

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1166

Session of
1985

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MAY 7, 1985

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 22, 1986

AN ACT

1 Relating to the protection of the occupational health and safety
2 of public employees; providing penalties; and making an
3 appropriation.

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13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:
15 Section 1. Short title.
16 This act shall be known and may be cited as the Public
17 Employee Occupational Safety and Health Act.
18 Section 2. Declaration of policy.
19 (a) Declaration.--The General Assembly declares that it is a
20 basic right of all employees to work in an environment that is
21 as free from hazards and risks to their safety and health as is
22 possible. It is the intent of the General Assembly to ensure
23 that this right is afforded to all employees of the
24 Commonwealth, its counties, cities, incorporated towns,
25 boroughs, and other public employers who serve the people of
26 this Commonwealth.
27 (b) Finding.--A significant percentage of all of those
28 employed in this Commonwealth are employed by the Commonwealth
29 or by one of its political subdivisions. Many of these public
30 employees perform job functions comparable to those performed by

1 workers in the private sector. In the Occupational Safety and
2 Health Act of 1970 (Public Law 91-596, 29 U.S.C. § 651 et seq.),
3 Congress deemed it necessary to protect the safety and health of
4 workers employed in the private sector. The Occupational Safety
5 and Health Act of 1970 was enacted to "assure so far as possible
6 every working man and woman in the Nation safe and healthful
7 working conditions to preserve our human resources." The General
8 Assembly of the Commonwealth of Pennsylvania hereby exercises
9 its statutory authority to establish and enforce standards and
10 regulations protecting the health and safety of all employees of
11 Pennsylvania State or local governments and their subdivisions.

12 ~~(c) Economic factors.~~ The General Assembly has further <—
13 determined that a safe place in which to work is economically
14 advantageous to employers. Work-related accidents and injuries,
15 and the absences caused thereby, decrease employee productivity
16 and increase workers' compensation costs. Unsafe premises
17 increase the risk of financial liability for injuries to members
18 of the public who frequent our public buildings. Occupational
19 illness depletes the pool of human resources and increases
20 medical expenditures. For employees and their dependents,
21 occupational accidents and illnesses pose a serious threat to
22 finances, security, and mental and physical well-being.

23 ~~(d)~~ (C) Police power.--The General Assembly, in an exercise <—
24 of the Commonwealth's police power, charges the Work Environment
25 Board with the responsibility to ensure that all public
26 employees in Pennsylvania are afforded a safe and healthful work
27 environment.

28 ~~(e)~~ (D) Application.--Notwithstanding any other provision in <—
29 this act, a safety or health standard promulgated under this act
30 shall apply only to employees not covered by a Federal

1 occupational safety or health standard promulgated under section
2 6 of the Occupational Safety and Health Act of 1970, or
3 amendments thereto.

4 Section 3. Definitions.

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

8 "Adverse action." Any action by an employer which adversely
9 affects a worker with respect to any terms or conditions of
10 employment or opportunity for promotion. The term includes, but
11 is not limited to, the action of dismissal, layoff, suspension,
12 demotion, transfer of job or location, reduction in wages,
13 changes in hours or conditions of work, or reprimand.

14 "Authorized employee representative." An employee authorized
15 by the employees to represent them, or the designated
16 representative of an employee organization recognized or
17 certified to represent the employees.

18 "Board." The Work Environment Board.

19 "Committee." A work environment committee.

20 "Employee." A person who engages to furnish his services
21 subject to the direction and control of an employer. The term
22 ~~includes an employee working for an employer who has contracted~~
23 ~~with a public employer and over whom the National Labor~~
24 ~~Relations Board has declined jurisdiction, and volunteers such~~
25 ~~as volunteer fire fighters permitted to serve by an employer.~~

26 "Employer." The Commonwealth, any political subdivision of
27 this Commonwealth, a public authority or any other governmental
28 agency or instrumentality thereof; any bi-state authority, such
29 as the Delaware River Port Authority; or anyone contracting to
30 perform services for the Commonwealth or any political

1 subdivision or instrumentality thereof.

2 "EXECUTIVE DIRECTOR." THE EXECUTIVE DIRECTOR OF THE WORK <—
3 ENVIRONMENT BOARD.

4 "Harmful agent." An agent that presents a risk to worker
5 health or safety, or imminent danger of death or serious
6 physical harm to an employee. The term includes, but is not
7 limited to, radiation (whether ionizing or nonionizing), stress,
8 heat, cold, noise, vibration, repetitive motion, hypobaric
9 pressure, hyperbaric pressure, poor illumination, poor ergonomic
10 design, dust, fumes, biological hazards such as molds and
11 allergens, inadequate ventilation, and indoor air pollution.

12 "Hazardous substance." Any chemical or mixture defined as
13 hazardous under section 3 of the act of October 5, 1984
14 (P.L.734, No.159), known as the Worker and Community Right-to-
15 Know Act, and any other substance deemed hazardous by the board.

16 "Imminent danger." A hazard or condition which ~~is likely to~~ <—
17 ~~cause death, bodily harm, or occupational illness if not abated.~~

18 COULD REASONABLY BE EXPECTED TO CAUSE DEATH OR SERIOUS PHYSICAL <—
19 HARM IMMEDIATELY OR BEFORE THE IMMINENCE OF THE DANGER CAN BE
20 ELIMINATED THROUGH THE ENFORCEMENT PROCEDURE UNDER SECTION 16.

21 "Infectious agent." Infectious agents shall include, but not
22 be limited to, bacteria, viruses, fungi, parasites, rickettsia
23 and protozoa determined by the board to cause substantial acute
24 or chronic illness or permanent disability as a direct or
25 indirect result of exposure to the infectious agent by employees
26 whose ~~places of employment~~ WORKPLACES include, but are not <—
27 limited to, hospitals; morgues; laboratories; clinics; prisons;
28 homes or institutions for the aged and the mentally, physically,
29 or psychologically impaired; schools; day care facilities;
30 shelters; zoos or other animal-handling operations; water and

1 waste treatment plants; and also those public health and social
2 service employees who may be exposed to infectious agents in the
3 course of home or office visits.

4 "Interested person." Any affected person; a representative
5 of any organization of employers or employees; a nationally
6 recognized standards producing organization; a State board,
7 commission or department; a professional organization concerned
8 with occupational safety or health; a representative of a public
9 interest organization; or a member of a department or college or
10 university engaged in research related to occupational safety or
11 health.

12 ~~"Place of employment." Any location where public employees~~ <—
13 ~~work, including the vehicles used to travel to and from the~~
14 ~~field.~~

15 "OCCUPATIONAL SAFETY AND HEALTH SPECIALIST." A PERSON WHO, <—
16 BECAUSE OF PROFESSIONAL OR TECHNICAL EDUCATION, TRAINING, OR
17 EXPERIENCE, UNDERSTANDS THE HEALTH AND SAFETY RISKS AND THE
18 NECESSARY PRECAUTIONS ASSOCIATED WITH THE HAZARDOUS SUBSTANCES,
19 HARMFUL AGENTS, INFECTIOUS AGENTS AND SAFETY HAZARDS WHICH THE
20 PERSON IS HIRED TO ADDRESS AND TO WHICH PUBLIC EMPLOYEES ARE
21 EXPOSED. THE BOARD SHALL ADOPT A STANDARD WHICH SPECIFIES THE
22 CRITERIA TO BE CONSIDERED IN DETERMINING WHETHER OR NOT A PERSON
23 IS A TECHNICALLY QUALIFIED INDIVIDUAL.

24 "Public employee." Any employee of this Commonwealth, a
25 political subdivision of this Commonwealth, a public authority
26 or any other governmental agency or instrumentality thereof.

27 "Recognized hazard." Any hazardous substance, harmful agent,
28 infectious agent, or safety hazard as defined in this act.

