

AMENDMENTS TO HOUSE BILL NO. 1170

Sponsor: REPRESENTATIVE COX

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1 Amend Bill, page 2, line 7, by inserting after

2 "Commonwealth."

3 The term includes a staffing agency that supplies workers to
4 a construction industry employer.

5 "Department." The Department of Labor and Industry of the
6 Commonwealth.

7 "Employ." To enter into an employer-employee relationship
8 with an individual or to use a contract, subcontract or exchange
9 with an individual to obtain labor.

10 Amend Bill, page 2, lines 8 through 10, by striking out "An
11 individual for whom a construction industry" in line 8 and all
12 of lines 9 and 10 and inserting

13 An individual who has entered into an employer-employee
14 relationship with a construction industry employer or enters
15 into a contract, subcontract or exchange with a construction
16 industry employer to provide labor.

17 Amend Bill, page 2, by inserting between lines 23 and 24

18 "Subcontractor." A person regardless of tier, including, but
19 not limited to, a staffing agency that supplies workers to a
20 construction industry employer under a contract. The term shall
21 not include persons that are material suppliers for a project.

22 Amend Bill, page 3, by inserting between lines 5 and 6

23 (c) Staffing agencies.--If a staffing agency supplies
24 workers to multiple industries, subsections (a) and (b) shall
25 only apply to workers supplied for the construction industry.

26 Amend Bill, page 3, by inserting between lines 6 and 7

27 (a) Complaints.--A complaint about a violation of section
28 3(a) may be submitted to the department.

29 Amend Bill, page 3, line 7, by striking out "(a)" and

30 inserting

1 (b)

2 Amend Bill, page 3, line 7, by striking out "Attorney
3 General" and inserting
4 department

5 Amend Bill, page 3, line 13, by striking out "(b)" and
6 inserting

7 (c)

8 Amend Bill, page 3, line 15, by striking out "Attorney
9 General" and inserting
10 department

11 Amend Bill, page 3, line 17, by striking out "(c)" and
12 inserting

13 (d)

14 Amend Bill, page 3, line 17, by striking out "Attorney
15 General" and inserting
16 department

17 Amend Bill, page 3, line 20, by striking out "(d)" and
18 inserting

19 (e)

20 Amend Bill, page 3, line 20, by striking out "Attorney
21 General" and inserting
22 department

23 Amend Bill, page 3, line 23, by striking out "(e)" and
24 inserting

25 (f)

26 Amend Bill, page 3, line 24, by striking out "Attorney
27 General" and inserting
28 department

29 Amend Bill, page 4, line 2, by striking out "(f)" and
30 inserting

31 (g)

1 Amend Bill, page 4, line 3, by striking out "Attorney
2 General" and inserting
3 department

4 Amend Bill, page 4, line 4, by striking out "Attorney
5 General" and inserting
6 department

7 Amend Bill, page 4, lines 6 through 8, by striking out all of
8 lines 6 and 7 and "(2) Bring" in line 8 and inserting

9 (1) For a first violation, the department shall issue a
10 warning letter detailing the violation and informing the
11 construction industry employer of the provisions of this act.
12 Notwithstanding paragraph (2), a violation by a construction
13 industry employer that occurs 10 years or more after a prior
14 violation shall be deemed a first violation. The following
15 shall apply:

16 (i) The department may not issue a warning letter if
17 the employer demonstrates that the employment eligibility
18 of the unauthorized employee was verified in good faith
19 through the E-Verify Program in accordance with section
20 3(b).

21 (ii) After the issuance of a warning letter, the
22 employer shall verify in writing to the department within
23 10 business days that the employer has terminated the
24 employment of each unauthorized employee in this
25 Commonwealth. If the employer fails to provide such
26 verification, the violation shall constitute a second
27 violation, and the department shall make a referral to
28 the Attorney General under paragraph (2).

29 (iii) The employer may appeal the issuance of the
30 warning letter under the provisions of 2 Pa.C.S.
31 (relating to administrative law and procedure).

