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KUKOVICH AND FREEMAN, JUNE 17, 1985

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 17, 1985

AN ACT

1 Providing minimum health, safety, training and consumer
2 standards for the operation and purchase of video display
3 terminals for occupational and private use.

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

19 CHAPTER 1

20 GENERAL PROVISIONS

21 Section 101. Short title.

22 This act shall be known and may be cited as the Video Display
23 Terminal User Protection Act.

24 Section 102. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Bureau." The Video Display Terminal Protection Bureau in
29 the Department of Labor and Industry, created in section 301.

30 "Department." The Department of Labor and Industry of the

1 Commonwealth.

2 "Employee." A person working for an employer.

3 "Employer." A private or public employer that owns or leases
4 a VDT. The term includes, but is not limited to, the
5 Commonwealth, political subdivisions, union authorities and
6 State-related institutions.

7 "Manufacturer." A person engaged in the business of
8 constructing or assembling new VDT's or engaged in the business
9 of importing new VDT's into the United States for the purpose of
10 selling or distributing them to sellers in this Commonwealth.

11 "Nonconformity." A defect or condition which substantially
12 impairs the use, value or safety of a new VDT.

13 "Seller." A person engaged in the business of buying,
14 selling or exchanging VDT's.

15 "Terminal operator." An employee who normally operates a VDT
16 for two or more hours per day.

17 "VDT" or "video display terminal." A machine which presents
18 visual data on the surface of a cathode-ray tube. The term
19 excludes televisions and oscilloscope screens except to the
20 extent that they are used as terminals for presentation of
21 verbal or numerical data.

22 "Warranty." The written warranty of a VDT's condition and
23 fitness for use, including terms or conditions precedent to
24 enforcement of obligations under it, given by the manufacturer
25 of a new VDT.

26 CHAPTER 2

27 EMPLOYERS

28 Section 201. Information and training.

29 (a) Information.--Employers shall provide employees or their
30 representatives with a copy of this act and with access to the

1 file of VDT Safety Forms furnished by manufacturers under
2 section 303. Employers shall post, in a place accessible to its
3 employees, a notice of the availability of the file for
4 inspection by employees or their representatives.

5 (b) Training.--Employers shall establish an annual education
6 and training program for terminal operators. The program shall
7 inform terminal operators orally and in writing of:

8 (1) Potential health hazards associated with VDT's.

9 (2) Efficient placement of VDT's in the environment of
10 the workplace.

11 (3) Safe procedures for operation of VDT'S.

12 (c) New terminal operators.--The training program under
13 subsection (b) shall be provided for new terminal operators
14 within the first month of their employment.

15 (d) Employee participation.--Employees and their
16 representatives shall be permitted to participate in the
17 formulation of the program under subsection (b).

18 (e) Technological change.--Employers shall keep employees
19 informed of technological changes as follows:

20 (1) Employers shall provide prenotification to employees
21 of the introduction or reintroduction of VDT's. This
22 prenotification shall occur at the time the decision is made
23 to order the VDT.

24 (2) Employers shall notify employees of proposed changes
25 in:

26 (i) Technology.

27 (ii) Work procedures.

28 (iii) Job conditions, including telecommunications,
29 software systems and information systems to collect data
30 on work performance and productivity.

1 (3) Employees or their representatives have the right to
2 participate in the decisions on, and evaluations of
3 implementation of, the proposed changes in paragraph (2).
4 Section 202. Vision protection.

5 (a) Examinations.--Employers shall provide initial vision
6 examination for employees before they become terminal operators.
7 Employers shall provide annual vision reexaminations for
8 terminal operators. Vision examinations and reexaminations shall
9 be performed by a licensed opthamologist or a licensed
10 optometrist and shall consist of at least the following:

11 (1) Complete health and work history.

12 (2) Inspections of the exterior and interior of the eye
13 and inspection of surrounding areas.

14 (3) Tests of visual acuity, far and near, including
15 refractive status.

16 (4) Check of eye coordination and eye muscle control.

17 (5) Test of the ability of the eyes to focus easily from
18 near to far and back again.

19 (6) Minimum optometric testing approved by the American
20 Optometric Association.

21 (7) Testing for workstation distance.

22 (8) If the employee or terminal operator wears
23 corrective lenses, testing for workstation distance and the
24 necessity of work glasses.