29 "Safety hazard." A hazard arising out of or encountered in
30 the course of employment that presents a risk to employee

1 safety. Areas to be monitored for safety hazards shall include,
2 but not be limited to, confined spaces, electrical wiring, fire
3 safety, vehicle safety, job-site preparation, machine guards,
4 walking and working surfaces, traffic control, firefighting
5 equipment and breathing apparatus, and trenching and shoring.

6 ~~"Technically qualified individual." A person who, because of~~ <—
7 ~~professional or technical education, training, or experience,~~
8 ~~understands the health and safety risks and the necessary~~
9 ~~precautions associated with the hazardous substances, harmful~~
10 ~~agents, infectious agents and safety hazards which the person is~~
11 ~~hired to address and to which public employees are exposed. The~~
12 ~~board shall, by rule, adopt a standard which specifies the~~
13 ~~criteria to be considered in determining whether or not a person~~
14 ~~is a technically qualified individual.~~

15 "Work environment inspector." ~~A technically qualified~~ <—
16 ~~individual~~ AN OCCUPATIONAL SAFETY AND HEALTH SPECIALIST hired <—
17 for the purpose of enforcing all provisions of this act.

18 "WORKPLACE." A BUILDING SITE, STRUCTURE, MOBILE VEHICLE OR <—
19 OTHER PREMISES OR LOCATION, WHETHER INDOORS OR OUTDOORS IN WHICH
20 AN EMPLOYEE IS ENGAGED IN WORK.

21 Section 4. Application of ~~safety and health~~ HEALTH AND SAFETY <—
22 standards.

23 A safety or health standard promulgated under this act shall
24 apply to every public employer, and the board shall have
25 ~~exclusive~~ authority to enforce the standard in accordance with <—
26 this act, notwithstanding any other safety or health standard or
27 any other provision in this act or in any other general, local
28 or special law or charter.

29 Section 5. Employer's duties.

30 Employers shall have the following duties:

1 (1) An employer shall furnish, to each of its employees,
2 employment and a ~~place of employment~~ WORKPLACE which are safe <—
3 and healthful for the employees. Such employment and ~~place of~~ <—
4 ~~employment~~ WORKPLACE shall be free from recognized hazards <—
5 that cause or may cause death, serious physical harm, or
6 illness to employees.

7 (2) No employer shall occupy ~~or maintain any place of~~ <—
8 ~~employment~~, MAINTAIN OR PERMIT AN EMPLOYEE TO BE IN A <—
9 WORKPLACE that is not safe and healthful.

10 ~~(3) An employer shall implement good housekeeping~~ <—
11 ~~practices, and maintain good housekeeping conditions in all~~
12 ~~locations where public employees work.~~

13 ~~(4) An employer shall ensure that adequate sanitary~~
14 ~~measures are adopted and that sanitary conditions are~~
15 ~~maintained in all locations where public employees work.~~

16 ~~(5) No employer shall require or permit any employee to~~
17 ~~be in any employment or place of employment which is not safe~~
18 ~~and healthful.~~

19 ~~(6) An employer shall adopt and use practices, means,~~
20 ~~methods, operations and processes which render the employment~~
21 ~~and place of employment safe and healthful, including the~~
22 ~~installation of safety devices and safeguards and the~~
23 ~~provision of personal protective equipment when the devices,~~
24 ~~safeguards and personal protective equipment are necessary.~~
25 ~~Wherever possible, the employer shall institute engineering~~
26 ~~controls rather than issue personal protective equipment.~~

27 ~~(7) No employer shall own, lease, construct or cause to~~
28 ~~be constructed any place of employment that is not safe and~~
29 ~~healthful.~~

30 ~~(8)~~ (3) An employer shall comply with the safety and

1 health standards promulgated under this act. These
2 requirements shall be included in all leases of the employer
3 and in all contracts with individuals and contractors who
4 provide services to the employer.

5 ~~(9)~~ (4) An employer shall refrain from any restraint on <—
6 the right of the work environment inspector to inspect the
7 employer's place of business. An employer shall assist the
8 work environment inspector in the performance of inspection
9 duties by supplying or making available information dealing
10 with exposure reports, general safety and health records, and
11 other records required by this act which are necessary to
12 comply with the purposes and goals of this act.

13 ~~(10)~~ (5) An employer shall provide information to <—
14 employees, their authorized representatives and committee
15 members in the following ways, as prescribed by authorized
16 regulations:

17 (i) Posting information regarding protections and
18 obligations of employees under occupational safety and
19 health laws at areas in the work place easily accessible
20 to all employees.

21 (ii) Posting prominently each citation issued under
22 this act, or a copy or copies thereof, at or near each
23 place a violation referred to in the notice of violation
24 occurred and at areas in the workplace easily accessible
25 to all employees.

26 (iii) Providing timely access to all industrial
27 hygiene information and other surveys and reports.
28 Whenever a work environment inspector or any other
29 representative of the employer engages in activities
30 related to the monitoring, measuring, and other means of

1 assessment conducted to assess employee exposure to
2 hazards, the inspector or employer representative shall
3 be accompanied by employee representatives and committee
4 members as provided in section ~~10(g)~~ 11(G). <—

5 (iv) Allowing access by employees and their
6 representatives to accurate records of employee exposures
7 to hazardous substances, infectious agents, harmful
8 agents or safety hazards.

9 (v) Notifying any employee who has been or is being
10 exposed to hazardous materials, harmful agents, or
11 infectious agents, and informing any employee so exposed
12 of corrective action being taken.

13 (vi) Allowing access by employees and their
14 representatives to relevant medical records and posting a
15 summary of relevant medical data in a timely manner.

16 ~~(11)~~ (6) An employer shall consult and work <—
17 cooperatively with the committees at the ~~place of employment~~ <—
18 WORKPLACE for the purpose of resolving concerns on matters of <—
19 health, safety and welfare at the worksite. Every employer
20 shall be responsible for providing the committee with any
21 information the employer receives pursuant to section 5 of
22 the act of October 5, 1984 (P.L.734, No.159), known as the
23 Worker and Community Right-to-Know Act, and also for
24 furnishing any information requested by the committee under
25 rights guaranteed in subsection (d) of said section and under
26 any provision of this act.

27 ~~(12)~~ (7) An employer shall provide, ~~at a minimum, an~~ <—
28 ~~annual eight hour~~ education and training ~~program~~ for <—
29 employees exposed to hazardous substances, harmful agents,
30 infectious agents, and safety hazards, with respect to the

1 hazardous substances, harmful agents, infectious agents, and
2 safety hazards found in their ~~place of employment~~ WORKPLACE, <—
3 PURSUANT TO REGULATIONS PROMULGATED BY THE BOARD. Employees
4 shall receive normal wages and benefits from the employer
5 while attending such programs. Additional instruction shall
6 be provided whenever the potential for exposure to hazardous
7 substances, harmful agents, infectious agents, or safety
8 hazards is altered or whenever new information is received by
9 the employer concerning the hazards of the substances,
10 agents, or safety hazards.

11 Section 6. The Work Environment Board.

12 (a) Establishment.--The Work Environment Board is hereby
13 established as an independent administrative board.

14 (b) Purpose.--The purpose of the board shall include, but
15 not be limited to, the following:

16 (1) Establish, maintain and enforce standards AND ISSUE <—
17 ORDERS for the protection of the health and safety of public
18 employees in the Commonwealth of Pennsylvania.

19 (2) Administer and enforce this act and all regulations
20 related thereto.

21 (3) Either alone or in conjunction with the Workmen's
22 Compensation Appeal Board of the Department of Labor and
23 Industry, or the Department of Health, prepare and maintain
24 morbidity and accident statistics relating to public
25 employees.

26 (4) Provide assistance to persons concerned with
27 occupational health and safety and provide services to assist
28 committees, employers, and public employees in maintaining
29 standards for the protection of the health and safety of
30 public employees.

