

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2186 Session of
1989

INTRODUCED BY FLICK, D. F. CLARK, LANGTRY, NOYE, FAIRCHILD,
HERSHEY, MERRY, E. Z. TAYLOR, GLADECK, TRICH AND VROON,
DECEMBER 12, 1989

REFERRED TO COMMITTEE ON LABOR RELATIONS, DECEMBER 12, 1989

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An
2 act defining the liability of an employer to pay damages for
3 injuries received by an employe in the course of employment;
4 establishing an elective schedule of compensation; providing
5 procedure for the determination of liability and compensation
6 thereunder; and prescribing penalties," changing the
7 computation of a fixed weekly rate to an average weekly rate.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 309(e) of the act of June 2, 1915
11 (P.L.736, No.338), known as The Pennsylvania Workmen's
12 Compensation Act, amended March 29, 1972 (P.L.159, No.61), is
13 amended to read:

14 Section 309. Wherever in this article the term "wages" is
15 used, it shall be construed to mean the average weekly wages of
16 the employe, ascertained in accordance with rules and
17 regulations of the department as follows:

18 * * *

19 (e) In occupations which are exclusively seasonal and
20 therefore cannot be carried on throughout the year, the average

1 weekly wage shall be taken to be one-fiftieth of the total wages
2 which the employe has earned from all occupations during the
3 twelve calendar months immediately preceding the injury, unless
4 it be shown that during such year, by reason of exceptional
5 causes, such method of computation does not ascertain fairly the
6 earnings of the employe, in which case the period for
7 calculation shall be extended so far as to give a basis for the
8 fair ascertainment of his average weekly earnings.

9 The terms "average weekly wage" and "total wages," as used in
10 this section, shall include board and lodging received from the
11 employer, and in employments in which employes customarily
12 receive not less than one-third of their remuneration in tips or
13 gratuities not paid by the employer, gratuities shall be added
14 to the wages received but such terms shall not include amounts
15 deducted by the employer under the contract of hiring for labor
16 furnished or paid for by the employer and necessary for the
17 performance of such contract by the employe, nor shall such
18 terms include deductions from wages due the employer for rent
19 and supplies necessary for the employe's use in the performance
20 of his labor.

21 Where the employe is working under concurrent contracts with
22 two or more employers, his wages from all such employers shall
23 be considered as if earned from the employer liable for
24 compensation.

25 If under clauses (a), (b), (c), (d) and (e) of this section,
26 the amount determined is less than if computed as follows, his
27 computation shall apply, viz.: Divide the total wages earned by
28 the employe during the last two completed calendar quarters with
29 the same employer by the number of days he worked for such
30 employer during such period multiplied by [five.] the number of

1 days per week on average that the employe worked or was
2 scheduled to work.

3 * * *

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