

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 797

Session of
1987

INTRODUCED BY LAUGHLIN, COHEN, LESCOVITZ, VEON, COLAFELLA AND
DOMBROWSKI, MARCH 11, 1987

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 11, 1987

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," limiting the exemption of employers
8 from obtaining insurance against liability for compensation.

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

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14 December 5, 1974 (P.L.782, No.263) and repealed in part April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

16 Section 305. Every employer liable under this act to pay
17 compensation shall insure the payment of compensation in the
18 State Workmen's Insurance Fund, or in any insurance company, or
19 mutual association or company, authorized to insure such
20 liability in this Commonwealth, unless such employer shall be

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

30 No exemption from such insurance shall be granted to or

1 renewed in favor of any employer who is insolvent or who has
2 been unable during the preceding twelve (12) calendar months to
3 pay a substantial portion of its indebtedness when due, or who
4 has recently suffered net operating losses which, if continued
5 at the same rate over the period to be covered by the proposed
6 exemption or proposed renewal of exemption, would render the
7 employer insolvent or unable to pay a substantial portion of its
8 indebtedness when due.

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

22 In any proceeding against an employer under this section, a
23 certificate of non-insurance issued by the official Workmen's
24 Compensation Rating and Inspection Bureau and a certificate of
25 the department showing that the defendant has not been exempted
26 from obtaining insurance under this section, shall be prima
27 facie evidence of the facts therein stated.

28 When any employer fails to secure the payment of compensation
29 under this act as provided in sections 305 and 305.2, the
30 injured employe or his dependents may proceed either under this

1 act or in a suit for damages at law as provided by article II.

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