1 (5) Promote or conduct studies and research projects in
2 connection with problems relating to the health and safety of
3 public employees.

4 (6) Conduct educational programs, including seminars and
5 courses of training for promoting the health and safety of
6 public employees and for improving the qualifications of
7 persons involved in the promotion of occupational health and
8 safety.

9 (7) Appoint advisory committees to assist in the
10 administration of this act.

11 (8) Make grants for any of the purposes mentioned in
12 this section.

13 (c) Membership.--The board shall consist of ~~15~~ FIVE members. <—
14 The following officials shall each appoint ~~three members~~ ONE <—
15 MEMBER to the board:

16 (1) The President pro tempore of the Senate.

17 (2) The Minority Leader of the Senate.

18 (3) The Speaker of the House of Representatives.

19 (4) The Minority Leader of the House of Representatives.

20 (5) The Governor.

21 ~~At least two of the three members appointed by each official~~ <—
22 ~~shall be nonmanagement public employees. One of each official's~~
23 ~~initial appointees shall serve for a term of three years, one~~
24 ~~for four years and one for five years. THE INITIAL APPOINTEES OF~~ <—
25 THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE MINORITY LEADER
26 OF THE SENATE SHALL SERVE TERMS OF THREE YEARS. THE INITIAL
27 APPOINTEES OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
28 THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL SERVE
29 TERMS OF TWO YEARS. THE INITIAL APPOINTEE OF THE GOVERNOR SHALL
30 SERVE A TERM OF FOUR YEARS. Thereafter, terms of office shall be

1 for ~~five~~ FOUR years. The board shall elect a chairman from among <—
2 its members for a term of ~~five~~ FOUR years. <—

3 (d) Duties.--The board shall promulgate a plan for the
4 development and enforcement of occupational safety and health
5 standards with respect to public employers and employees. The
6 board shall also have the following powers and duties:

7 (1) The board shall review the safety and health
8 standards promulgated under the Occupational Safety and
9 Health Act of 1970 (Public Law 91-596, 29 U.S.C. § 651 et
10 seq.), which are in effect on the effective date of this act,
11 and shall adopt, by rule, those standards which the board
12 deems to provide maximum protection to the lives, safety and
13 health of public employees. In addition, the board may, at
14 its discretion, adopt at its own, any standards and
15 regulations currently in existence in Pennsylvania State law.

16 (2) The board shall have the authority to adopt HEALTH <—
17 AND SAFETY standards and promulgate regulations for any and
18 all hazardous substances, harmful agents, infectious agents
19 and safety hazards regardless of whether standards and
20 regulations have been enacted or proposed by OSHA or other
21 Federal governmental agencies, or State or local health
22 codes. INTERESTED PERSONS MAY PETITION THE BOARD TO ADOPT <—
23 STANDARDS AND PROMULGATE REGULATIONS UNDER THIS PARAGRAPH.

24 ~~(3) The board shall adopt regulations governing all <—~~
25 ~~other potential health and safety hazards or conditions,~~
26 ~~including, but not limited to, asbestos, new technology,~~
27 ~~staffing levels, heat, cold, noise, ventilation, indoor air~~
28 ~~pollution, sanitation and housekeeping.~~

29 ~~(4)~~ (3) No standards shall be adopted for products
30 distributed or used in interstate commerce which are

1 different from Federal standards for such products unless
2 such standards are required by compelling local conditions
3 and do not unduly burden interstate commerce.

4 ~~(5)~~ (4) In the event of an emergency or unusual <—
5 situation, the board shall provide for an emergency temporary
6 standard to take immediate effect upon publication in
7 newspapers of general circulation in Philadelphia,
8 Pittsburgh, Harrisburg, WILKES-BARRE/SCRANTON and Erie, IN <—
9 ACCORDANCE WITH 1 PA. CODE § 13.74 (RELATING TO EFFECTIVENESS
10 PRIOR TO PUBLICATION), if the administrator deems that:

11 (i) employees are exposed to grave danger from
12 exposure to substances or agents determined to be toxic
13 or physically harmful or from new hazards; and

14 (ii) such emergency standards are necessary to
15 protect employees from such danger.

16 Such emergency standards shall be in effect no longer than
17 120 days, or, if renewed in compliance with this section, not
18 longer than 60 additional days. On or before the expiration
19 date of the emergency standards or renewal thereof, the
20 administrator shall develop a permanent standard to replace
21 the emergency standard.

22 ~~(6)~~ (5) The board, IN ACCORDANCE WITH 1 PA. CODE CH. 7 <—
23 (RELATING TO PROCEDURE FOR ADOPTION OR CHANGE OF
24 REGULATIONS), shall promulgate such rules and regulations as
25 may be deemed necessary to carry out the purposes and
26 responsibilities of the board and to enforce the provisions
27 of this act.

28 ~~(7)~~ (6) The board shall engage in inspections and <—
29 investigations AND SHALL TAKE NECESSARY ACTION to ensure <—
30 compliance by public employers with the provisions of this

1 act and rules, regulations and standards established by the
2 board. ~~The board shall also use all statutory authority~~ <—
3 ~~granted to it in this act to ensure full compliance by public~~
4 ~~employers with the provisions of this act and rules,~~
5 ~~regulations and standards established by the board.~~

6 (8) The board SHALL EMPLOY AN EXECUTIVE DIRECTOR AND <—
7 may employ assistants, experts, inspectors, hearing officers,
8 consultants, ~~technically qualified individuals, and other~~ <—
9 ~~employees~~ OCCUPATIONAL SAFETY AND HEALTH SPECIALISTS, AND <—
10 OTHER EMPLOYEES SUFFICIENT TO CARRY OUT THE PURPOSES OF THIS
11 ACT. All such personnel of the board shall be under the
12 supervision of the ~~chairman of the board or an executive~~ <—
13 ~~officer~~ EXECUTIVE DIRECTOR, to whom the board delegates such <—
14 responsibility.

15 (9) (8) In accordance with the powers and duties <—
16 described and established in this act and effective
17 immediately, as a first order of business, the board shall
18 promulgate and establish an asbestos abatement program which
19 shall include, but not be limited to, the following
20 provisions:

21 (i) The board shall, within one year of the
22 effective date of this act, promulgate regulations
23 relating to and requiring the ~~removal of asbestos from~~ <—
24 ABATEMENT OF ASBESTOS HAZARDS FROM all worksites. In <—
25 ~~drafting these regulations, the board shall consider the~~
26 ~~asbestos regulations established in the asbestos safety~~
27 ~~program of the State of Maryland which was promulgated by~~
28 ~~executive order. Regulations adopted by the board shall~~
29 ~~be at least as comprehensive as the Maryland program.~~

30 (ii) All public employers shall, within one year

1 after the effective date of this act:

2 (A) Conduct building inspections to determine
3 the presence of asbestos in all facilities. Such

4 inspections shall be conducted by ~~technically~~ <—
5 ~~qualified individuals.~~ OCCUPATIONAL SAFETY AND HEALTH <—
6 SPECIALISTS.

7 (B) Maintain records of the findings.

8 (C) Notify the employees, employee
9 representatives and committees of the results of
10 inspections and release to said individuals and
11 groups the records from the inspections. Members of
12 the public shall have access to the records of
13 inspections of public buildings.

14 (iii) Where asbestos exists in a facility, the
15 employer shall file an asbestos abatement plan with the
16 board. This plan shall conform to all practices
17 recommended by the Environmental Protection Agency for
18 abatement of asbestos. Abatement plans shall be subject
19 to approval of the committees at the affected locations.
20 Within 30 days of receipt of the plan, the board shall
21 review the plan and assign a date on which abatement is
22 to commence, ~~not to exceed six months.~~ <—

23 ~~(10)~~ (9) The board shall promulgate regulations that, <—
24 within two years, eliminate the use of all asbestos brakes
25 and clutch facings in all vehicles owned, leased, or
26 otherwise used by this Commonwealth and its political
27 subdivisions.

