

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

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 18, 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

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

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

7 Section 402.2. The department shall establish a petition for
8 alleging violations of sections 306(F.1)(5), 308, 406.1, 413(b), <—
9 418(b) and 438(b) of this act to ensure violations of the time
10 standards set forth in these sections are promptly enforced. A
11 petition filed under this section shall be assigned to a referee
12 within seven business days after the filing date. A hearing
13 shall be conducted on such petition within fourteen business
14 days of its assignment to a referee. Proper notice shall be
15 given all parties as to the time and location of such hearing. A
16 decision on such petition shall be rendered within twenty-one
17 days, provided that no continuance has been granted. The
18 referee's decision shall include findings of fact, the amount of
19 any administrative fine to be imposed under section 435(d.1),
20 the amount of unpaid compensation owed or unpaid medical bills
21 due, the interest penalty to be paid, and penalty imposed
22 pursuant to paragraph 435(d).

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

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

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

8 (b) Compensation and medical bills which are determined to
9 be due to a claimant in a referee's final order shall be paid to
10 the claimant within ~~thirty~~ TWENTY-FIVE days of the issuance of <—
11 such order: Provided however, That if such decision is appealed
12 and a supersedeas is requested, such time limitation shall not
13 apply; and Provided further, That if SUCH SUPERSEDEAS SHALL BE <—
14 GRANTED OR DENIED WITHIN FIFTEEN DAYS AND THAT FAILURE TO ACT
15 WITHIN THAT TIME SHALL BE DEEMED A DENIAL. IF a supersedeas is
16 denied, compensation and medical bills shall be paid within ten
17 days of such denial.

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

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

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

(v) explain and enforce the provisions of this act.

(b) If it appears that there has not been compliance with this act or rules and regulations promulgated thereunder the department may, on its own motion give notice to any persons involved in such apparent noncompliance and schedule a hearing for the purpose of determining whether there has been compliance. The notice of hearing shall contain a statement of the matter to be considered.

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

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

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

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

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

1 (d.1) In addition to the penalties provided for under
2 subsection (d), the department, the board, or any court which
3 may hear any proceedings brought under this act shall have the
4 power to impose an administrative penalty as provided in this
5 subsection for violations of section 306(F.1)(5), 308, 406.1, <—
6 413(b), 418(b) or 438(b):

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

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

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

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

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

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