

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2103 Session of
1989

INTRODUCED BY PICCOLA, McVERRY, PESCI, DIETTERICK, GODSHALL,
JACKSON, NAHILL, BILLOW, FAIRCHILD, PHILLIPS, BUNT, LANGTRY,
MOEHLMANN, SCHEETZ, DEMPSEY, MERRY, FOX, NOYE, PITTS,
SAURMAN, FARGO, SERAFINI, MAINE, JOHNSON, G. SNYDER, VROON,
E. Z. TAYLOR, BROUJOS, ADOLPH, FLICK, TRELLO AND ROBBINS,
NOVEMBER 15, 1989

REFERRED TO COMMITTEE ON LABOR RELATIONS, NOVEMBER 15, 1989

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An
2 act defining the liability of an employer to pay damages for
3 injuries received by an employe in the course of employment;
4 establishing an elective schedule of compensation; providing
5 procedure for the determination of liability and compensation
6 thereunder; and prescribing penalties," further providing for
7 the standard of review for administrative adjudications; and
8 making an editorial change.

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

11 Section 1. The act of June 2, 1915 (P.L.736, No.338), known
12 as The Pennsylvania Workmen's Compensation Act, reenacted and
13 amended June 21, 1939 (P.L.520, No.281), is amended by adding
14 sections to read:

15 Section 109. The term "sufficient, competent and substantial
16 evidence," as used in this act, shall mean the aggregate of the
17 terms, "sufficient evidence," "competent evidence" and
18 "substantial evidence." The term "sufficient evidence," as used
19 in this act, shall mean more than a scintilla but somewhat less

1 than a preponderance. The term "competent evidence," as used in
2 this act, shall mean evidence which is legally admissible:
3 Provided, That a technical or scientific opinion given in
4 evidence by an expert must be based upon facts or data of a type
5 reasonably relied upon by experts in the particular field and be
6 logically derived by standard methodological principles. The
7 term "substantial evidence," as used in this act, shall mean
8 such relevant evidence as a reasonable mind might accept to
9 support a decision upon a review of the record as a whole.

10 Section 110. The term "adjudication," as used in this act,
11 shall have the meaning given in 2 Pa.C.S. § 101 (relating to
12 definitions).

13 Section 2. Section 422 of the act, amended February 8, 1972
14 (P.L.25, No.12) and March 29, 1972 (P.L.159, No.61), is amended
15 to read:

16 Section 422. Neither the board nor any of its members nor
17 any referee shall be bound by the common law or statutory rules
18 of evidence in conducting any hearing or investigation, but all
19 findings of fact shall be based upon sufficient, competent and
20 substantial evidence to justify same. The justification for each
21 disputed finding shall be reasonably explained, and the
22 explanation shall include a cogent statement of the reasons for
23 acceptance and rejection of evidence.

24 If any party or witness resides outside of the Commonwealth,
25 or through illness or other cause is unable to testify before
26 the board or a referee, his or her testimony or deposition may
27 be taken, within or without this Commonwealth, in such manner
28 and in such form as the department may, by special order or
29 general rule, prescribe. The records kept by a hospital of the
30 medical or surgical treatment given to an employe in such

1 hospital shall be admissible as evidence of the medical and
2 surgical matters stated therein.

3 Where any claim for compensation at issue before a referee
4 involves twenty-five weeks or less of disability, either the
5 employe or the employer may submit a certificate by any
6 qualified physician as to the history, examination, treatment,
7 diagnosis and cause of the condition, and sworn reports by other
8 witnesses as to any other facts and such statements shall be
9 admissible as evidence of medical and surgical or other matters
10 therein stated and findings of fact may be based upon such
11 certificates or such reports.

12 Where an employer shall have furnished surgical and medical
13 services or hospitalization in accordance with the provisions of
14 subsection (f) of section 306, or where the employe has himself
15 procured them, the employer or employe shall, upon request, in
16 any pending proceeding, be furnished with, or have made
17 available, a true and complete record of the medical and
18 surgical services and hospital treatment, including X rays,
19 laboratory tests, and all other medical and surgical data in the
20 possession or under the control of the party requested to
21 furnish or make available such data.

22 The department may adopt rules and regulations governing the
23 conduct of all hearings held pursuant to any provisions of this
24 act, and hearings shall be conducted in accordance therewith,
25 and in such manner as best to ascertain the substantial rights
26 of the parties.

27 Section 3. Section 423 of the act, amended March 29, 1972
28 (P.L.159, No.61), is amended to read:

29 Section 423. Any party in interest may, within twenty days
30 after notice of a referee's [award or disallowance of

1 compensation] adjudication shall have been served upon him, take
2 an appeal to the board on the ground: (1) that the [award or
3 disallowance of compensation] adjudication is not in conformity
4 with the terms of this act, or that the referee committed any
5 other error of law; (2) that the findings of fact and [award or
6 disallowance of compensation] adjudication was unwarranted by
7 sufficient, competent and substantial evidence or was procured
8 by fraud, coercion, or other improper conduct of any party in
9 interest. The board may, upon cause shown, extend the time
10 provided in this article for taking such appeal or for the
11 filing of an answer or other pleading.

12 In any such appeal the board may disregard the findings of
13 fact of the referee if not supported by sufficient, competent
14 and substantial evidence and if it deem proper may hear other
15 evidence, and may substitute for the findings of the referee
16 such findings of fact as the sufficient, competent and
17 substantial evidence taken before the referee and the board, as
18 hereinbefore provided, may, in the judgment of the board,
19 require, and may make such [disallowance or award of
20 compensation or other order] adjudication as the facts so
21 [founded] found by it may require.

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