
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 726 Session of
1993

INTRODUCED BY VEON, MCGEEHAN, HALUSKA, CAWLEY, JAROLIN,
TANGRETTI, MELIO, PESCI, BELFANTI, GIGLIOTTI, YANDRISEVITS,
PISTELLA, SURRA, KIRKLAND, STABACK, JOSEPHS, PETRARCA,
FREEMAN, MIHALICH AND LAUGHLIN, MARCH 22, 1993

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 22, 1993

AN ACT

1 Providing employees with the right to refuse exposure to
2 hazardous conditions; providing remedies; and conferring
3 powers and duties upon the Department of Labor and Industry.

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 Hazardous
8 Work Refusal Act.

9 Section 2. Definitions.

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

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

15 "Employee." An individual who renders services to an
16 employer in the employer's business on a regular basis in return
17 for compensation in the form of a regular salary. The term does

not include an independent contractor.

"Employer." A person engaged in business. The term does not include the Commonwealth or a political subdivision.

"Hazardous condition." A condition in a workplace that:

(1) causes or creates a substantial risk of death, disease or serious physical harm, either imminently or as a result of long-term exposure;

(2) is beyond the ordinary expected risks inherent in a job after all feasible safety and health precautions have been taken; and

(3) results from the employer's violation of health and safety standards established by Federal or State statutes or regulations, local ordinances, collective bargaining agreements and any industry codes.

"Hazardous condition refusal." A refusal by an employee to be exposed to a hazardous condition.

"Hazardous condition warning." An employee's informing a fellow employee that the fellow employee is exposed to a hazardous condition.

Section 3. Right to refuse or warn.

An employer may not discharge or discipline an employee for making a hazardous condition refusal or a hazardous condition warning as long as all of the following apply:

(1) A reasonable individual, having the knowledge, education, training and experience necessary for the performance of the employee's job, in the circumstances confronting the employee, would conclude that there is a hazardous condition.

(2) There is insufficient time, due to the urgency of the situation, to eliminate or abate the hazardous condition

1 through resort to regular statutory enforcement procedures.

2 (3) The employee notifies the employer of the hazardous
3 condition and asks the employer to correct or abate the
4 hazardous condition.

5 (4) The employer is unable or unwilling to correct or
6 abate the hazardous condition.

7 Section 4. Remedy.

8 (a) Complaint.--An employee aggrieved by a violation of
9 section 3 may file a written complaint with the department. The
10 complaint must state with reasonable particularity the grounds
11 of the violation. The complaint must be filed within 180 days of
12 the date of the violation.

13 (b) Investigation.--Within 30 days of the filing of a
14 complaint under subsection (a), the department shall inspect the
15 workplace involved. An inspection shall take place during normal
16 business hours. If an employer refuses access for an
17 investigation, the department may seek a warrant from a court of
18 competent jurisdiction.

19 (c) Hearing.--After complaint and investigation under this
20 section, the department shall conduct a hearing to determine
21 whether there has been a violation of section 3. The department
22 may order appropriate relief, including reinstatement,
23 reclassification and lost wages. Relief under this subsection is
24 governed by 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
25 procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating
26 to judicial review of Commonwealth agency action).

27 Section 5. Regulations.

28 The department may promulgate regulations to implement this
29 act.

30 Section 6. Effective date.

1 This act shall take effect as follows:

2 (1) Section 5 and this section shall take effect in 60
3 days.

4 (2) The remainder of this act shall take effect in 240
5 days.