMPLOYE BEEN EARNING WAGES EQUAL TO NINETY
19 DOLLARS (\$90) PER WEEK. IN CASES WHERE THE INJURED EMPLOYE HAD
20 BEEN EARNING WAGES GREATER THAN NINETY DOLLARS (\$90) PER WEEK,
21 THOSE WAGES SHALL CONTINUE TO BE USED IN THE CALCULATION OF
22 COMPENSATION. THE ADDITIONAL COMPENSATION SHALL BE PAID BY THE
23 SELF-INSURED EMPLOYER OR INSURANCE CARRIER MAKING PAYMENT AND
24 SHALL BE REIMBURSED IN ADVANCE BY THE COMMONWEALTH ON A
25 QUARTERLY BASIS AS PROVIDED IN RULES AND REGULATIONS OF THE
26 DEPARTMENT. THE PAYMENT OF ADDITIONAL COMPENSATION SHALL BE MADE
27 BY THE CARRIER OR SELF-INSURED EMPLOYER ONLY DURING THOSE FISCAL
28 YEARS FOR WHICH [APPROPRIATIONS ARE MADE TO COVER REIMBURSEMENT]
29 SUFFICIENT MONEYS ARE AVAILABLE IN THE WORKMEN'S COMPENSATION
30 SUPPLEMENTAL PAYMENT FUND TO COVER THE COST OF SUCH

1 REIMBURSEMENT.

2 (I) THE WORKMEN'S COMPENSATION SUPPLEMENTAL PAYMENT FUND IS
3 HEREBY ESTABLISHED IN THE STATE TREASURY, SEPARATE AND APART
4 FROM ALL OTHER PUBLIC MONEYS OR FUNDS OF THIS COMMONWEALTH. THE
5 PURPOSE OF THIS FUND SHALL BE TO PROVIDE MONEYS FOR PAYMENTS
6 PURSUANT TO SUBSECTION (H). THE DEPARTMENT SHALL BE CHARGED WITH
7 THE MAINTENANCE AND CONSERVATION OF THIS FUND. THE FUND SHALL BE
8 MAINTAINED BY ANNUAL ASSESSMENTS ON INSURERS AND SELF-INSURERS
9 UNDER THIS ACT, INCLUDING THE STATE WORKMEN'S INSURANCE FUND.
10 THE DEPARTMENT SHALL MAKE ASSESSMENTS AND COLLECT MONEYS
11 PURSUANT TO THIS SECTION. THE ASSESSMENT SHALL BE TWO AND FIVE-
12 TENTHS PER CENTUM OF THE TOTAL COMPENSATION PAID BY EACH
13 INSURER, SELF-INSURER, AND THE STATE WORKMEN'S INSURANCE FUND IN
14 THE CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE ASSESSMENT IS
15 MADE: PROVIDED, THAT THE FIRST ASSESSMENT MADE UNDER THIS ACT
16 FOR THE FISCAL YEAR COMMENCING JULY 1, ~~1975~~ 1976 AND ENDING <—
17 ~~SEPTEMBER 30, 1976~~ JUNE 30, 1977 SHALL BE AT THE RATE OF TWO AND <—
18 EIGHT-TENTHS PER CENTUM OF TOTAL COMPENSATION PAID DURING THE
19 CALENDAR YEAR ~~1974~~ 1975. THE DEPARTMENT SHALL GIVE NOTICE TO <—
20 EVERY INSURER AND SELF-INSURER UNDER THIS ACT, INCLUDING THE
21 STATE WORKMEN'S INSURANCE FUND, OF THE AMOUNT ASSESSED AGAINST
22 SUCH INSURER, SELF-INSURER, OR THE STATE WORKMEN'S INSURANCE
23 FUND ON OR BEFORE JUNE 30 OF THE YEAR FOLLOWING THE YEAR UPON
24 WHICH THE ASSESSMENT IS BASED. PAYMENT OF ASSESSMENTS SHALL BE
25 MADE TO THE DEPARTMENT WITHIN THIRTY DAYS OF RECEIPT OF NOTICE
26 OF THE AMOUNT ASSESSED: PROVIDED, THAT NOTICE OF THE FIRST
27 ANNUAL ASSESSMENT UNDER THIS ACT SHALL BE GIVEN TO EVERY INSURER
28 AND SELF-INSURER UNDER THIS ACT, INCLUDING THE STATE WORKMEN'S
29 INSURANCE FUND, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS
30 AMENDING ACT.