25 (b) Work glasses.--If it is determined by the examination
26 under subsection (a)(8) that the employee or terminal operator
27 needs work glasses, these glasses shall be provided before the
28 employee becomes a terminal operator or before the terminal
29 operator resumes operation responsibilities, whichever is
30 applicable.

1 (c) Expense.--The expense of the examination under
2 subsection (a) and the work glasses under subsection (b) is the
3 responsibility of the employer.

4 Section 203. Radiation protection.

5 (a) General rule.--VDT's shall be contained in metal
6 cabinets or cabinets with metal coatings or shall have their
7 transformers shielded by a structure of conductive metal to
8 block radio-frequency radiation.

9 (b) Regulations.--The department shall monitor developments
10 in VDT radiation research and related areas and may issue
11 regulations which are more stringent than subsection (a) if it
12 determines the regulations to be warranted by the state of the
13 art.

14 Section 204. Rest periods.

15 Employers shall provide flexible rest periods as required by
16 the nature and intensity of the work. An employee may not be
17 required to work at a VDT for more than two hours without a
18 period of 15 minutes for rest or for alternate work. These 15-
19 minute periods shall be considered part of the working day.

20 Section 205. Transfer rights.

21 (a) Health problems.--If an employee presents to the
22 employer a licensed physician's determination that continued
23 work with or in the vicinity of a VDT poses continuing health
24 problems for the employee, the employer shall transfer the
25 employee to a position not involving the operation of a VDT,
26 with no reduction in compensation, benefits or seniority.

27 (b) Pregnancy.--Pregnant employees shall be offered
28 alternate employment, during pregnancy, at the same worksite
29 without reduction in compensation, benefits or seniority.

30 Section 206. Workplace conditions.

1 (a) Requirements.--Workplaces shall comply with regulations
2 promulgated by the department under subsections (b) and (c).

3 (b) Mandatory regulations.--The department shall promulgate
4 regulations to ensure that:

5 (1) Illumination and glare are controlled as follows:

6 (i) An antiglare filter, as specified in the
7 regulations, is installed on the screen of the VDT at the
8 request of the terminal operator.

9 (ii) Glare is effectively eliminated from windows by
10 drapes or blinds.

11 (2) Furniture is arranged so that a VDT situated in the
12 same room as a printer is provided with acoustic covers.

13 (3) A chair, readily adjustable by the terminal operator
14 for seat and backrest height and backrest tension, is
15 provided.

16 (4) A VDT is equipped with the following:

17 (i) Brightness and contrast controls which are
18 readily adjustable by the terminal operator.

19 (ii) A tiltable screen unless the VDT is placed upon
20 a tiltable platform.

21 (c) Discretionary regulations.--The department may
22 promulgate regulations to ensure that:

23 (1) Illumination and glare are controlled as follows:

24 (i) Light level does not exceed 700 lux.

25 (ii) Glare is eliminated from lighting fixtures
26 either through indirect lighting or recessed fixtures
27 with louvers, as specified in the regulations, to direct
28 light downward.

29 (2) Furniture is arranged so that:

30 (i) A terminal operator does not face a window.

(ii) A VDT does not face a window.

(iii) A heat exhaust is not directed within four feet of a VDT unless the VDT is protected by an intervening wall, heat duct or insulation.

(3) The following furniture is provided:

(i) A desk or table readily adjustable by the terminal operator for terminal and keyboard height.

(ii) A wrist rest if the keyboard is not constructed to provide one.

(iii) A footrest, if requested by the terminal operator.

(iv) An adjustable document holder if the terminal operator uses documents in connection with VDT work.

(v) A detachable keyboard which can be removed to a distance of at least one foot from the VDT.

Section 207. VDT maintenance.

(a) Requirement.--Employers shall provide for regular annual inspections and maintenance of VDT's to assure clear presentation of display and proper functioning of components.

(b) Records.--Employers shall maintain a record of maintenance and repairs for each VDT. This record shall be available to employees or their representatives upon request.

Section 208. Individual monitoring.

An employer may not use a VDT to monitor the productivity of a terminal operator on an individual basis.

Section 209. Retaliation.

An employer may not discharge nor discriminate against an employee or employee representative for exercising rights created by this chapter or regulations promulgated under this chapter.