28 ~~(11)~~ (10) The board shall promulgate regulations <—
29 providing timely access to all industrial hygiene and other
30 surveys and reports. Employers shall provide the opportunity

1 for employees and their representatives to walk around with
2 work environment inspectors and all representatives of the
3 employer engaged in activities related to the monitoring,
4 measuring, and other means of assessment, to observe
5 monitoring, measuring, and other means of assessment
6 conducted to assess employee exposure to hazards pursuant to
7 standards promulgated under this act.

8 ~~(12)~~ (11) The board shall provide for the preparation of <—
9 regulations or standards requiring proper work procedures,
10 employee training and provision of any necessary vaccinations
11 or inoculations at employer expense for any employee
12 regularly exposed to infectious diseases in the course of his
13 or her employment.

14 ~~(13) The board shall provide for the preparation of <—~~
15 ~~regulations and standards requiring adequate staffing levels~~
16 ~~which provide sufficient backup support, protection and~~
17 ~~assistance and requiring training in defensive actions at~~
18 ~~institutions where, during the course of regular employment,~~
19 ~~any employee required to transport, monitor or supervise~~
20 ~~potentially violent residents may be subject to physical~~
21 ~~abuse or attack likely to cause death or serious physical~~
22 ~~harm.~~

23 ~~(14) The board shall provide for the preparation and~~
24 ~~adoption of regulations and standards requiring adequate~~
25 ~~ventilation in all buildings where public employees are~~
26 ~~employed. The standards shall insure that the indoor air~~
27 ~~quality of all workspaces shall remain free of levels of air~~
28 ~~contaminants likely to be dangerous, unhealthy or~~
29 ~~uncomfortable.~~

30 ~~(15)~~ (12) The board shall promulgate regulations and

standards requiring ~~adequate staffing levels for all public~~
~~employers that ensure the public safety and provide critical~~
~~social services, including, but not limited to, police,~~
~~firefighters, social service workers, and hospital workers.~~

~~(16) The board shall promulgate regulations and~~
~~standards requiring adequate sanitary measures and~~
~~maintenance of good housekeeping in all places of employment~~
~~where public employees work.~~ SAFE STAFFING PATTERNS FOR

FIREFIGHTING AND CORRECTIONAL PERSONNEL AND INDIVIDUALS
EMPLOYED IN MENTAL HEALTH OR MENTAL RETARDATION FACILITIES TO
INSURE THE PUBLIC SAFETY AND PROTECT THE HEALTH AND LIVES OF
THE EMPLOYEES PERFORMING THOSE SERVICES. IN ORDER TO CARRY
OUT THIS PARAGRAPH:

(I) THE BOARD SHALL APPOINT A FIVE-MEMBER FIRE
FIGHTERS SAFETY ADVISORY COMMITTEE, COMPRISED OF MEMBERS
KNOWLEDGEABLE IN FIRE SAFETY, FOR THE PURPOSES OF
RECOMMENDING STANDARDS OF ADEQUATE STAFFING LEVELS WHICH
WILL INSURE THE SAFETY OF FIRE-FIGHTING PERSONNEL COVERED
BY THIS ACT. BEFORE MAKING ITS RECOMMENDATIONS, THE
COMMITTEE SHALL CONSIDER SUCH FACTORS AS COMMUNITY SIZE,
POPULATION AND BUILDING PATTERNS. THE COMMITTEE SHALL
MAKE ITS RECOMMENDATIONS AND DELIVER ITS FINAL REPORT NOT
LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ACT.
THE BOARD SHALL REVIEW AND ACT UPON ADOPTION OF A
STANDARD WITHIN 90 DAYS OF RECEIPT OF THE COMMITTEE'S
REPORT.

(II) THE BOARD SHALL APPOINT A FIVE-MEMBER SAFETY
ADVISORY COMMITTEE FOR CORRECTIONAL FACILITIES FOR THE
PURPOSES OF RECOMMENDING STANDARDS OF ADEQUATE STAFFING
LEVELS WHICH WILL INSURE THE SAFETY OF CORRECTIONAL

1 PERSONNEL COVERED BY THIS ACT. THE COMMITTEE SHALL MAKE
2 ITS RECOMMENDATIONS AND DELIVER ITS FINAL REPORT NOT
3 LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ACT.
4 THE BOARD SHALL REVIEW AND ACT UPON ADOPTION OF A
5 STANDARD WITHIN 90 DAYS OF RECEIPT OF THE COMMITTEE'S
6 REPORT.

7 (III) THE BOARD SHALL APPOINT A FIVE-MEMBER SAFETY
8 ADVISORY COMMITTEE FOR MENTAL HEALTH AND MENTAL
9 RETARDATION FACILITIES FOR THE PURPOSE OF RECOMMENDING
10 STANDARDS OF ADEQUATE STAFFING LEVELS WHICH WILL INSURE
11 THE SAFETY OF EMPLOYEES EMPLOYED IN SUCH FACILITIES
12 COVERED BY THIS ACT. THE COMMITTEE SHALL MAKE ITS
13 RECOMMENDATIONS AND DELIVER ITS FINAL REPORT NOT LATER
14 THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ACT. THE
15 BOARD SHALL REVIEW AND ACT UPON ADOPTION OF THE STANDARD
16 WITHIN 90 DAYS OF RECEIPT OF THE COMMITTEE'S REPORT.

17 ~~(17)~~ (13) The board shall assess the public employee <—
18 health and safety programs and report on the operation and
19 effectiveness of this act:

20 (i) The board shall examine the incidence of work-
21 related injuries, the incidence of injuries or
22 occupational illness to the public, and the effect of
23 this act upon insurance costs of public employers. It <—
24 ~~shall be empowered to recommend additional or corrective~~
25 ~~legislation to advance the purposes of this act.~~

26 (ii) The board shall issue an interim report to the
27 General Assembly and the Governor one year after the
28 effective date of this act. A final report shall be
29 issued two years after the effective date of this act.

30 Section 7. Grants for hazard abatement.

1 (a) General.--The board shall receive, review and act upon
2 applications for funding of capital projects designed to abate
3 occupational health and safety hazards. The board shall have the
4 authority to fund 75% of the cost of any capital abatement
5 project necessary to comply with an order issued by the board
6 under this act.

7 (b) Discretion.--The board may require, as part of an
8 application, such information as it deems necessary and shall
9 act upon the application within a reasonable time. The board
10 shall furnish the Budget Secretary, Secretary of Labor and
11 Industry, Auditor General, President pro tempore of the Senate
12 and the Speaker of the House of Representatives with a copy of
13 each application within three days following receipt thereof by
14 the board.

15 (c) Factors determining recipients of grants.--In
16 determining which applicants shall receive grants from the fund
17 and the amount of funding, the board shall consider the
18 following factors:

19 (1) The degree of possible physical harm which the
20 hazard to be abated could inflict on the public employees and
21 other citizens at risk.

22 (2) The imminent nature of the possible infliction of
23 harm.

24 (3) The number of public employees and other citizens at
25 risk.

26 (4) The ability of the applying public employer to fund
27 the capital abatement project out of its own funds.

28 (5) The total amount of debt for capital construction
29 projects for which the applying public employer is
30 responsible and the ability of the applying public employer

1 to meet its annual debt service.

2 (d) Duty to abate violation.--The fact that a public
3 employer has applied for funds pursuant to this act shall not
4 relieve that employer of the obligation to abate a violation of
5 this act.

6 Section 8. Work environment inspectors.

7 (a) Appointment.--The ~~board~~ EXECUTIVE DIRECTOR shall appoint <—
8 work environment inspectors to ensure that the provisions of
9 this act are adequately enforced.

