

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2377 Session of 2014

INTRODUCED BY JAMES, BARRAR, ROZZI, MILLARD, CLYMER, C. HARRIS, MARSHALL, COHEN, MURT, GINGRICH, SWANGER, HARKINS, BIZZARRO, RAPP, DONATUCCI, SANKEY, SAINATO, MULLERY, BOBACK, FARRY, SACCONI, CUTLER AND KORTZ, JUNE 24, 2014

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 16, 2014

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions and
3 for laws suspended during emergency assignments.

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

6 Section 1. Section 7102 of Title 35 of the Pennsylvania
7 Consolidated Statutes is amended by adding definitions to read:
8 § 7102. Definitions.

9 The following words and phrases when used in this part shall
10 have, unless the context clearly indicates otherwise, the
11 meanings given to them in this section:

12 * * *

13 "Disaster emergency-related work." The repair, renovation,
14 installation, construction or rendering of services or other
15 business activities that relate to infrastructure that has been
16 damaged, impaired or destroyed by a disaster.

17 * * *

1 "Infrastructure." Real and personal property and equipment
2 that is owned or used by any of the following that service
3 multiple customers or citizens:

4 (1) A communications network.

5 (2) An electric generation, transmission and
6 distribution system.

7 ~~(3) A gas distribution system.~~ <--

8 ~~(4) A water pipeline, public road and bridge related~~
9 ~~support facility.~~

10 (3) A GAS DISTRIBUTION SYSTEM THAT PROVIDES THE <--
11 FACILITIES AND EQUIPMENT FOR PRODUCING, GENERATING,
12 TRANSMITTING, DISTRIBUTING OR THE FURNISHING OF GAS DIRECTLY
13 TO THE END CUSTOMER.

14 (4) A PUBLIC OR PRIVATE WATER PIPELINE.

15 * * *

16 "Out-of-State business." A business entity whose services
17 are requested by a registered business, the Commonwealth or a
18 political subdivision of the Commonwealth for purposes of
19 performing disaster emergency-related work in this Commonwealth.
20 The term includes a business entity that is affiliated with a
21 registered business in this Commonwealth solely through common
22 ownership. The out-of-State business may not have any of the
23 following:

24 (1) A presence in this Commonwealth, excluding prior
25 disaster emergency-related work performed under section
26 7308(b)(1) (relating to laws suspended during emergency
27 assignments).

28 (2) Any registration, tax filing or nexus in this
29 Commonwealth within the past three calendar years.

30 "Out-of-State employee." An employee who does not work in

1 this Commonwealth, unless the employee is performing disaster
2 emergency-related work during a period under section 7308(b)(1).

3 * * *

4 "Registered business." Any business entity that is
5 registered to do business in this Commonwealth prior to a
6 declared disaster or emergency.

7 * * *

8 Section 2. Section 7308 of Title 35 is amended to read:

9 § 7308. Laws suspended during emergency assignments.

10 (a) Commonwealth agencies.--In the case of a declaration of
11 a state of emergency by the Governor, Commonwealth agencies may
12 implement their emergency assignments without regard to
13 procedures required by other laws (except mandatory
14 constitutional requirements) pertaining to the performance of
15 public work, entering into contracts, incurring of obligations,
16 employment of temporary workers, rental of equipment, purchase
17 of supplies and materials and expenditures of public funds.

18 (b) Out-of-State business or employee.--Notwithstanding any
19 other law to the contrary, if the Governor has declared a
20 disaster emergency to exist under this part or the President has
21 declared a major disaster or emergency to exist in this
22 Commonwealth, the following shall apply:

23 (1) An out-of-State business that conducts operations
24 within this Commonwealth for purposes of performing disaster
25 emergency-related work for a period of not more than ten days
26 before or not more than 60 calendar days after the end of the
27 declared disaster emergency period may not be considered to
28 have established a level of presence that would require that
29 business to register, file and remit State or local taxes, or
30 that would require the out-of-State business or an out-of-

1 State employee to be subject to any licensing or registration
2 requirements of the Commonwealth, provided that the out-of-
3 State business is in substantial compliance with all
4 applicable regulatory and licensing requirements in its state
5 of domicile, including any of the following:

6 (i) State or local business licensing or
7 registration requirements.

8 (ii) Pennsylvania Public Utility Commission or
9 regulatory requirements.

10 (iii) State and local taxes and fees, such as
11 unemployment insurance, sales and use tax or property tax
12 on equipment brought ~~in~~ INTO this Commonwealth on a <--
13 temporary basis used or consumed in this Commonwealth,
14 State or local occupational licensing fees or local
15 services taxes.

16 (iv) A State or local tax on or measured by, in
17 whole or in part, net or gross income or receipts.

18 (2) The period under paragraph (1) may be extended by
19 the Governor for a period of not more than 30 days for each
20 declared disaster emergency.

21 (3) An out-of-State employee shall not be considered to
22 have established residency or presence in this Commonwealth
23 that would require the individual or the individual's
24 employer to file and pay income taxes, to be subjected to
25 income tax withholding or to file and pay any other State or
26 local tax or fee for disaster emergency-related work
27 performed during the disaster period designated under
28 paragraphs (1) and (2), including any related State or local
29 employer withholding or remittance obligations.

30 (C) LIABILITY EXEMPTION.--NOTHING IN THIS SECTION SHALL BE <--

1 CONSTRUED TO RELIEVE AN ENTITY OR INDIVIDUAL FROM A LIABILITY
2 NOT EXPLICITLY EXEMPTED UNDER THIS SECTION, INCLUDING, BUT NOT
3 LIMITED TO, DAMAGES ASSOCIATED WITH AN ACT OF NEGLIGENCE.

4 Section 3. The following provisions shall apply to a
5 disaster or emergency that is declared on or after the effective
6 date of this section:

7 (1) The addition of the definitions of "disaster
8 emergency-related work," "infrastructure," "out-of-State
9 business," "out-of-State employee" and "registered business"
10 in 35 Pa.C.S. § 7102.

11 (2) The amendment of 35 Pa.C.S. § 7308.

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