32 (2) For a second or subsequent violation, the department
33 shall refer the case to the Attorney General for enforcement.
34 The Attorney General shall bring

35 Amend Bill, page 4, line 13, by striking out "(g)" and
36 inserting

37 (h)

38 Amend Bill, page 4, line 16, by striking out "(h)" and
39 inserting

40 (i)

1 Amend Bill, page 4, line 26, by striking out "(i)" and
2 inserting

3 (j)

4 Amend Bill, page 4, line 30, by striking out "(j)" and
5 inserting

6 (k)

7 Amend Bill, page 5, line 12, by inserting after "3(a)"
8 pursuant to an action brought by the Attorney General under
9 this act

10 Amend Bill, page 5, lines 18 and 19, by striking out
11 "Attorney General" and inserting

12 department

13 Amend Bill, page 5, line 24, by striking out "three" and
14 inserting

15 five

16 Amend Bill, page 5, line 25, by striking out "Attorney
17 General" and inserting

18 department

19 Amend Bill, page 6, line 14, by striking out "first" and
20 inserting

21 second

22 Amend Bill, page 6, line 17, by striking out "10" and
23 inserting

24 30

25 Amend Bill, page 6, line 18, by inserting after "a" where it
26 occurs the first time

27 subsequent violation of section 3(a) or a

28 Amend Bill, page 6, line 19, by striking out "may" and
29 inserting

30 shall

31 Amend Bill, page 6, line 20, by striking out "to exceed" and

1 inserting

2 less than

3 Amend Bill, page 6, line 20, by inserting after "year"

4 up to the permanent revocation of each license

5 Amend Bill, page 7, by inserting between lines 3 and 4

6 (d) Suspension and reinstatement fees.--Nothing in this act
7 shall prohibit an agency from charging any applicable fee for
8 the suspension or reinstatement of a license.

9 Section 6. Protection from retaliation.

10 (a) General rule.--It shall be unlawful for a construction
11 industry employer to discharge, threaten or otherwise retaliate
12 or discriminate against an employee regarding compensation or
13 other terms or conditions of employment because the employee:

14 (1) participates in an investigation, hearing or inquiry
15 held by the Secretary of Labor and Industry or any other
16 governmental authority under this act; or

17 (2) reports or makes a complaint regarding the violation
18 of this act to a construction industry employer or
19 governmental authority.

20 (b) Actions.--

21 (1) An employee who suffers retaliation or
22 discrimination in violation of this section may bring an
23 action in a court of common pleas in accordance with
24 established civil procedures of this Commonwealth.

25 (2) The action must be brought within three years from
26 the date the employee knew of the retaliation or
27 discrimination.

28 (c) Relief.--If an employee prevails in an action commenced
29 under this section, the employee shall be entitled to the
30 following relief:

31 (1) Reinstatement of the employee, if applicable.

32 (2) Restitution equal to three times the amount of the
33 employee's wages and fringe benefits calculated from the date
34 of the retaliation or discrimination.

35 (3) Reasonable attorney fees and costs of the action.

36 (4) Any other legal and equitable relief as the court
37 deems appropriate.

38 Section 7. Immunity and compliance.

39 (a) Immunity.--A construction industry employer that relies
40 in good faith on the E-Verify Program to verify employment
41 eligibility of new employees under this act shall have no
42 liability to an individual who is not hired or who is discharged
43 from employment if incorrect information has been provided to
44 the construction industry employer.

45 (b) Contractor and subcontractor compliance.--Except as
46 provided in subsection (c), nothing in this act may be construed
47 to render a contractor responsible for a violation of section

1 3(a) by a subcontractor or a subcontractor responsible for a
2 violation by another subcontractor.

3 (c) General contractor responsibility.--A contractor shall
4 not be considered in violation of section 3(a) when a
5 subcontractor has knowingly employed an unauthorized employee,
6 if the contractor has done the following:

7 (1) Required compliance with this act in the contract
8 with the subcontractor, including providing for the
9 termination of the contract upon a violation of this act by
10 the subcontractor.

11 (2) Obtained written verification from the subcontractor
12 that the subcontractor is aware of the provisions of this act
13 and is responsible for compliance.

14 Amend Bill, page 7, line 4, by striking out "6" and inserting

15 8

16 Amend Bill, page 7, line 5, by striking out "in 60 days" and

17 inserting

18 July 1, 2020