10 (b) Duties.--~~Duties~~ UNDER THE DIRECTION OF THE EXECUTIVE <—
11 DIRECTOR AND PURSUANT TO THE AUTHORITY OF THE BOARD, DUTIES of
12 inspectors shall include, but not be limited to, the following:

13 (1) At any time ~~of the day or night~~, with or without <—
14 prior notification, to enter and inspect any premises or
15 ~~place of employment~~ WORKPLACE and take any samples and <—
16 photographs and make any examinations the inspector considers
17 necessary to accomplish the purposes and goals of this act.

18 (2) To require the employer to produce for inspection by
19 the work environment inspector, books, records, documents, or
20 any other material maintained by the employer, to assist the
21 inspector in making determinations and in enforcing this act.

22 (3) To perform all other duties as authorized by the
23 board.

24 (c) Coverage.--Work environment inspectors shall be entitled
25 to benefits under the act of June 28, 1935 (P.L.477, No.193),
26 referred to as the Enforcement Officer Disability Benefits Law.

27 (d) Cooperation.--Work environment inspectors shall
28 cooperate with the work environment committees.

29 Section 9. Work environment committees.

30 (a) Purpose and establishment.--To best assure that the

1 health and safety of the public employees of this Commonwealth
2 ~~is~~ ARE protected, work environment committees, consisting of <—
3 representatives of employees and employers, shall be established
4 ~~at each place of employment covered by this act~~ UNDER THIS <—
5 SECTION. Nothing in this section shall diminish the employer's
6 responsibility to assure a safe and healthful work environment.

7 ~~(b) Employee members. There shall be one employee member of <—~~
8 ~~a work environment committee for every 25 employees. For any~~
9 ~~place of employment where there are less than 25 employees,~~
10 ~~there shall be one employee member from the three largest~~
11 ~~bargaining units. Employee members of work environment~~
12 ~~committees shall be appointed by the employee organizations~~
13 ~~recognized or certified as the employee representatives~~
14 ~~(bargaining agents) for the employees at the place of~~
15 ~~employment. In the absence of a recognized or certified employee~~
16 ~~representative, the employees shall elect their representatives.~~
17 ~~In the event that there is more than one bargaining agent,~~
18 ~~employee members shall be selected from the three largest~~
19 ~~bargaining agents in accordance with regulations promulgated by~~
20 ~~the board.~~

21 ~~(c) Employer members. The employer shall be entitled to~~
22 ~~appoint a similar number of members to the work environment~~
23 ~~committee, but not more than one less than the number of~~
24 ~~employee members.~~

25 ~~(d) Powers and duties. Work environment committees shall:~~

26 ~~(1) Regularly inspect the workplace for the existence of~~
27 ~~hazardous conditions, and check for compliance with standards~~
28 ~~and regulations promulgated under this act and compliance~~
29 ~~with the general intent of this act.~~

30 ~~(2) Review health and safety records to monitor~~

~~incidents of accidents and illnesses and identify problem areas.~~

~~(3) Develop safety procedures.~~

~~(4) Set up employer funded medical testing for potential work related illnesses or disabilities which may arise out of or in the course of employment, including illnesses or disabilities resulting from or contributed to by exposure to hazardous substances, harmful agents, infectious agents or safety hazards. The board shall promulgate such regulations as may be necessary to protect the confidentiality of employees.~~

~~(5) Investigate imminent danger situations, accidents and unusual environmental conditions to which the employees they represent are exposed.~~

~~(6) When it determines that an imminent danger exists, order the dangerous activity to cease. In the event the committee is unavailable, the chairman of the committee may make such a decision until such time as the committee can meet to consider the matter. The activity may not resume until the work environment inspector deems it safe.~~

~~(7) Do anything else deemed necessary to promote health and safety at the place of employment.~~

(B) FORMATION.--AN EMPLOYER, EXCEPT AS PROVIDED IN
SUBSECTION (C), SHALL CAUSE A WORK ENVIRONMENT COMMITTEE TO BE
ESTABLISHED:

(1) AT A WORKPLACE WHERE AT LEAST 25 OR MORE EMPLOYEES
ARE REGULARLY EMPLOYED; AND

(2) AT AN INDIVIDUAL WORKPLACE OR AT CLASSES OF
WORKPLACES WHICH THE BOARD MAY DESIGNATE.

(C) EXEMPTION.--

1 (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B),
2 THE BOARD MAY DESIGNATE INDIVIDUAL WORKPLACES OR CLASSES OF
3 WORKPLACES WHERE A WORK ENVIRONMENT COMMITTEE IS NOT REQUIRED
4 TO BE ESTABLISHED UNTIL THE NUMBER OF EMPLOYEES EXCEEDS 50.

5 (2) EMPLOYERS WHO EMPLOY MORE THAN 400 EMPLOYEES COVERED
6 BY THIS ACT AND WHO ARE EMPLOYED AT MORE THAN 15 WORKPLACES
7 MAINTAINED BY THE EMPLOYER MAY APPLY TO THE BOARD FOR A
8 MODIFICATION FROM THE REQUIREMENTS OF SUBSECTION (B) AND
9 SECTION 10(A). IT SHALL BE THE EMPLOYER'S RESPONSIBILITY TO
10 SUBMIT TO THE BOARD FOR APPROVAL AN ALTERNATIVE PLAN FOR THE
11 FORMATION OF WORK ENVIRONMENT COMMITTEES WHICH PLAN SHALL
12 OTHERWISE CONFORM TO THIS SECTION. IN CONSIDERING THE
13 ALTERNATIVE PLAN OF AN EMPLOYER, THE BOARD SHALL SOLICIT AND
14 CONSIDER EVALUATIONS OF THE PLAN FROM THE BARGAINING AGENTS
15 REPRESENTING EMPLOYEES OF THE EMPLOYER.

16 (3) NOTWITHSTANDING SUBSECTION (B) AND SECTION 10(A),
17 EMPLOYERS WHO EMPLOY LESS THAN 25 EMPLOYEES, REGARDLESS OF
18 THE NUMBER OF WORKPLACES MAINTAINED BY THE EMPLOYER, SHALL
19 CAUSE ONE EMPLOYEE TO BE DESIGNATED AS A WORK ENVIRONMENT
20 REPRESENTATIVE IN ACCORDANCE WITH SECTION 10(B). THE WORK
21 ENVIRONMENT REPRESENTATIVE UNDER THIS PARAGRAPH SHALL HAVE
22 THE POWERS, DUTIES AND TRAINING REQUIRED UNDER SECTION 10 AND
23 SHALL REPRESENT EMPLOYEES OF THE EMPLOYER EMPLOYED AT ALL
24 WORKPLACES.

25 (D) MEMBERSHIP COMMITTEES.--

26 (1) THE COMMITTEE SHALL CONSIST OF NOT LESS THAN 4 OR
27 MORE THAN 12 PERSONS AS FOLLOWS:

28 (I) FOR 25 THROUGH 49 EMPLOYEES - 4 MEMBERS.

29 (II) FOR 50 THROUGH 100 EMPLOYEES - 6 MEMBERS.

30 (III) FOR EACH 100 EMPLOYEES BEYOND 100 - 2

1 ADDITIONAL MEMBERS. ADDITIONAL MEMBERS UNDER THIS
2 SUBPARAGRAPH MAY NOT EXCEED 12.

3 (2) MEMBERSHIP SHALL BE EQUALLY DIVIDED BETWEEN
4 EMPLOYEE-SELECTED MEMBERS AND EMPLOYER-SELECTED MEMBERS.

