

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 794

Session of
1987

INTRODUCED BY PITTS, VROON, SCHULER, SIRIANNI, DORR, HECKLER,
TRELLO, FLICK, BARLEY, JACKSON, SEMMEL, JOHNSON, LANGTRY,
BOWSER, CARLSON, RAYMOND, GEIST, PHILLIPS, E. Z. TAYLOR AND
PERZEL, MARCH 11, 1987

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 11, 1987

AN ACT

1 Amending the act of May 18, 1937 (P.L.665, No.176), entitled "An
2 act relating to the performance of industrial work in homes;
3 regulating, and in certain cases prohibiting, industrial
4 homework; imposing duties, restrictions and liabilities on
5 industrial home-workers and on persons, partnerships,
6 associations and corporations, directly or indirectly
7 furnishing materials and articles to home-workers for
8 manufacture or work thereon; requiring permits and home-
9 workers' certificates and prescribing the fees therefor;
10 conferring powers and imposing duties on the Department of
11 Labor and Industry; and prescribing penalties," changing the
12 purpose of the act; further regulating the performance of
13 industrial work in homes; and making editorial changes.

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

16 Section 1. Section 1 of the act of May 18, 1937 (P.L.665,
17 No.176), known as the Industrial Homework Law, amended November
18 24, 1976 (P.L.1196, No.263), is amended to read:

19 Section 1. Legislative Purpose.--This State has long
20 recognized that employment of men, women and children under
21 conditions detrimental to health and general welfare results in
22 injury, not only to the workers immediately affected, but also

1 to the public interest as a whole. This recognition has produced
2 a broad program of regulatory legislation to conserve the public
3 welfare. The continuance of an unregulated industrial homework
4 system in this State runs counter to that program since it is
5 usually accompanied by excessively low wages, long and irregular
6 hours, and unsanitary or otherwise inadequate working quarters.
7 In enacting this act, the Legislature [stated] states that
8 unregulated industrial homework [was] is harmful to society as a
9 whole, to the industrial homework work force, and to workers in
10 factory industries forced to compete against the lower wages and
11 less salutary working conditions characteristic of industrial
12 homework. The Legislature [concluded] concludes that
13 ["industrial homework must eventually be abolished."] industrial
14 homework must be regulated. It is the aim of this act to achieve
15 that goal, and eliminate the pernicious [influence] effects of
16 industrial homework on the people of this State, by [abolishing]
17 regulating industrial homework [except when it is engaged in by
18 certain types of individuals unable to leave their homes to
19 work, as hereinafter specified].

20 Section 2. Section 5 of the act is amended to read:

21 Section 5. Power to Prohibit.--(a) The department shall have
22 the power, upon its own initiative, to make an investigation of
23 any industry or that portion or branch of any industry which
24 employs home-workers, in order to determine:

25 (1) Whether the [wages and] conditions of employment are
26 injurious to the health and welfare of home-workers in such
27 industry or portion or branch; or

28 (2) Whether the payment of wages [and conditions of
29 employment prevailing] in such industry or portion or branch
30 have the effect of rendering unduly difficult the maintenance of

1 existing labor standards, or the observance and enforcement of
2 labor standards established by law, or regulation [for the
3 industry of which such portion or branch is a part, thus
4 jeopardizing wages or working conditions of the factory workers
5 in such industry].

6 (b) If, on the basis of information in its possession, [with
7 or without an investigation as provided in this section,] the
8 department shall find that industrial homework cannot be
9 continued within any industry or portion or branch of any
10 industry without injuring the health and welfare of the home-
11 workers [within that industry], or without rendering unduly
12 difficult the maintenance of existing labor standards or the
13 observance and enforcement of labor standards established by law
14 for [the protection of the factory workers in] that industry,
15 the department shall, by order, require all employers,
16 representative contractors, or contractors in such industry or
17 portion or branch to discontinue the furnishing within this
18 Commonwealth of articles or materials for industrial homework,
19 and no permit issued under this act shall be deemed thereafter
20 to authorize the furnishing of articles, or materials for
21 industrial homework prohibited by such order.

