

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1030 Session of
1989

INTRODUCED BY COHEN, CORRIGAN, TIGUE, MRKONIC, McNALLY, DeLUCA,
BELFANTI, THOMAS, LEVDANSKY, STABACK, ROBINSON, KUKOVICH,
VEON, MORRIS, WOZNIAK, ACOSTA, MICHLOVIC, KOSINSKI,
PRESSMANN, PISTELLA, COWELL, TRELLO, BISHOP, FEE, JAMES,
RYBAK, BELARDI, STEIGHNER AND GIGLIOTTI, APRIL 5, 1989

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 5, 1989

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to willful,
3 recurring violations of health or safety standards at the
4 workplace that cause injuries or death.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 statutes is amended by adding a chapter to read:

CHAPTER 93

CRIMES AGAINST WORKPLACE SAFETY

11 Sec.

12 9301. Short title of chapter.

13 9302. Legislative findings and declarations.

14 9303. Definitions.

15 9304. Willful violations causing injuries.

16 9305. Causation.

17 9306. Corporate responsibility.

1 9307. Complaints.

2 9308. Nondiscrimination.

3 9309. Relationship with other offenses.

4 § 9301. Short title of chapter.

5 This chapter shall be known and may be cited as the Crimes
6 Against Workplace Safety Act.

7 § 9302. Legislative findings and declarations.

8 The General Assembly finds and declares as follows:

9 (1) Each day employers in this Commonwealth injure
10 workers by knowingly violating health and safety standards
11 that have been established for the very purpose of preventing
12 such injuries.

13 (2) While the existence of personal injury lawsuits
14 serves as an important deterrent to negligent and intentional
15 actions causing injuries outside of the workplace, in this
16 Commonwealth such lawsuits are unavailable to workers and
17 serve as no deterrent to either negligent or intentional
18 actions that cause injuries at the workplace.

19 (3) Government enforcement agencies have insufficient
20 resources to effectively punish and deter violations of
21 workplace health and safety standards among the thousands of
22 employers across this Commonwealth.

23 (4) Workplace injuries not only affect the injured
24 workers and their families, but such injuries harm the
25 economy of the Commonwealth and the taxpayer by raising
26 workers' compensation rates and increasing expenditures for
27 State rehabilitation and training services, food stamps,
28 public welfare and other social service programs.

29 (5) A workplace injury caused by a knowing violation of
30 health and safety standards for which an employer has been

1 cited previously is a crime committed against the injured
2 party and the people of this Commonwealth for which
3 punishment should be imposed in order to protect the victim
4 and to prevent and deter future violations.

5 § 9303. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Citation." A written determination by a regulatory agency
10 that a health or safety standard over which it has enforcement
11 authority has been violated.

12 "Cited." The act of serving a citation on an employer in the
13 manner required by the appropriate regulatory agency.

14 "Employer." One or more individuals, partnerships,
15 associations, corporations, business trusts, legal
16 representatives or any organized group of persons engaged in a
17 business that has an employee or employees. The term does not
18 include the United States, the Commonwealth or any political
19 subdivision of this Commonwealth.

20 "Health or safety standard." A standard requiring that
21 certain conditions exist at a place of employment or that
22 practices or processes be used at a place of employment in order
23 to provide safe or healthful conditions.

24 "Regulatory agency." An agency or unit of a Federal, State,
25 local or other governmental body.

26 § 9304. Willful violations causing injuries.

27 (a) Offense defined.--Every employer who injures another
28 person at the workplace by willfully violating a health or
29 safety standard for which the employer has been cited previously
30 by a regulatory agency commits a misdemeanor of the third degree

1 and shall, upon conviction, be:

2 (1) Fined not less than \$1,000 nor more than \$5,000 or
3 sentenced to a term of imprisonment of not more than one
4 year, or both, for each person who suffers bodily injury.

5 (2) Fined not less than \$2,500 nor more than \$10,000 or
6 sentenced to a term of imprisonment of not more than five
7 years, or both, for each person who suffers serious bodily
8 injury.

9 (3) Fined not less than \$10,000 nor more than \$100,000
10 or sentenced to a term of imprisonment of not more than ten
11 years, or both, for each person who suffers death.

12 (b) Additional penalties.--A fine in excess of the maximum
13 authorized by this chapter may be imposed where double the
14 pecuniary gain that the employer has derived from the violation
15 or failure to remedy the violation exceeds the authorized
16 maximum. The court may also order the employer to pay
17 restitution to compensate fully the victim of a crime committed
18 under this chapter without the limitations of compensation
19 applicable under the workers' compensation system. Contracts
20 limiting or shifting an employer's responsibility for the
21 restitution shall be void.

22 § 9305. Causation.

23 Causation under this section is established if the action or
24 inaction of the employer is a substantial factor contributing to
25 the injury or death.

26 § 9306. Corporate responsibility.

27 If a corporation violates this section, the violation shall
28 be deemed to be also that of those individual directors and
29 officers of the corporation who have knowledge of the previous
30 citation and who have failed to correct the situation or

1 condition cited previously.

2 § 9307. Complaints.

3 A person having knowledge of a possible violation of this
4 chapter may file a complaint with the Department of Labor and
5 Industry, which shall investigate the complaint and issue a
6 report of its findings to the complainant and to the district
7 attorney for the county in which the violation is alleged to
8 have occurred. Thereafter, the Department of Labor and Industry
9 shall cooperate with the district attorney in further
10 investigation and prosecution under this chapter and shall
11 provide to the district attorney technical advice and expertise
12 to assist in the prosecution of the case. The rights and
13 procedures provided for in this section are additional to any
14 other rights and procedures a person filing such a complaint
15 would otherwise have available.

16 § 9308. Nondiscrimination.

17 No employer shall discharge or cause to be discharged or
18 otherwise discipline or in any manner discriminate against a
19 person because the person has filed a complaint, has testified
20 or is about to testify, or has cooperated or assisted in a
21 proceeding or action taken under this chapter. If a person shows
22 that he exercised a right provided for under this chapter with
23 respect to an employer, and shows further that the employer has
24 taken an adverse action against the person during the six-month
25 period immediately following the exercise of the right, the
26 employer shall have the burden of showing just cause for his
27 action by clear and convincing evidence. If the employer fails
28 to show just cause, he commits a misdemeanor of the third degree
29 and shall be subject to other appropriate civil relief in equity
30 and any resulting damages.

1 § 9309. Relationship with other offenses.

2 Prosecutions and convictions for actions and inactions
3 prohibited by this chapter are not exclusive but are alternative
4 to prosecutions and convictions under other applicable
5 provisions of this title.

6 Section 2. This act shall take effect in 60 days.