5 (3) EMPLOYEE MEMBERS OF WORK ENVIRONMENT COMMITTEES
6 SHALL BE APPOINTED BY THE EMPLOYEE ORGANIZATIONS RECOGNIZED
7 OR CERTIFIED AS THE EMPLOYEE REPRESENTATIVES (BARGAINING
8 AGENTS) FOR THE EMPLOYEES AT THE WORKPLACE. IN THE EVENT THAT
9 THERE IS MORE THAN ONE BARGAINING AGENT, EMPLOYEE MEMBERS
10 SHALL BE SELECTED FROM THE THREE LARGEST BARGAINING AGENTS IN
11 ACCORDANCE WITH REGULATIONS PROMULGATED BY THE BOARD. IN THE
12 ABSENCE OF A RECOGNIZED OR CERTIFIED EMPLOYEE REPRESENTATIVE,
13 "PUBLIC EMPLOYEES," AS DEFINED IN SECTION 301(2) OF THE ACT
14 OF JULY 23, 1970 (P.L.563, NO.195), KNOWN AS THE PUBLIC
15 EMPLOYE RELATIONS ACT, SHALL ELECT THEIR REPRESENTATIVES.

16 (4) THE EMPLOYER SHALL POST PROMINENTLY IN THE WORKPLACE
17 THE NAMES OF ALL COMMITTEE MEMBERS.

18 (E) POWERS AND DUTIES.--THE POWERS AND DUTIES OF WORK
19 ENVIRONMENT COMMITTEES SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
20 FOLLOWING:

21 (1) REGULARLY INSPECT THE WORKPLACE TO IDENTIFY
22 HAZARDOUS CONDITIONS AND TO CHECK FOR COMPLIANCE WITH THE
23 GENERAL INTENT OF THIS ACT AND THE STANDARDS AND REGULATIONS
24 PROMULGATED UNDER THIS ACT.

25 (2) RECEIVE, CONSIDER AND DISPOSE OF CONCERNS AND
26 COMPLAINTS RESPECTING THE SAFETY AND HEALTH OF THE EMPLOYEES.

27 (3) MAINTAIN RECORDS IN CONNECTION WITH THE RECEIPT AND
28 DISPOSITION OF CONCERNS AND COMPLAINTS AND OTHER COMMITTEE
29 ACTIVITIES.

30 (4) INVESTIGATE IMMINENT DANGER SITUATIONS, ACCIDENTS

1 AND UNUSUAL ENVIRONMENTAL CONDITIONS.

2 (5) WHEN IT DETERMINES THAT AN IMMINENT DANGER EXISTS,
3 ORDER THE DANGEROUS ACTIVITY TO CEASE AND REQUEST THE
4 IMMEDIATE PRESENCE OF A WORK ENVIRONMENT INSPECTOR. ONCE
5 ACTIVITY HAS CEASED, IT MAY NOT RESUME UNTIL THE WORK
6 ENVIRONMENT INSPECTOR DEEMS IT SAFE. AN AFFECTED PARTY MAY
7 APPEAL THE DETERMINATION OF THE WORK ENVIRONMENT INSPECTOR TO
8 THE BOARD. IN THE EVENT THE COMMITTEE IS UNAVAILABLE, EITHER
9 OF THE COCHAIRPERSONS OF THE COMMITTEE MAY TAKE ACTION UNDER
10 THIS PARAGRAPH.

11 (6) REVIEW HEALTH AND SAFETY RECORDS TO MONITOR
12 INCIDENTS OF ACCIDENTS AND ILLNESSES AND TO IDENTIFY PROBLEM
13 AREAS.

14 (7) DEVELOP AND PROMOTE MEASURES TO PROTECT THE SAFETY,
15 HEALTH AND WELFARE OF INDIVIDUALS IN THE WORKPLACE AND TO
16 CHECK THE EFFECTIVENESS OF THOSE MEASURES.

17 (8) COOPERATE WITH A WORK ENVIRONMENT INSPECTOR
18 EXERCISING DUTIES UNDER THIS ACT.

19 (9) DEVELOP AND PROMOTE PROGRAMS FOR EDUCATION AND
20 INFORMATION CONCERNING SAFETY AND HEALTH IN WORKPLACE.

21 (10) SUFFER NO LOSS IN PAY, BENEFITS OR ACCRUAL OF
22 SENIORITY FOR TIME SPENT ON COMMITTEE BUSINESS.

23 (11) RECEIVE FROM THE EMPLOYER, AT LEAST 60 DAYS IN
24 ADVANCE OF IMPLEMENTATION, NOTICE CONCERNING A CHANGE IN
25 WORKPLACE TECHNOLOGY OR PROCESS OR AN INTRODUCTION INTO THE
26 WORKPLACE OF A SUBSTANCE OR MATERIAL SUSPECTED OF BEING A
27 HAZARDOUS SUBSTANCE, HARMFUL AGENT, INFECTIOUS AGENT OR
28 SAFETY HAZARD.

29 (12) DEVELOP MEDICAL TESTING FOR WORK-RELATED ILLNESSES
30 OR DISABILITIES WHICH MAY ARISE OUT OF OR IN THE COURSE OF

1 EMPLOYMENT, INCLUDING ILLNESSES OR DISABILITIES RESULTING
2 FROM OR CONTRIBUTED TO BY EXPOSURE TO HAZARDOUS SUBSTANCES,
3 HARMFUL AGENTS, INFECTIOUS AGENTS OR SAFETY HAZARDS. THE
4 BOARD SHALL PROMULGATE REGULATIONS NECESSARY TO PROTECT THE
5 CONFIDENTIALITY OF EMPLOYEES.

6 ~~(e)~~ (F) Meetings.-- <—

7 (1) Committees shall hold regular meetings at least once <—
8 each month. The meetings of a committee shall be held during
9 ordinary working hours unless otherwise agreed upon ~~by the~~ <—
10 ~~employee members of the committee~~. Additional meetings shall
11 ~~be held to deal with business that cannot be delayed to the~~ <—
12 ~~next meeting, when so requested in writing~~. BE HELD AS <—
13 NECESSARY.

14 (2) THERE SHALL BE TWO COMMITTEE COCHAIRPERSONS, ONE
15 SELECTED BY EMPLOYEE MEMBERS OF THE COMMITTEE AND ONE
16 SELECTED BY EMPLOYER MEMBERS OF THE COMMITTEE.

17 (3) DECISIONS SHALL BE MADE BY A MAJORITY OF COMMITTEE
18 MEMBERS PRESENT AND VOTING. IN CASE OF A DEADLOCK, A WORK
19 ENVIRONMENT INSPECTOR SHALL BE CALLED IN TO RESOLVE THE
20 ISSUE.

21 (4) MINUTES OF ALL MEETINGS SHALL BE TAKEN, AND THE
22 APPROVAL OF EACH COCHAIRPERSON SHALL BE INDICATED BY
23 SIGNATURE.

24 (5) A COPY OF THE MINUTES SHALL BE POSTED PROMINENTLY IN
25 THE WORKPLACE.

26 ~~(f)~~ (G) Training.--Every committee member shall be entitled <—
27 to not less than ~~40~~ 24 hours of occupational health and safety <—
28 training annually. Training shall be provided at employer
29 expense ~~at an institution acceptable to employee members of~~. THE <—
30 FORM, NATURE AND LOCATION OF THE TRAINING SHALL BE APPROVED BY

1 the committee. Participating employees shall receive their
2 regular rate of pay and benefits while attending such training.

3 ~~(g) Rights of committee members.~~ <—

4 ~~(1) Each committee member shall be entitled to a minimum~~
5 ~~of 16 hours per month to research and investigate actual and~~
6 ~~potential workplace hazards. There shall be no loss in pay,~~
7 ~~benefits or accrual of seniority for time spent on committee~~
8 ~~business.~~

9 ~~(2) The committee shall receive from the employer, at~~
10 ~~least 90 days in advance of implementation, notice concerning~~
11 ~~the following changes in working conditions: a change in~~
12 ~~workplace technology or process; an introduction into the~~
13 ~~workplace of any substance or material suspected of being a~~
14 ~~hazardous substance, harmful agent, infectious agent or~~
15 ~~safety hazard, as defined in this act, or a change in~~
16 ~~workplace design. The committee may determine the impact of~~
17 ~~any such change on the health and safety of the employees. If~~
18 ~~the implementation of the changes remains in dispute, the~~
19 ~~matter shall be submitted to the board for resolution.~~

20 ~~(3) The committee shall receive from the employer, at~~
21 ~~least 90 days in advance, notice concerning any proposed~~
22 ~~layoff or reduction in workforce, so that the committee may~~
23 ~~conduct a study to analyze the impacts of the proposed~~
24 ~~reduction on the workplace and public health and safety.~~

25 (h) Nonliability.--The bargaining representatives and work
26 environment committees, and individual members of such
27 committees, shall not be held liable for any work-connected
28 injuries, disabilities or diseases which may be incurred by
29 employees.