22 (c) All power machines used in conduct of industrial
23 homework shall be guarded in accordance with the laws and
24 regulations of the Department of Labor and Industry.

25 Section 3. Sections 11 and 13 of the act, amended November
26 24, 1976 (P.L.1196, No.263), are amended to read:

27 Section 11. Home-Worker's Certificate.--(a) Every person
28 desiring to engage in industrial homework within this
29 Commonwealth must procure from the department a home-worker's
30 certificate, which shall be issued without cost and which shall

1 be valid for a period of one year from the date of its issuance,
2 unless sooner revoked or suspended by action of the department
3 [or, under subsection (f) of this section, automatically].
4 Application for such certificate shall be made in such form as
5 the department may by regulation prescribe and must be remade
6 each year. Such certificate shall be valid only for work
7 performed by the applicant himself in his own home, and in
8 accordance with the provisions of this act.

9 (b) No home-worker's certificate shall be issued:--

10 (1) To any person under the age of sixteen years; or

11 (2) To any person known to be suffering from an infectious,
12 contagious, or communicable disease, or known to be living in a
13 home that is not clean, sanitary and free from infectious,
14 contagious, or communicable diseases.

15 [(3) To any person, unless that person is unable to leave
16 his home to work on account of:

17 (i) his own physical handicap, if that handicap has lasted
18 for more than thirty consecutive days; or

19 (ii) his own illness, if that illness has lasted for more
20 than thirty consecutive days; or

21 (iii) the necessity of caring for a member of his family who
22 is ill or handicapped, if that illness and/or handicap and
23 necessity has lasted for more than thirty consecutive days.]

24 (c) [It shall be the duty of each applicant for a home-
25 worker's certificate to prove his eligibility for a certificate
26 by presenting evidence of handicap or illness of himself or
27 illness or handicap of a family member sufficient to prove to
28 the department that he qualifies for a home-worker's certificate
29 under one of the exceptions set forth in subsection (b)(3) of
30 this section.] The department shall be empowered to require any

1 applicant for a home-worker's certificate[,] or any family
2 member of any applicant for a home-worker's certificate [upon
3 whose illness an applicant is relying in order to obtain a
4 certificate,] to submit to a medical examination by a physician
5 of the department's choosing in order to aid the department in
6 making a decision on whether or not to issue a certificate.

7 (d) Whenever a physical examination by a physician is
8 necessary, in order for a person to qualify for or to retain a
9 home-worker's certificate, if the person is working, or has been
10 promised work on the condition that he obtain a home-worker's
11 certificate, it shall be the duty of the employer,
12 representative contractor, or contractor for which the person is
13 working or by which the person has been promised work, to pay
14 the cost of the physical examination.

15 (e) Every certificate shall contain the following
16 information, in addition to any information which the department
17 shall, by regulation, require:

18 (1) The home-worker's

19 (i) name,

20 (ii) address,

21 (iii) sex,

22 (iv) Social Security number,

23 (v) date of birth,

24 (vi) height,

25 (vii) weight,

26 (viii) eye color,

27 (ix) hair color; and

28 (2) The expiration date of the certificate; and

29 (3) The basis of the home-worker's eligibility for a
30 certificate, as set forth in subsection (b)(3) above.

1 (f) Upon the termination of the handicap, illness, or
2 necessity of caring for a family member who is ill or
3 handicapped which has qualified a person for a home-worker's
4 certificate under subsection (b)(3) of this section, that
5 person's certificate shall automatically be revoked].

6 (g) The department may revoke, or suspend any home-worker's
7 certificate if it finds that the holder is performing industrial
8 homework contrary to the conditions under which the certificate
9 was issued, or to any provision of this act, or has permitted
10 any person not holding a valid home-worker's certificate to
11 assist him in performing his industrial homework or has obtained
12 the certificate through fraud or misrepresentation.

13 (h) The department shall keep records of the applications
14 made and certificates issued under this section, and of all
15 information contained thereon.

