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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 2105** Session of  
1984

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INTRODUCED BY MANDERINO, IRVIS, DOMBROWSKI, PIEVSKY, WAMBACH,  
AFFLERBACH, PRESTON, WIGGINS, POTT, GEORGE, BURNS, BATTISTO,  
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KOSINSKI, KASUNIC, VAN HORNE, FEE, ALDERETTE, FATTAH,  
WOZNIAK, DeLUCA, STEIGHNER, OLASZ, LINTON, McCALL, TRELLO,  
WILSON, GANNON, EVANS, PRATT, BARBER AND PISTELLA, MAY 1,  
1984

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REFERRED TO COMMITTEE ON LABOR RELATIONS, MAY 1, 1984

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AN ACT

1 Protecting employees from unjust dismissal; providing for  
2 mediation and arbitration proceedings; and providing legal  
3 remedies.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Unjust  
8 Dismissal Act.

9 Section 2. Legislative statement of purpose.

10 In recent years it has become a well established principle in  
11 Pennsylvania case law that employers do not have an absolute  
12 right to terminate employees when the cause for dismissal arises  
13 from issues dealing with public health and safety or matters of  
14 public policy. The right of an employee to be protected from  
15 unjust dismissal has, therefore, been significantly advanced.  
16 The purpose of this law is to further establish these employee  
17 rights and to advance them to the point that all employees would  
18 have a process to seek redress when they have been dismissed  
19 from employment for any reason other than just cause.

20 Section 3. Definitions.

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

24 "Bureau." The Bureau of Mediation of the Department of Labor  
25 and Industry.

26 "Dismissal." An involuntary discharge from employment,  
27 including a resignation or voluntary quit resulting from an  
28 improper or unreasonable action or inaction of the employer.

29 "Employee." A person who performs a service for wages or  
30 other remuneration under a contract of hire, written or oral,

1 express or implied. The term does not include those protected by  
2 a collective bargaining agreement or those protected by civil  
3 service or tenure against unjust discharge or a person who has a  
4 written employment contract of not less than two years and whose  
5 contract requires not less than six months notice of  
6 termination.

7 "Employer." A person who has one or more employees,  
8 including an agent of an employer.

9 "Registered mail." Includes certified mail.

10 Section 4. Dismissal of employees.

11 (a) Grounds.--An employer may not discharge an employee  
12 except for just cause.

13 (b) Notice.--An employer who discharges an employee shall  
14 notify the employee orally at the time of discharge and in  
15 writing by registered mail within 15 calendar days after the  
16 discharge of all reasons for the discharge.

17 Section 5. Complaints of unjust dismissal.

18 (a) Time for filing.--An employee who believes that he or  
19 she has been discharged in violation of section 4(a) may file by  
20 registered mail a written complaint with the bureau not later  
21 than 30 days after receipt of the employer's written  
22 notification of discharge as provided in section 4(b).

23 (b) Time when notice requirement not met.--If an employer  
24 fails to provide the discharged employee with written  
25 notification of his or her discharge and the reason for the  
26 action, the discharged employee may file by registered mail a  
27 written complaint, as described in this act, with the bureau not  
28 later than 45 calendar days after the discharge.

29 Section 6. Mediation.

30 (a) Appointment of mediator.--Upon receipt of a complaint

1 from a discharged employee, the bureau shall appoint a mediator  
2 to assist the employer and the discharged employee in attempting  
3 to resolve the dispute.

4 (b) Explanation of arbitration option.--If the dispute is  
5 not resolved within 30 calendar days after the commencement of  
6 mediation, the mediator shall explain to the employer and  
7 employee the process and purpose of final and binding  
8 arbitration.

9 Section 7. Arbitration proceedings.

10 (a) Request for arbitration.--After the option of  
11 arbitration is made available to the discharged employee, the  
12 employee may request a continuance of mediation if he or she  
13 believes that a mutual resolution of the dispute is possible. If  
14 a mutual resolution is not likely, the discharged employee may  
15 file by registered mail a written request with the bureau for  
16 arbitration of the dispute.

17 (b) Hearing.--Within 60 calendar days after his or her  
18 appointment, or within further additional periods to which the  
19 parties may agree, the arbitrator shall call a final hearing and  
20 shall give reasonable notice of the time and place of the  
21 hearing to the employer and the employee.

22 Section 8. Decision of arbitrator.

23 (a) Time of decision.--Within 30 calendar days after the  
24 close of the hearing, or within further additional periods to  
25 which the parties may agree, the arbitrator shall render a  
26 signed opinion and award based upon the issues presented to him  
27 or her. The arbitrator shall deliver by registered mail a copy  
28 of the opinion and award to the employer, the employee and the  
29 bureau.

30 (b) Remedies.--The remedies from which the arbitrator may

1 select include, but are not limited to, the following:

2 (1) Sustaining the discharge.

3 (2) Reinstating the employee without back pay or with  
4 partial or full back pay.

5 (3) A severance payment.

6 (c) Settlement.--If the employer and the employee settle  
7 their dispute during the course of the arbitration proceeding,  
8 the arbitrator, upon their request, may set forth the terms of  
9 the settlement in the award.

10 Section 9. Effect of award.

11 An award of the arbitrator shall be final and binding upon  
12 the employer and the employee and may be enforced at the  
13 instance of either the employer or the employee in the court of  
14 common pleas for the county in which the dispute arose or in  
15 which the employee resides.

16 Section 10. Cost of mediation and arbitration.

17 The normal and necessary expenses of mediation and  
18 arbitration, including the cost of producing a witness, shall be  
19 borne by the complainant, but the expenses may be reimbursed if  
20 in the judgment of the arbitrator it would be reasonable and  
21 proper to do so.

22 Section 11. Judicial review.

23 The court of common pleas for the county in which the dispute  
24 arose or in which the employee resides may review an award of  
25 the arbitrator, but only for the reason that the arbitrator was  
26 without, or exceeded the scope of, his jurisdiction, or that the  
27 award was procured by fraud, collusion or other similar and  
28 unlawful means. The pendency of a proceeding for review shall  
29 not stay automatically the award of the arbitrator.

30 Section 12. Contempt.

1 Any employer or employee who willfully disobeys a lawful  
2 order of enforcement issued by the court may be held in  
3 contempt. The punishment for each day, after issuance that the  
4 contempt order remains in effect, shall be a fine not to exceed  
5 \$250 per day.

6 Section 13. Construction of act.

7 This act shall not supersede an employer's grievance  
8 procedure that provides for impartial, final and binding  
9 arbitration of discharge-related grievances. Upon the request of  
10 an employer or employee, the bureau shall determine whether or  
11 not an employer's grievance procedure meets this standard.

12 Section 14. Posting copy of act.

13 An employer shall post a copy of this act in a prominent  
14 place in the work area.

15 Section 15. Effective date.

16 This act shall take effect immediately.