1 THE FUND SHALL BE SUBJECT TO AUDIT BY THE AUDITOR GENERAL AND
2 A COPY OF THE REPORT OF THE AUDIT FURNISHED TO ASSESSED INSURERS
3 AND SELF-INSURERS UPON REQUEST.

4 THE SECRETARY OF LABOR AND INDUSTRY SHALL BE THE
5 ADMINISTRATOR OF THE FUND AND SHALL HAVE THE POWER TO DISPENSE
6 AND DISBURSE MONEYS FROM THE FUND FOR THE PURPOSE OF PAYMENTS
7 MADE PURSUANT TO THIS SECTION. ALL MONEYS IN THE FUND AS ARE
8 REQUIRED TO CARRY OUT THE PURPOSES OF THIS SECTION ARE HEREBY
9 SPECIFICALLY APPROPRIATED TO THE DEPARTMENT OF LABOR AND
10 INDUSTRY. THE STATE TREASURER SHALL BE CUSTODIAN OF THE FUND.

11 (J) UNTIL SUCH TIME AS A SUFFICIENT CASH BALANCE SHALL EXIST <—
12 IN THE WORKMEN'S COMPENSATION SUPPLEMENTAL PAYMENT FUND TO MEET
13 PROMPTLY THE EXPENSES OF THE COMMONWEALTH PAYABLE FROM SUCH
14 FUND, THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED,
15 FROM TIME TO TIME, TO TRANSFER TO THE WORKMEN'S COMPENSATION
16 SUPPLEMENTAL PAYMENT FUND IF THE SAME BE DEFICIENT, FROM THE
17 GENERAL FUND, SUCH SUMS AS THE GOVERNOR SHALL DIRECT. ANY SUMS
18 SO TRANSFERRED SHALL BE AVAILABLE FOR THE PURPOSES FOR WHICH THE
19 FUND TO WHICH THEY ARE TRANSFERRED IS APPROPRIATED BY LAW. SUCH
20 TRANSFERS SHALL BE MADE HEREUNDER UPON WARRANT OF THE STATE
21 TREASURER UPON REQUISITION OF THE GOVERNOR.

22 IN ORDER TO REIMBURSE THE GENERAL FUND FOR SUCH TRANSFERS, AN
23 AMOUNT EQUAL TO THAT TRANSFERRED FROM THE GENERAL FUND DURING
24 ANY FISCAL PERIOD SHALL BE RETRANSFERRED TO THE GENERAL FUND
25 FROM THE WORKMEN'S COMPENSATION SUPPLEMENTAL PAYMENT FUND IN
26 SUCH AMOUNTS AND AT SUCH TIMES AS THE GOVERNOR SHALL DIRECT, BUT
27 IN NO EVENT LATER THAN THIRTY DAYS AFTER THE END OF SUCH FISCAL
28 PERIOD. SUCH TRANSFERS SHALL BE MADE HEREUNDER UPON WARRANT OF
29 THE STATE TREASURER UPON REQUISITION OF THE GOVERNOR.

30 THE MONEYS IN THE GENERAL FUND AND IN THE WORKMEN'S

1 COMPENSATION SUPPLEMENTAL PAYMENT FUND ARE HEREBY SPECIFICALLY
2 APPROPRIATED FOR TRANSFER FROM TIME TO TIME AS PROVIDED FOR IN
3 THIS ACT.

4 Section ~~1.~~ 2. Section 601, ~~act of June 2, 1915 (P.L.736,~~ <—
5 ~~No.338), known as "The Pennsylvania Workmen's Compensation Act,"~~
6 OF THE ACT, added December 5, 1974 (P.L.782, No.263), is amended <—
7 to read:

8 Section 601. In addition to those persons included within
9 the definition of the word "employee" as defined in section 104
10 of this act, there shall be included all members of volunteer
11 ambulance corps, volunteer rescue and life saving squads,
12 volunteer fire companies or volunteer fire departments of the
13 various cities, boroughs, incorporated towns, and townships, who
14 shall be and are hereby declared to be "employees" of such
15 cities, boroughs, incorporated towns, townships, for all the
16 purposes of this act, and shall be entitled to receive
17 compensation in case of injuries received while actually engaged
18 as ambulance corpsmen, rescue and life saving service squad
19 members or firemen or while going to or returning from any fire
20 which the fire companies or ambulance corps or rescue and life
21 saving squad or fire department of which they are members shall
22 have attended, or while participating in instruction fire,
23 rescue and life saving or ambulance drills in which the fire
24 company, rescue and life saving squad, or ambulance corps of
25 which they are members shall have participated, or while
26 repairing or doing other work about or on the fire, rescue and
27 life saving or ambulance apparatus or buildings and grounds of
28 such fire company upon the authorization of the chief, squad
29 leader or corps president or other person in charge, or while
30 answering any emergency call for any purpose, or while riding

