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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1839 Session of  
2017

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INTRODUCED BY DAVIS, DRISCOLL, THOMAS, BERNSTINE, NEILSON,  
McNEILL, WARREN, SCHWEYER, KIRKLAND AND BRADFORD,  
OCTOBER 2, 2017

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 2, 2017

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AN ACT

1 Providing for employee rights relating to subdermal microchips  
2 and for enforcement by the Department of Labor and Industry.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Employee  
7 Subdermal Microchip Protection Act.

8 Section 2. Definitions.

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

12 "Department." The Department of Labor and Industry of the  
13 Commonwealth.

14 "Employer." An individual, firm, partnership, association,  
15 corporation, receiver or other officer of a court of this  
16 Commonwealth, public employer, including the Commonwealth and a  
17 political subdivision of the Commonwealth, and an agent or

1 officer of any of them that employs an individual in this  
2 Commonwealth.

3 "Subdermal microchip." A microchip, device or other form of  
4 technology that is designed to be inserted beneath the skin of  
5 an individual or implanted into the body of an individual and  
6 transmits a radio frequency identification signal.

7 Section 3. Employer prohibition.

8 No employer may require an employee to have inserted or  
9 implanted into the employee's body a subdermal microchip.

10 Section 4. Notice of known risks.

11 If an employee elects to have a subdermal microchip or other  
12 device implanted into the employee's body at the request of the  
13 employer, the employer shall provide written information to the  
14 employee on the known risks of the subdermal microchip and all  
15 potential removal procedures.

16 Section 5. Retaliation prohibited.

17 No employer may:

18 (1) Refuse to hire, employ, bar, discharge from  
19 employment, withhold pay from, demote or penalize an employee  
20 who does not have a subdermal microchip or refuses to have a  
21 subdermal microchip implanted into the employee's body.

22 (2) Retaliate against an employee who has made a charge,  
23 filed a complaint or instituted or caused to be instituted a  
24 proceeding under or related to this act, including an  
25 investigation conducted by the employer.

26 (3) Retaliate against an employee who has testified, is  
27 planning to testify or has assisted or participated in any  
28 manner in an investigation, proceeding, hearing or action  
29 under or related to this act.

30 Section 6. Enforcement.

1 (a) Complaints.--An individual who claims to be aggrieved by  
2 a violation of this act may file a complaint with the department  
3 within 90 days after the alleged violation.

4 (b) Notice.--Within 30 days of receipt of a complaint, the  
5 department shall provide the employer with a copy of the  
6 complaint.

7 (c) Determination by department.--Within 90 days of receipt  
8 of a complaint, the department shall notify the complainant and  
9 employer of a determination as to whether a violation has  
10 occurred and whether relief will be ordered by the department.

11 (d) Relief.--Upon a determination by the department that a  
12 violation has occurred, the department:

13 (1) Shall enjoin the employer from violating this act  
14 and order the employer to pay compensatory damages to the  
15 complainant.

16 (2) May assess a civil penalty not to exceed \$1,000 for  
17 a first violation and \$5,000 for each subsequent violation of  
18 this act.

19 (e) Appeal.--A party that is dissatisfied with the  
20 determination of the department may file an appeal with  
21 Commonwealth Court within 30 days of receiving notice of the  
22 determination.

23 (f) Additional remedies preserved.--Nothing in this act  
24 shall be construed to impair existing statutory or common law  
25 rights, powers or duties or bar relief otherwise available under  
26 the law to the complainant.

27 Section 7. Effective date.

28 This act shall take effect in 60 days.