
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of
2003

INTRODUCED BY FORCIER, METCALFE, ARMSTRONG, BAKER, BARRAR,
BASTIAN, BELFANTI, CAPPELLI, DALEY, FEESE, GEIST, HORSEY,
HUTCHINSON, KIRKLAND, LEH, McILHATTAN, PALLONE, PHILLIPS,
ROHRER, SHANER, SOLOBAY, R. STEVENSON AND TIGUE,
FEBRUARY 11, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 11, 2003

AN ACT

1 Prohibiting certain employers from discriminating against
2 certain employees who exercise their self-defense rights;
3 providing for remedies and for enforcement; and prescribing
4 penalties.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Commonwealth
9 Employees' Right to Self-Defense Act.

10 Section 2. Legislative intent.

11 It is the intent of the General Assembly to restore the
12 rights of Commonwealth employees, guaranteed by both the Second
13 Amendment of the Constitution of the United States and section
14 21 of Article 1 of the Constitution of Pennsylvania, to keep and
15 bear arms in defense of themselves. The protection from adverse
16 employment conditions created by this act shall be broadly
17 construed to effectuate the intent expressed in this section.

1 Section 3. Definitions.

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

5 "Employee." A person who performs a service for wages or
6 other remuneration under a contract of hire, written or oral,
7 express or implied, for a public body.

8 "Employer." A person supervising one or more employees,
9 including the employee in question, a superior of that
10 supervisor or an agent of a public body.

11 "Public body." A State officer, agency, department,
12 division, bureau, board, commission, council, authority or other
13 body in the executive branch of State government.

14 "Self-defense rights." The right to carry a firearm
15 concealed on or about one's person or in a vehicle throughout
16 this Commonwealth pursuant to a license to carry a firearm
17 lawfully issued in compliance with 18 Pa.C.S. § 6109 (relating
18 to licenses).

19 Section 4. Protection of employees.

20 No employer may discharge, threaten or otherwise discriminate
21 or retaliate against an employee regarding the employee's
22 compensation, terms, conditions, location or privileges of
23 employment because the employee exercises self-defense rights:

24 (1) on any Commonwealth-owned or leased property;

25 (2) on any location where Commonwealth business is
26 conducted;

27 (3) on any site where an employee is considered to be on
28 duty; or

29 (4) in any Commonwealth vehicle or private vehicle
30 utilized for Commonwealth business.

1 Section 5. Limitations.

2 The provisions of this act shall not apply to any employee
3 who exercises self-defense rights within a detention facility,
4 correctional institution or mental hospital.

5 Section 6. Remedies.

6 (a) Civil action.--A person who alleges a violation of this
7 act may bring a civil action in a court of competent
8 jurisdiction for appropriate injunctive relief or damages, or
9 both, within 180 days after the occurrence of the alleged
10 violation.

11 (b) Necessary showing of evidence.--An employee alleging a
12 violation of this act must show by a preponderance of the
13 evidence that, prior to alleged reprisal, the employee had
14 exercised self-defense rights.

15 (c) Defense.--It shall be a defense to an action under this
16 section if the defendant proves by a preponderance of the
17 evidence that the action by the employer occurred for separate
18 and legitimate reasons, which are not merely pretextual.

19 (d) Civil service employees.--An employee covered by civil
20 service who contests a civil service action, believing it to be
21 motivated by the employee's exercise of self-defense rights, may
22 submit as admissible evidence in the civil service action any or
23 all material relating to the exercise of self-defense rights and
24 to the resulting alleged reprisal.

25 Section 7. Enforcement.

26 A court in rendering a judgment in an action brought under
27 this act shall order, as the court considers appropriate,
28 reinstatement of the employee, the payment of back wages, full
29 reinstatement of fringe benefits and seniority rights, actual
30 damages or any combination of these remedies. A court may also

1 award the complainant all or a portion of the costs of
2 litigation, including reasonable attorney fees and witness fees,
3 if the court determines that the award is appropriate.

4 Section 8. Penalties.

5 A person who, under color of an employer's authority,
6 violates this act shall be liable for a civil fine of not more
7 than \$500. A civil fine which is ordered under this section
8 shall be paid to the State Treasurer for deposit into the
9 General Fund.

10 Section 9. Effective date.

11 This act shall take effect immediately.