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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1580** Session of  
1985

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INTRODUCED BY SAURMAN, TRUMAN, MOWERY, SIRIANNI AND FOX,  
JUNE 28, 1985

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REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 28, 1985

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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," further providing for compensation.

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

10 Section 1. Section 301(c)(2) of the act of June 2, 1915  
11 (P.L.736, No.338), known as The Pennsylvania Workmen's  
12 Compensation Act, reenacted and amended June 21, 1939 (P.L.520,  
13 No.281), amended December 5, 1974 (P.L.782, No.263), is amended  
14 to read:

15 Section 301. \* \* \*

16 (c) \* \* \*

17 (2) The terms "injury," "personal injury," and "injury  
18 arising in the course of his employment," as used in this act,  
19 shall include, unless the context clearly requires otherwise,  
20 occupational disease as defined in section 108 of this act[:

1 Provided, That whenever occupational disease is the basis for  
2 compensation, for disability or death under this act, it shall  
3 apply only to disability or death resulting from such disease  
4 and occurring within three hundred weeks after the last date of  
5 employment in an occupation or industry to which he was exposed  
6 to hazards of such disease: And provided further, That if the  
7 employe's compensable disability has occurred within such  
8 period, his subsequent death as a result of the disease shall  
9 likewise be compensable]. The provisions of this paragraph (2)  
10 shall apply only with respect to the disability or death of an  
11 employe which results in whole or in part from the employe's  
12 exposure to the hazard of occupational disease after June 30,  
13 1973 in employment covered by The Pennsylvania Workmen's  
14 Compensation Act. The employer liable for compensation provided  
15 by section 305.1 or section 108, subsections (k), (l), (m), (o),  
16 (p) or (q), shall be the employer in whose employment the  
17 employe was last exposed for a period of not less than one year  
18 to the hazard of the occupational disease claimed. In the event  
19 the employe did not work in an exposure at least one year for  
20 any employer [during the three hundred week period prior to  
21 disability or death], the employer liable for the compensation  
22 shall be that employer giving the longest period of employment  
23 in which the employe was exposed to the hazards of the disease  
24 claimed.

25 \* \* \*

26 Section 2. The act is amended by adding a section to read:

27 Section 306.3. Compensation payable under section 306(a) and  
28 (b) of this act shall be reduced, but not below zero, by any  
29 pension the injured employe is receiving under a plan maintained  
30 by or contributed to by any employer liable for the compensation

1 payable. The reduction shall be equal to the prorated weekly  
2 amount of the pension after deduction of that portion of the  
3 pension that is directly attributable to the percentage of the  
4 contribution made to the plan by the injured employe. As used in  
5 this section, "pension" includes old-age payments; pension  
6 payments; retirement or retired pay, annuities, and similar  
7 periodic payments under section 202 of the Social Security Act  
8 (Public Law 74-271, 42 U.S.C. § 402); retirement plans approved  
9 under the Employee Retirement Income Security Act of 1974  
10 (Public Law 93-406, 88 Stat. 829); state-funded pension plans;  
11 and private pension plans.

12 Section 3. Section 315 of the act, amended April 4, 1974  
13 (P.L.239, No.56), and December 5, 1974 (P.L.782, No.263), is  
14 amended to read:

15 Section 315. In cases of personal injury all claims for  
16 compensation shall be forever barred, unless, within three years  
17 after the injury, the parties shall have agreed upon the  
18 compensation payable under this article; or unless within three  
19 years after the injury, one of the parties shall have filed a  
20 petition as provided in article four hereof. In cases of death  
21 all claims for compensation shall be forever barred, unless  
22 within three years after the death, the parties shall have  
23 agreed upon the compensation under this article; or unless,  
24 within three years after the death, one of the parties shall  
25 have filed a petition as provided in article four hereof. Where,  
26 however, in the case of any person receiving benefits pursuant  
27 to the act of June 28, 1935 (P.L.477, No.193), referred to as  
28 the Heart and Lung Act, the two-year period in which parties  
29 must agree upon the compensation or file a petition for  
30 compensation in cases of personal injury or in death, shall not

1 begin to run until the expiration of the receipt of benefits  
2 pursuant to the Heart and Lung Act. Where, however, payments of  
3 compensation have been made in any case, said limitations shall  
4 not take effect until the expiration of three years from the  
5 time of the making of the most recent payment prior to date of  
6 filing such petition: Provided, That any payment made under an  
7 established plan or policy of insurance for the payment of  
8 benefits on account of non-occupational illness or injury and  
9 which payment is identified as not being workmen's compensation  
10 shall not be considered to be payment in lieu of workmen's  
11 compensation, and such payment shall not toll the running of the  
12 Statute of Limitations. However, in cases of injury resulting  
13 from ionizing radiation or any other cause in which the nature  
14 of the injury or its relationship to the employment is not known  
15 to the employe, the time for filing a claim shall not begin to  
16 run until the employe knows, or by the exercise of reasonable  
17 diligence should know, of the existence of the injury and its  
18 possible relationship to his employment. The term "injury" in  
19 this section means, in cases of occupational disease, disability  
20 resulting from occupational disease.

21 Section 4. This act shall take effect in 60 days.