30 SECTION 10. WORK ENVIRONMENT REPRESENTATIVE. <—

1 (A) DESIGNATION.--AN EMPLOYER SHALL CAUSE AN EMPLOYEE TO BE
2 DESIGNATED AS THE WORK ENVIRONMENT REPRESENTATIVE:

3 (1) AT A WORKPLACE WHERE A WORK ENVIRONMENT COMMITTEE IS
4 NOT REQUIRED BUT WHERE FIVE OR MORE EMPLOYEES ARE REGULARLY
5 EMPLOYED; AND

6 (2) AT AN INDIVIDUAL WORKPLACE OR CLASSES OF WORKPLACE
7 WHICH THE BOARD MAY DESIGNATE.

8 (B) APPOINTMENT.--

9 (1) THE WORK ENVIRONMENT REPRESENTATIVE SHALL BE
10 APPOINTED BY THE EMPLOYEE ORGANIZATION RECOGNIZED OR
11 CERTIFIED AS THE EMPLOYEE REPRESENTATIVE (BARGAINING AGENT)
12 FOR THE EMPLOYEES AT THE WORKPLACE. IN THE EVENT THAT THERE
13 IS MORE THAN ONE BARGAINING AGENT, THE WORK ENVIRONMENT
14 REPRESENTATIVE SHALL BE APPOINTED BY THE LARGEST BARGAINING
15 AGENT. IN THE ABSENCE OF A RECOGNIZED OR CERTIFIED EMPLOYEE
16 REPRESENTATIVE, THE EMPLOYEES SHALL ELECT THE WORK
17 ENVIRONMENT REPRESENTATIVE.

18 (2) THE EMPLOYER SHALL POST PROMINENTLY IN THE WORKPLACE
19 THE NAME OF THE WORK ENVIRONMENT REPRESENTATIVE.

20 (C) POWERS AND DUTIES.--THE WORK ENVIRONMENT REPRESENTATIVE
21 SHALL, IN COOPERATION WITH A REPRESENTATIVE OF THE EMPLOYER,
22 PERFORM THE SAME DUTIES AND HAVE THE SAME POWERS AND RIGHTS AS
23 SET OUT FOR THE WORK ENVIRONMENT COMMITTEE IN SECTION 9(E).

24 (D) TRAINING.--A WORK ENVIRONMENT REPRESENTATIVE SHALL BE
25 ENTITLED TO NOT LESS THAN 24 HOURS OF OCCUPATIONAL HEALTH AND
26 SAFETY TRAINING ANNUALLY. TRAINING SHALL BE PROVIDED AT EMPLOYER
27 EXPENSE. THE FORM, NATURE AND LOCATION OF THE TRAINING SHALL BE
28 ACCEPTABLE TO THE REPRESENTATIVE WHO RECEIVES IT.

29 (E) NONLIABILITY.--THE WORK ENVIRONMENT REPRESENTATIVE SHALL
30 NOT BE HELD LIABLE FOR A WORK-CONNECTED INJURY, DISABILITY OR

1 DISEASE WHICH MAY BE INCURRED BY AN EMPLOYEE.

2 Section ~~10~~ 11. Inspections. <—

3 (a) Request for inspection.--Any ~~employee, representative of~~ <—
4 ~~employees, committee member, interested person or member of the~~
5 ~~public~~ PERSON who believes that a violation of a safety or <—
6 health standard exists, or that an imminent danger exists, may
7 request an inspection by giving notice to the board of the
8 violation or danger.

9 (b) Manner of request.--Requests for inspections may be made
10 orally or in writing and shall set forth the grounds for the
11 request. The board shall, upon request of the complaining party,
12 keep confidential the name of the person making the complaint.

13 (c) Action on request.--Whenever the board receives a
14 request for inspection of an imminent danger or where the board
15 is aware of the likelihood of an imminent danger, an inspection
16 shall be made immediately. In all other cases, inspections shall
17 be made as soon as possible but at least within five days. The
18 board shall provide a copy of the inspection report and any
19 order or agreements made to the individual making the complaint,
20 to the employee's representative and to the committee and the
21 employer.

22 (d) Inspection without notice.--Inspections may be made
23 ~~unannounced and~~ without any notice to the employer or the <—
24 employees.

25 (e) Accessibility of locations.--Inspectors of the board
26 shall have immediate access to any location in which there is a
27 suspected hazard or condition for the purposes of conducting an
28 inspection.

29 (f) Intermittent inspections.--The board shall determine
30 those occupations and workplaces where there is a possibility of

1 health or safety hazards to employees or the public and shall
2 conduct regular unannounced inspections of these workplaces.

3 (g) Escort of inspector.--A representative of the employer
4 and an authorized employee representative shall accompany the
5 inspector for the entire inspection whenever the inspector
6 conducts an inspection in accordance with this act. In addition,
7 the work environment committee may designate one ~~or more~~ <—
8 ~~committee members~~ COMMITTEE MEMBER to accompany the inspector, <—
9 the representative of the employer, and the authorized employee
10 representative on any or all parts of the inspection which
11 address, but are not limited to, work areas and processes of
12 which the committee member or committee members have firsthand
13 knowledge. The authorized employee representatives and
14 designated committee members shall attend all opening, interim
15 and closing conferences pertaining to the inspection. Authorized
16 employee representatives and committee members shall receive
17 full employment benefits for all time spent on such activities.

18 (h) Inspection regardless of complaint.--The authority of
19 the board to inspect a premises pursuant to an employee
20 complaint shall not be limited to the alleged violation
21 contained in the complaint. The board may inspect any other
22 areas of the premises.

23 (i) Inspection of public employer's premises.--The board
24 may, upon its own initiative, conduct an inspection of any
25 premises occupied by a public employer.

26 ~~(j) Request for immediate inspection. Any employee,~~ <—
27 ~~representative of employees, or committee member who believes~~
28 ~~imminent danger exists may request an immediate inspection by~~
29 ~~the committee.~~

30 Section ~~11~~ 12. Recordkeeping. <—

1 (a) Records required.--In accordance with the board's
2 regulations, each employer shall make, keep and preserve, and
3 make available to the board, the records regarding his
4 activities relating to this act as the board deems necessary or
5 appropriate for developing information regarding the causes and
6 prevention of occupational accidents and illness. The
7 regulations may include provisions requiring employers to
8 conduct periodic inspections. The board shall also issue
9 regulations requiring that employers, through posting of
10 notices, training or other appropriate means, keep their
11 employees informed of their rights to protection.

12 (b) Regulations concerning reports.--The board shall
13 prescribe regulations requiring employers to maintain accurate
14 records and to make public, monthly reports and biannual
15 summaries of work-related deaths and injuries and illnesses,
16 medical treatment, loss of consciousness, assaults on employees,
17 restrictions of work or motion, or transfers to other jobs.

18 (c) Examination of reports.--Employers, the authorized
19 representative of the employees, and the committee shall, upon
20 request, have the right to examine and copy any and all such
21 reports.

