

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 2537 Session of  
1988

INTRODUCED BY COHEN, MICOZZIE, VEON, FREEMAN, KOSINSKI,  
PRESSMANN, CARN, HUGHES, STABACK, RYBAK, MORRIS, ACOSTA,  
KUKOVICH, RITTER, PISTELLA, MICHLOVIC, HARPER, DALEY,  
PETRARCA AND TRELLO, JUNE 8, 1988

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 8, 1988

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, adding provisions relating to willful,  
3 recurring violations of health or safety standards at the  
4 workplace that cause injuries or death.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated  
8 statutes is amended by adding a chapter to read:

9 CHAPTER 93

10 CRIMES AGAINST WORKPLACE SAFETY

11 Sec.

12 9301. Short title of chapter.

13 9302. Legislative findings and declarations.

14 9303. Definitions.

15 9304. Willful violations causing injuries.

16 9305. Causation.

17 9306. Corporate responsibility.

18 9307. Complaints.

1 9308. Nondiscrimination.

2 9309. Relationship with other offenses.

3 § 9301. Short title of chapter.

4 This chapter shall be known and may be cited as the Crimes  
5 Against Workplace Safety Act.

6 § 9302. Legislative findings and declarations.

7 The General Assembly finds and declares as follows:

8 (1) Each day employers in this Commonwealth injure  
9 workers by knowingly violating health and safety standards  
10 that have been established for the very purpose of preventing  
11 such injuries.

12 (2) While the existence of personal injury lawsuits  
13 serves as an important deterrent to negligent and intentional  
14 actions causing injuries outside of the workplace, in this  
15 Commonwealth such lawsuits are unavailable to workers and  
16 serve as no deterrent to either negligent or intentional  
17 actions that cause injuries at the workplace.

18 (3) Government enforcement agencies have insufficient  
19 resources to effectively punish and deter violations of  
20 workplace health and safety standards among the thousands of  
21 employers across this Commonwealth.

22 (4) Workplace injuries not only affect the injured  
23 workers and their families, but such injuries harm the  
24 economy of the Commonwealth and the taxpayer by raising  
25 workers' compensation rates and increasing expenditures for  
26 State rehabilitation and training services, food stamps,  
27 public welfare and other social service programs.

28 (5) A workplace injury caused by a knowing violation of  
29 health and safety standards for which an employer has been  
30 cited previously is a crime committed against the injured

1 party and the people of this Commonwealth for which  
2 punishment should be imposed in order to protect the victim  
3 and to prevent and deter future violations.

4 § 9303. Definitions.

5 The following words and phrases when used in this chapter  
6 shall have the meanings given to them in this section unless the  
7 context clearly indicates otherwise:

8 "Citation." A written determination by a regulatory agency  
9 that a health or safety standard over which it has enforcement  
10 authority has been violated.

11 "Cited." The act of serving a citation on an employer in the  
12 manner required by the appropriate regulatory agency.

13 "Employer." One or more individuals, partnerships,  
14 associations, corporations, business trusts, legal  
15 representatives or any organized group of persons engaged in a  
16 business that has an employee or employees. The term does not  
17 include the United States, the Commonwealth or any political  
18 subdivision of this Commonwealth.

19 "Health or safety standard." A standard requiring that  
20 certain conditions exist at a place of employment, or that  
21 practices or processes be used at a place of employment in order  
22 to provide safe or healthful conditions.

23 "Regulatory agency." An agency or unit of a Federal, State,  
24 local or other governmental body.

25 § 9304. Willful violations causing injuries.

26 (a) Offense defined.--Every employer who injures another  
27 person at the workplace by willfully violating a health or  
28 safety standard for which the employer has been cited previously  
29 by a regulatory agency commits a misdemeanor of the third degree  
30 and shall, upon conviction, be:

1           (1) Fined not less than \$1,000 nor more than \$5,000 or  
2           sentenced to a term of imprisonment of not more than one  
3           year, or both, for each person who suffers bodily injury.

4           (2) Fined not less than \$2,500 nor more than \$10,000 or  
5           sentenced to a term of imprisonment of not more than five  
6           years, or both, for each person who suffers serious bodily  
7           injury.

8           (3) Fined not less than \$10,000 nor more than \$100,000  
9           or sentenced to a term of imprisonment of not more than ten  
10          years, or both, for each person who suffers death.

11          (b) Additional penalties.--A fine in excess of the maximum  
12          authorized by this chapter may be imposed where double the  
13          pecuniary gain that the employer has derived from the violation  
14          or failure to remedy the violation exceeds the authorized  
15          maximum. The court may also order the employer to pay  
16          restitution to compensate fully the victim of a crime committed  
17          under this chapter without the limitations of compensation  
18          applicable under the workers' compensation system. Contracts  
19          limiting or shifting an employer's responsibility for the  
20          restitution shall be void.

21          § 9305. Causation.

22          Causation under this section is established if the action or  
23          inaction of the employer is a substantial factor contributing to  
24          the injury or death.

25          § 9306. Corporate responsibility.

26          If a corporation violates this section, the violation shall  
27          be deemed to be also that of those individual directors and  
28          officers of the corporation who have knowledge of the previous  
29          citation and who have failed to correct the situation or  
30          condition cited previously.

1 § 9307. Complaints.

2 A person having knowledge of a possible violation of this  
3 chapter may file a complaint with the Department of Labor and  
4 Industry, which shall investigate the complaint and issue a  
5 report of its findings to the complainant and to the district  
6 attorney for the county in which the violation is alleged to  
7 have occurred. Thereafter, the Department of Labor and Industry  
8 shall cooperate with the district attorney in further  
9 investigation and prosecution under this chapter and shall  
10 provide to the district attorney technical advice and expertise  
11 to assist in the prosecution of the case. The rights and  
12 procedures provided for in this section are additional to any  
13 other rights and procedures a person filing such a complaint  
14 would otherwise have available.

15 § 9308. Nondiscrimination.

16 No employer shall discharge or cause to be discharged or  
17 otherwise discipline or in any manner discriminate against a  
18 person because the person has filed a complaint, has testified  
19 or is about to testify, or has cooperated or assisted in a  
20 proceeding or action taken under this chapter. If a person shows  
21 that he exercised a right provided for under this chapter with  
22 respect to an employer, and shows further that the employer has  
23 taken an adverse action against the person during the six-month  
24 period immediately following the exercise of the right, the  
25 employer shall have the burden of showing just cause for his  
26 action by clear and convincing evidence. If the employer fails  
27 to show just cause, he commits a misdemeanor of the third degree  
28 and shall be subject to other appropriate civil relief in equity  
29 and any resulting damages.

30 § 9309. Relationship with other offenses.

1 Prosecutions and convictions for actions and inactions  
2 prohibited by this chapter are not exclusive but are alternative  
3 to prosecutions and convictions under other applicable  
4 provisions of this title.

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