

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2439 Session of 2018

INTRODUCED BY MULLERY, THOMAS, J. McNEILL, D. MILLER, GAINY, BRIGGS, DRISCOLL, SCHLOSSBERG, KRUEGER-BRANEKY, SNYDER, GALLOWAY, CARROLL, PASHINSKI, BARBIN, NEILSON AND CALTAGIRONE, SEPTEMBER 5, 2018

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, SEPTEMBER 5, 2018

AN ACT

1 Amending the act of October 13, 2010 (P.L.506, No.72), entitled  
2 "An act providing for the criteria for independent  
3 contractors in the construction industry and for the powers  
4 and duties of the Department of Labor and Industry and the  
5 Secretary of Labor and Industry; and imposing penalties,"  
6 further providing for administrative penalties, for stop-work  
7 orders, for certain agreement prohibited and for use of  
8 penalty funds.

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

11 Section 1. Sections 6, 7(c), 9 and 12 of the act of October  
12 13, 2010 (P.L.506, No.72), known as the Construction Workplace  
13 Misclassification Act, are amended to read:

14 Section 6. Administrative penalties.

15 (a) General rule.--When the secretary finds that a person  
16 has violated this act, the secretary may assess and collect  
17 civil penalties of not more than [\$1,000] \$2,500 for the first  
18 violation, and not more than [\$2,500] \$5,000 for each subsequent  
19 violation.

20 (b) Factors to be considered.--When determining the amount

of the penalty to be imposed, the secretary shall consider factors including, but not limited to:

- (1) The history of previous violations by the employer.
- (2) The seriousness of the violation.
- (3) The good faith of the employer.
- (4) The size of the employer's business.

Section 7. Stop-work orders.

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(c) Penalty.--The court shall assess a penalty of [\$1,000] \$2,500 per day against an employer for each day that the employer conducts business operations that are in violation of a stop-work order issued under this section.

Section 9. Certain agreement prohibited.

(a) Violation.--No person shall require or demand that an individual enter into an agreement or sign a document which results in the improper classification of that individual as an independent contractor.

(b) Penalty.--A violation of subsection (a) shall be punishable by an administrative fine of not less than [\$1,000] \$2,500 and not more than [\$2,500] \$5,000. Each violation shall be considered a separate offense under this section.

Section 12. Use of penalty funds.

Any sum collected as a penalty under:

(1) Sections 6, 7 and 9 for a violation of section 4(a) (1) shall be [paid into] divided equally between the Workers' Compensation Administration Fund and the department for costs related to enforcement.

(2) Sections 6, 7 and 9 for a violation of section 4(a) (2) shall be [paid into] divided equally between the Special Administration Fund created under section 601.1 of the

1 Unemployment Compensation Law and the department for costs  
2 related to enforcement.

3 (3) Section 9 for a violation of any other provision of  
4 this act shall be divided equally between the Workers'  
5 Compensation Administration Fund [and] the Special  
6 Administration Fund and the department for costs related to  
7 enforcement.

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