16 [(i) Notwithstanding any provisions of this act to the
17 contrary, a special home-worker's certificate may be issued to a
18 person who does not qualify for a certificate under subsections
19 (b)(3) and (c) if the person meets the other qualifications of
20 subsection (b) and if the person has been employed fulltime for
21 a period of at least six months in the manufacture of shoes, and
22 is unable to continue his factory employment, if the following
23 conditions are met:

24 (1) The special certificate holder may perform homework only
25 for an employer which operates a factory in which shoes are
26 manufactured, and which does not have more than five percent of
27 its employees engaged in the manufacture of shoes in industrial
28 homework.

29 (2) The homework performed by the special certificate holder
30 must be part of the manufacturing process of shoes.

1 (3) The special certificate holder must be paid the same
2 wages and receive the same benefits as the employer pays or
3 affords to employes in its factory who perform similar work.

4 (4) The employer must deliver and pick up all the materials
5 used in or produced by homework at the home of the special
6 certificate holder without charge to the home-worker.

7 (5) All machinery, equipment, and materials used in the
8 manufacture of goods by the special certificate holder must be
9 supplied to the special certificate holder and maintained by the
10 employer without charge to the home-worker.

11 A certificate issued under authority of this subsection shall
12 bear a mark indicating that it permits its holder to engage in
13 homework only in the shoe manufacturing industry. The provisions
14 of this act shall govern the issuance and use of a special home-
15 worker's certificate insofar as they do not conflict with this
16 subsection. The use of a special home-worker's certificate in
17 violation of this act shall automatically revoke the
18 certificate.

19 (j) Notwithstanding any provisions of this act to the
20 contrary, a special home-worker's certificate may be issued to a
21 person who does not qualify for a certificate under subsections
22 (b)(3) and (c) if the person meets the other qualifications of
23 subsection (b), has been employed fulltime for a period of at
24 least one month in the manufacture of brushes, is unable to
25 continue his factory employment, and if the following conditions
26 are met:

27 (1) The special certificate holder performs homework only
28 for an employer operating a factory in which brushes are
29 manufactured who does not have more than thirty per cent of its
30 employes engaged in the manufacture of brushes in industrial

1 homework.

2 (2) The homework performed by the special certificate holder
3 is part of the process of manufacturing brushes.

4 (3) The employer delivers and picks up all the materials
5 used in or produced by homework at the home of the special
6 certificate holder without charge to the home-worker.

7 (4) All machinery, equipment, and materials used in the
8 manufacture of goods by the special certificate holder is
9 supplied to the special certificate holder and maintained by the
10 employer without charge to the home-worker.

11 A certificate issued pursuant to this subsection shall bear a
12 mark indicating that it permits its holder to engage in homework
13 only in the brush manufacturing industry. The provisions of this
14 act shall govern the issuance and use of a special home-worker's
15 certificate insofar as they do not conflict with this
16 subsection. The use of a special home-worker's certificate in
17 violation of this act shall automatically revoke the
18 certificate.]

19 Section 13. Conditions of Manufacture.--Industrial homework
20 on articles or materials manufactured for any person to whom an
21 employer's permit has been issued shall be performed:--

22 (a) Only by a person possessing a valid home-worker's
23 certificate.

24 (b) Only by persons over the age of sixteen years.

25 (c) Only by persons resident in the home in which the work
26 is done.

27 (d) Only during such hours as may be fixed by law or
28 regulation as permissible hours of labor in factories by persons
29 of the same age [and sex] as the home-worker[; and].

30 (e) Only in a home that is clean and sanitary and free from

1 any infectious, contagious, or communicable disease.

2 (f) Only [by persons who are incapable of leaving their
3 homes to work because of one of the reasons stated in section
4 11(b) (3).] for the same wages and the same benefits as the
5 employer pays or affords to employes who perform similar work in
6 the employer's factory.

7 (g) Only with manufacturing machinery, equipment and
8 materials supplied and maintained by the employer without charge
9 to the home-worker.

10 Upon the issuance of an employer's permit to an employer, or
11 representative contractor, or a contractor's permit to a
12 contractor, such employer, representative contractor, or
13 contractor, shall be deemed to have accepted responsibility for
14 the observance of the conditions of manufacture specified by
15 this section; and each of such conditions shall be deemed to be
16 a condition of the employer's or contractor's permit to the same
17 extent as though it were expressly set forth therein.

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