1 upon the fire, rescue and life saving or ambulance apparatus
2 owned or used by the fire companies, rescue and life saving
3 squads, or ambulance corps of which they are members, at any
4 time, or while performing any other duties of such ambulance
5 corps, rescue and life saving squads, companies or fire
6 department authorized by such cities, boroughs, incorporated
7 towns and townships, or while performing duties imposed by
8 section 15 of the act, approved April 27, 1927 (P.L.465,
9 No.299), entitled, as amended, "An act to provide for the safety
10 of persons employed, housed, or assembled in certain buildings
11 and structures not in cities of the first class, second class,
12 and second class A, by requiring certain construction and ways
13 of egress, equipment, and maintenance; providing for the
14 licensing of projectionists, except in cities of the first class
15 and second class; requiring the submission of plans for
16 examination and approval; providing for the promulgation of
17 rules and regulations for the enforcement of this act; providing
18 for the enforcement of this act by the Department of Labor and
19 Industry and, in certain cases, by the chiefs of fire
20 departments in cities of the third class; providing penalties
21 for violations of the provisions of this act; and repealing
22 certain acts," as amended; and there shall be included all
23 individuals who extinguish forest fires and are entitled to
24 compensation therefor, as determined by authorized officers of
25 the Department of Environmental Resources, and such individuals
26 are hereby declared to be "forest fire fighters" and "employees"
27 of the department for all the purposes of this act, and shall be
28 entitled to receive compensation in case of injuries received
29 while actually engaged in extinguishing forest fires or while
30 going to or returning from forest fires or while performing any

1 other duties in connection with extinguishing forest fires
2 authorized or ratified by the department's officers.

3 In all cases where an injury compensable under the provisions
4 of this act is received by a member of a volunteer ambulance
5 corps, volunteer rescue and life saving squad, volunteer fire
6 company, or volunteer fire department or by a forest fire
7 fighter of the department whether employed, self-employed, or
8 unemployed, there is an irrebuttable presumption that his wages
9 shall be at least equal to the Statewide average weekly wage for
10 the purposes of computing his compensation under sections 306
11 and 307 of this act.

12 ~~SECTION 3. SECTION 18, ACT OF DECEMBER 5, 1974 (P.L.782,~~ <—
13 ~~NO.263), ENTITLED "AN ACT AMENDING THE ACT OF JUNE 2, 1915~~
14 ~~(P.L.736, NO.338), ENTITLED, AS AMENDED, 'AN ACT DEFINING THE~~
15 ~~LIABILITY OF AN EMPLOYER TO PAY DAMAGES FOR INJURIES RECEIVED BY~~
16 ~~AN EMPLOYEE IN THE COURSE OF EMPLOYMENT; ESTABLISHING AN ELECTIVE~~
17 ~~SCHEDULE OF COMPENSATION; PROVIDING PROCEDURE FOR THE~~
18 ~~DETERMINATION OF LIABILITY AND COMPENSATION THEREUNDER; AND~~
19 ~~PRESCRIBING PENALTIES, ' FURTHER DEFINING 'MAXIMUM WEEKLY~~
20 ~~COMPENSATION PAYABLE' AND 'THE MAXIMUM COMPENSATION PAYABLE PER~~
21 ~~WEEK'; MAKING THE ACT COMPULSORY AND PROVIDING FOR ACTIONS AT~~
22 ~~LAW FOR DAMAGES FOR CERTAIN NONCOMPLIANCE; PROVIDING FOR~~
23 ~~EXTRATERRITORIAL COVERAGE; CHANGING THE WAITING PERIOD AND~~
24 ~~PAYMENTS IN CONNECTION THEREWITH, COMPUTATION AND DISTRIBUTION~~
25 ~~OF CERTAIN COMPENSATION AND AGRICULTURAL LABOR COVERAGE; AND~~
26 ~~INCORPORATING CERTAIN EXISTING COVERAGES WITH CHANGES AS TO~~
27 ~~COMPUTATION OF COMPENSATION THEREUNDER, " IS REPEALED.~~

28 Section 2.4. 3. This act shall take effect immediately. <—