1 CHAPTER 3

2 CONSUMER PROTECTION

3 Section 301. Bureau.

4 (a) Creation.--The Video Display Terminal Protection Bureau
5 is created within the department.

6 (b) Purpose.--The purpose of the bureau is to evaluate and
7 monitor, utilizing medical and scientific research data, the
8 health dangers and potential health dangers associated with the
9 use of VDT's. The bureau shall assist the department in
10 coordinating and disseminating health safety and consumer
11 information to the public upon request.

12 Section 302. Disclosure.

13 The Attorney General shall prepare and publish in the
14 Pennsylvania Bulletin a statement which explains a purchaser's
15 rights under this chapter. A manufacturer shall provide to a
16 purchaser at the time of original purchase of a new VDT a
17 written statement containing a copy of the Attorney General's
18 statement and a listing of regional offices established under
19 section 401, with addresses and telephone numbers which can be
20 contacted by the purchaser to secure remedies under this
21 chapter.

22 Section 303. Required information.

23 Manufacturers shall provide employers, sellers, purchasers
24 and terminal operators with available information about the VDT.
25 Manufacturers shall provide information on each VDT in the
26 workplace on a VDT Safety Form, prescribed by regulation of the
27 department.

28 Section 304. Repair obligations.

29 (a) Repairs required.--The manufacturer of a new VDT sold
30 and registered in this Commonwealth shall repair or correct, at

1 no cost to the purchaser, a nonconformity which substantially
2 impairs the use, value or safety of the VDT which may occur
3 within a period of one year following the actual delivery of the
4 VDT to the purchaser. Manufacturers may increase but not
5 decrease their obligation under this subsection.

6 (b) Delivery.--The purchaser shall deliver the nonconforming
7 VDT to the manufacturer's authorized service and repair facility
8 within this Commonwealth unless, due to reasons of size and
9 weight, method of attachment, method of installation or nature
10 of nonconformity, delivery cannot reasonably be accomplished. If
11 the purchaser is unable to effect return of the nonconforming
12 VDT, the purchaser shall notify the manufacturer or its
13 authorized service and repair facility. Written notice of
14 nonconformity to the manufacturer or its authorized service and
15 repair facility shall constitute return of the VDT when the
16 purchaser is unable to return the VDT. Upon receipt of the
17 notice of nonconformity, the manufacturer shall, at its option,
18 service or repair the VDT at the location of nonconformity, pick
19 up the VDT for service and repair or arrange for transporting
20 the VDT to its authorized service and repair facility. The
21 manufacturer is responsible for costs of transporting the VDT
22 when the purchaser is unable to effect return.

23 Section 305. Manufacturer's duty for refund or replacement.

24 (a) General rule.--If the manufacturer fails to repair or
25 correct a nonconformity after a reasonable number of attempts,
26 the manufacturer shall, at the option of the purchaser, replace
27 the VDT with a comparable VDT of equal value or accept return of
28 the VDT from the purchaser and refund to the purchaser the full
29 purchase price, including all collateral charges, less a
30 reasonable allowance for the purchaser's use of the VDT, not

1 exceeding 10% of the purchase price of the VDT. Refunds shall be
2 made to the purchaser and lienholder, if any, as their interests
3 may appear. A reasonable allowance for use shall be that amount
4 directly attributable to use by the purchaser prior to his first
5 report of the nonconformity to the manufacturer. In the event
6 the purchaser elects a refund, payment shall be made within 30
7 days of election. A consumer shall not be entitled to a refund
8 or replacement if the nonconformity does not substantially
9 impair the use, value or safety of the VDT or if the
10 nonconformity is the result of abuse, neglect or modification or
11 alteration of the VDT by the purchaser.

12 (b) Reasonable number of attempts.--It shall be presumed
13 that a reasonable number of attempts have been undertaken to
14 repair or correct a nonconformity if one of the following
15 occurs:

16 (1) The same nonconformity has been subject to repair
17 three times by the manufacturer, its agents or authorized
18 dealers, and the nonconformity still exists.

19 (2) The VDT is out of service by reason of a
20 nonconformity for a cumulative total of 30 or more business
21 days.

