

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2609 Session of  
2002

INTRODUCED BY BARRAR, RAYMOND, PIPPY, BELFANTI, CURRY, DeWEESE,  
FRANKEL, GANNON, GEORGE, HALUSKA, HARHAI, HENNESSEY, LEH,  
MARSICO, McCALL, PALLONE, PERZEL, SCRIMENTI, SHANER, SOLOBAY,  
STEELMAN, E. Z. TAYLOR, TIGUE, WASHINGTON AND YOUNGBLOOD,  
APRIL 30, 2002

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 30, 2002

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 periodic  
8 payment of compensation, for powers of referees and for  
9 penalties.

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

12 Section 1. Section 308 of the act of June 2, 1915 (P.L.736,  
13 No.338), known as the Workers' Compensation Act, amended March  
14 29, 1972 (P.L.159, No.61), is amended to read:

15 Section 308. (a) Except as hereinafter provided, all  
16 compensation payable under this article shall be payable in  
17 periodical installments, as the wages of the employe were  
18 payable before the injury.

19 (b) It shall be a violation of this section if a payment is  
20 not delivered to the claimant within seven days of the

1 recognized payment date for a week, or weeks, of disability,  
2 provided that the employer or insurer has not taken an action  
3 set forth in section 413(b) which permits suspension or  
4 termination of benefits.

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

6 Section 402.2. The department shall establish a petition for  
7 alleging violations of sections 308, 406.1, 413(b), 418(b) and  
8 438(b) of this act to ensure violations of the time standards  
9 set forth in these sections are promptly enforced. A petition  
10 filed under this section shall be assigned to a referee within  
11 seven business days after the filing date. A hearing shall be  
12 conducted on such petition within fourteen business days of its  
13 assignment to a referee. Proper notice shall be given all  
14 parties as to the time and location of such hearing. A decision  
15 on such petition shall be rendered within twenty-one days,  
16 provided that no continuance has been granted. The referee's  
17 decision shall include findings of fact, the amount of any  
18 administrative fine to be imposed under section 435(d.1), the  
19 amount of unpaid compensation owed or unpaid medical bills due,  
20 the interest penalty to be paid, and penalty imposed pursuant to  
21 paragraph 435(d).

22 Section 3. Section 418 of the act, amended February 8, 1972  
23 (P.L.25, No.12), is amended to read:

24 Section 418. (a) The referee to whom a petition is assigned  
25 for hearing, may subpoena witnesses, order the production of  
26 books and other writings, and hear evidence, shall make a record  
27 of hearings, and shall make, in writing and as soon as may be  
28 after the conclusion of the hearing, such findings of fact,  
29 conclusions of law, and award or disallowance of compensation or  
30 other order, as the petition and answers and the evidence

1 produced before him and the provisions of this act shall, in his  
2 judgment, require. The findings of fact made by a referee to  
3 whom a petition has been assigned or any question of fact has  
4 been referred under the provisions of section four hundred and  
5 nineteen shall be final, unless an appeal is taken as provided  
6 in this act.

7 (b) Compensation and medical bills which are determined to  
8 be due to a claimant in a referee's final order shall be paid to  
9 the claimant within thirty days of the issuance of such order:  
10 Provided however, That if such decision is appealed and a  
11 supersedeas is requested, such time limitation shall not apply;  
12 and Provided further, That if a supersedeas is denied,  
13 compensation and medical bills shall be paid within ten days of  
14 such denial.

15 Section 4. Section 435 of the act, amended June 24, 1996  
16 (P.L.350, No.57), is amended to read:

17 Section 435. (a) The department shall establish and  
18 promulgate rules and regulations consistent with this act, which  
19 are reasonably calculated to:

- 20 (i) expedite the reporting and processing of injury cases,
- 21 (ii) insure full payment of compensation when due,
- 22 (iii) expedite the hearing and determination of claims for  
23 compensation and petitions filed with the department under this  
24 act,
- 25 (iv) provide the disabled employe or his dependents with  
26 timely notice and information of his or their rights under this  
27 act,
- 28 (v) explain and enforce the provisions of this act.

29 (b) If it appears that there has not been compliance with  
30 this act or rules and regulations promulgated thereunder the

1 department may, on its own motion give notice to any persons  
2 involved in such apparent noncompliance and schedule a hearing  
3 for the purpose of determining whether there has been  
4 compliance. The notice of hearing shall contain a statement of  
5 the matter to be considered.

6 (c) The board shall establish rules of procedure, consistent  
7 with this act, which are reasonably calculated to expedite the  
8 hearing and determination of appeals to the board and to insure  
9 full payment of compensation when due.

10 (d) The department, the board, or any court which may hear  
11 any proceedings brought under this act shall have the power to  
12 impose penalties as provided herein for violations of the  
13 provisions of this act or such rules and regulations or rules of  
14 procedure:

15 (i) Employers and insurers may be penalized a sum not  
16 exceeding ten per centum of the amount awarded and interest  
17 accrued and payable: Provided, however, That such penalty may be  
18 increased to [fifty] seventy-five per centum in cases of  
19 unreasonable or excessive delays. Such penalty shall be payable  
20 to the same persons to whom the compensation is payable.

21 (ii) Any penalty or interest provided for anywhere in this  
22 act shall not be considered as compensation for the purposes of  
23 any limitation on the total amount of compensation payable which  
24 is set forth in this act.

25 (iii) Claimants shall forfeit any interest that would  
26 normally be payable to them with respect to any period of  
27 unexcused delay which they have caused.

28 (d.1) In addition to the penalties provided for under  
29 subsection (d), the department, the board, or any court which  
30 may hear any proceedings brought under this act shall have the

1 power to impose an administrative penalty as provided in this  
2 subsection for violations of section 308, 406.1, 413(b), 418(b)  
3 or 438(b):

4 (i) Employers and insurers may be penalized a sum of not  
5 less than twenty-five dollars nor more than one hundred dollars  
6 for each day of violation. Such administrative penalty shall be  
7 payable to the department.

8 (ii) The administrative penalty may be imposed if the  
9 violation was flagrant, there has been a history of repeat  
10 violations on the same claim, the violation was an attempt to  
11 pressure a claimant into settlement or where employers or  
12 insurers acted in bad faith.

13 (iii) Any administrative penalty imposed under this  
14 subsection shall not be considered as compensation for the  
15 purpose of any limitation on the total amount of compensation  
16 payable which is set forth in this act.

17 (iv) This subsection shall not apply to violations that  
18 occur beyond the control of employers or insurers.

19 (e) The department shall furnish to persons adversely  
20 affected by occupational disease appropriate counseling  
21 services, vocational rehabilitation services, and other  
22 supportive services designed to promote employability to the  
23 extent that such services are available and practical.

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