22 Section 306. Itemized statement required.

23 The manufacturer or seller shall provide to the purchaser,
24 each time the purchaser's VDT is returned from being serviced or
25 repaired, a fully itemized statement indicating all work
26 performed on the VDT, including parts and labor. The seller
27 shall notify the manufacturer of the existence of a
28 nonconformity within seven days of the delivery by a purchaser
29 of a VDT subject to a nonconformity when it is delivered to the
30 same seller for the second time for repair of the same

1 nonconformity. The notification shall be by certified mail,
2 return receipt requested.

3 Section 307. Civil cause of action.

4 A purchaser of a VDT who suffers loss due to nonconformity of
5 the VDT as a result of the manufacturer's failure to comply with
6 this chapter may bring a civil action in a court of common pleas
7 and, in addition to other relief, shall be entitled to recover
8 reasonable attorney fees and all court costs.

9 Section 308. Informal dispute settlement procedure.

10 If the manufacturer has established an informal dispute
11 settlement procedure, section 307 does not apply to a purchaser
12 who has not first resorted to that procedure as it relates to a
13 remedy for defects or conditions affecting the substantial use,
14 value or safety of the VDT. The informal dispute settlement
15 procedure is not binding on the purchaser. In lieu of the
16 settlement, the purchaser may pursue a remedy under section 307.

17 Section 309. Resale of returned VDT.

18 (a) Conditions.--If a VDT has been returned under this
19 chapter or a similar statute of another state, it may not be
20 resold in this Commonwealth unless:

21 (1) The manufacturer provides the same warranty it
22 provided to the original purchaser, except that the term of
23 the warranty need only last for 12 months after the date of
24 resale.

25 (2) The manufacturer provides the purchaser with a
26 written statement on a separate piece of paper, in ten-point,
27 all capital type, in substantially the following form:

28 "IMPORTANT: THIS VDT WAS RETURNED TO THE MANUFACTURER
29 BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS
30 WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A

1 REASONABLE TIME AS PROVIDED BY PENNSYLVANIA LAW."

2 (b) Prohibition.--Notwithstanding subsection (a), if a new
3 VDT has been returned under this chapter or a similar statute of
4 another state because of a nonconformity in radiation levels
5 emitted, the VDT may not be resold in this Commonwealth.

6 Section 310. Application of unfair trade act.

7 A violation of this chapter shall also be a violation of the
8 act of December 17, 1968 (P.L.1224, No.387), known as the Unfair
9 Trade Practices and Consumer Protection Law.

10 Section 311. Rights preserved.

11 Nothing in this chapter shall limit the purchaser from
12 pursuing other rights or remedies under any other law, contract
13 or warranty.

14 CHAPTER 4

15 MISCELLANEOUS PROVISIONS

16 Section 401. Administration.

17 (a) Agencies.--The department and the bureau shall
18 administer this act.

19 (b) Inspections.--The department shall employ inspectors as
20 necessary to annually inspect VDT's of employers to determine
21 compliance with this act and regulations promulgated under it.
22 Inspectors shall also make special inspections in response to
23 complaints received by the department if the department
24 determines that an investigation is warranted. The department
25 shall notify employers at least one business day in advance of
26 an inspection.

27 (c) Regional offices.--The department shall establish
28 regional offices in Philadelphia, Pittsburgh, Erie and Scranton
29 to assist the public with information on, and to deal with
30 complaints about, VDT's. The department shall provide a toll-

1 free telephone number to its Harrisburg office for complaints
2 and information.

3 (d) Annual report.--The department shall submit a report to
4 the Governor, the Secretary of the Senate and the Chief Clerk of
5 the House of Representatives by January 31 of each year. The
6 report shall include:

7 (1) The health effects and potential health effects of
8 the use of VDT's in places of employment and in places of
9 residence.

10 (2) A description of the activities of the bureau.

11 (3) The number of people assisted.

12 Section 402. Nonwaiver.

13 The provisions of this act may not be waived.

14 Section 403. Civil penalty.

15 The department, after a hearing at which a violation of this
16 act or of a regulation promulgated under this act is
17 established, may impose a civil penalty of not more than
18 \$10,000. For each day of a continuing established violation, the
19 department may impose an additional civil penalty of not more
20 than \$1,000.

21 Section 404. Effective date.

22 This act shall take effect in 60 days.