22 (d) Regulations concerning records.--The board shall issue
23 regulations requiring employers to maintain accurate records of
24 employee exposures to potentially hazardous substances, harmful
25 agents, infectious agents, or safety hazards. The regulations
26 shall make appropriate provisions for each employee or former
27 employee to have access to his exposure records. Each employer
28 shall immediately notify any employee who has been or is being
29 exposed to hazardous substances, harmful physical agents, or
30 infectious agents. Employees exposed to such hazards shall be

1 informed by the employer of the corrective action proposed and
2 the time limit for implementation, and shall immediately be
3 scheduled for participation in the medical surveillance program.

4 Section ~~12~~ 13. Adverse action against employees. <—

5 (a) Prohibition.--No adverse action shall be taken against
6 any employee by reason of the employee's participation in or
7 association with any functions of a committee; by reason of the
8 employee's inquiry about or utilization of any rights or
9 responsibilities he may have under this act; or for any other
10 reasons having to do with exercising any rights granted under
11 provisions of this act.

12 (b) Presumption.--Where an adverse action is taken against
13 any employee who has, IN THE PRIOR 12 MONTHS, in any way been <—
14 involved with the enforcement or protection of any rights
15 granted under this act, it shall be presumed that the action was
16 taken in violation of this act and it shall be the burden of the
17 employer to prove that the action was not taken for improper
18 reasons described in subsection (a) or for reasons otherwise
19 contrary to the policies and provisions of this act.

20 ~~Section 13. Right to refuse unsafe work.~~ <—

21 ~~(a) Right to refuse. An employee may refuse to do any~~
22 ~~particular act or series of acts at work which the employee has~~
23 ~~reason to believe is dangerous to his health or safety or the~~
24 ~~health and safety of any other person until the committee and~~
25 ~~the work environment inspector have investigated the matter and~~
26 ~~advised him in writing that a hazard no longer exists.~~

27 SECTION 14. RIGHT TO WORK UNDER SAFE CONDITIONS. <—

28 (A) GENERAL RULE.--

29 (1) AN EMPLOYEE MAY NOT BE COMPELLED TO WORK AT A
30 WORKPLACE IF ALL OF THE FOLLOWING APPLY:

1 (I) A REASONABLE EMPLOYEE WOULD BELIEVE, IN GOOD
2 FAITH, THAT PERFORMING ASSIGNED WORK AT THE WORKPLACE
3 WOULD INVOLVE A DANGER OF DEATH OR SERIOUS INJURY OR
4 ILLNESS.

5 (II) THE EMPLOYEE IS UNABLE TO OBTAIN CORRECTION OF
6 THE CONDITION BY THE EMPLOYER.

7 (III) THERE IS INSUFFICIENT TIME TO ELIMINATE THE
8 DANGER THROUGH RESORT TO REGULAR STATUTORY OR CONTRACTUAL
9 ENFORCEMENT PROCEDURES.

10 (2) IF PARAGRAPH (1) APPLIES, AN EMPLOYEE MAY REFUSE TO
11 PERFORM ASSIGNED DUTIES IN THE WORKPLACE UNTIL THE WORK
12 ENVIRONMENT INSPECTOR HAS INVESTIGATED THE MATTER AND ADVISED
13 THE EMPLOYEE, IN WRITING, THAT A HAZARD NO LONGER EXISTS.

14 (b) Adverse action barred.--No adverse action shall be taken
15 against any employee by reason of the fact that the employee has
16 exercised the right conferred upon him by subsection (a).

17 (c) Presumption.--Where adverse action is taken against an
18 employee who has exercised the right conferred upon him by
19 subsection (a), there shall be the presumption in favor of the
20 employee that the action was taken against him for that reason
21 and it shall be the burden of the employer to prove that the
22 action was not taken for improper reasons.

23 (d) Temporary assignments.--Notwithstanding any other
24 provision of this act, temporary assignment to alternative work
25 shall be at no loss of pay, benefits or contractual or
26 noncontractual rights to the employee until the matter mentioned
27 in subsection (a) is resolved, and shall be deemed not to
28 constitute adverse action within the meaning of this act.

29 Section ~~14~~ 15. Rights of affected employees.

30 An employee who believes that adverse action has been taken

<—

1 against him in violation of section ~~12 or 13~~ 13 OR 14 may, <—
2 within 180 days after he becomes aware of such action, file a
3 complaint with the board alleging the adverse action. Upon
4 receipt of the complaint, the board shall make an investigation
5 and shall, if requested, withhold the name of the complainant
6 from the employer. Whenever the board determines that this act
7 has been violated, it shall ~~request the Attorney General to~~ <—
8 bring an action in Commonwealth Court against the employer
9 alleged to have violated this act. In the event of a finding of
10 adverse action, the employer shall:

11 (1) Cease the adverse action and reinstate the employee
12 to his former employment without loss of pay, contractual and
13 noncontractual rights, or benefits.

14 (2) Pay to the worker any wages and benefits the worker
15 would have earned had he not had adverse action taken against
16 him.

17 (3) Remove any reprimand or other reference to the
18 matter from the employer's records on the employee.

19 Section ~~15~~ 16. Enforcement. <—

20 (a) Order of the board.--Whenever the board or a work
21 environment inspector determines that an employer has violated
22 this act, or a health or safety standard or regulation
23 promulgated under this act, the board shall, within five days,
24 issue to the employer ~~an order to comply~~ A CITATION, which shall <—
25 describe particularly the nature of the violation, including a
26 reference to the provision of this act, standard, regulation or
27 order alleged to have been violated, and any corrective action
28 required. The board shall fix a reasonable time for compliance,
29 not to exceed 24 hours, unless the employer can demonstrate to
30 the board that the violation cannot be remedied within that

1 time.

2 (b) Imminent danger.--Whenever and wherever a work
3 environment inspector concludes that an activity being carried
4 on or scheduled to commence involves or will involve a risk of
5 serious personal injury or harm and that the risk of such injury
6 or harm is imminent, the inspector shall require that the work
7 cease. The inspector may stop work-related and nonwork-related
8 activities in the vicinity of the imminent danger if such action
9 is needed to protect the health and safety of other persons. If,
10 upon inspection, the work environment inspector finds an
11 imminent danger to exist, the inspector shall order the
12 immediate abatement of the dangerous situation. Before the
13 employer may recommence the activity, the inspector must certify
14 that the employer has come into compliance with this act.

15 (c) Posting of ~~order~~ CITATION.--Whenever the board issues to <—
16 an employer ~~an order to comply~~ A CITATION, the employer shall <—
17 post the ~~order~~ CITATION or a copy of the ~~order~~ CITATION in a <—
18 conspicuous place, at or near each place of violation cited in
19 the ~~order~~ CITATION, where it is clearly visible to the affected <—
20 employees. The board shall furnish copies of such ~~orders~~ <—
21 CITATION to employee representatives and the committee. <—

22 (d) Appeals.--Any party affected by a determination of the
23 board issued under this act may petition the ~~Pennsylvania Labor~~ <—
24 ~~Relations Board~~ COMMONWEALTH COURT for review of the <—
25 determination. Judicial review by the Pennsylvania Labor
26 Relations Board may be obtained by any party affected by the
27 decision in the manner provided in Title 2 of the Pennsylvania
28 Consolidated Statutes (relating to administrative law and
29 procedure). The order OR CITATION shall remain in full force and <—
30 effect during pendency of an appeal.

1 (e) Proceedings by the board.--Whenever the time for
2 compliance with an order OR CITATION of the board has elapsed <—
3 and the employer has not complied with the order OR CITATION, <—
4 the board shall immediately seek judicial enforcement, by
5 injunction and other appropriate remedies, of such order OR <—
6 CITATION, by commencing a proceeding in Commonwealth Court,
7 which shall have jurisdiction to enforce a lawful order of the
8 board, AND BY LEVYING ADDITIONAL FINES AND PENALTIES UNDER <—
9 SECTION 18.

10 (f) Injunctive relief.--The Commonwealth Court shall, upon
11 petition of the board or any affected party, restrain any
12 conditions or practices in any place of public employment which
13 could be expected to cause death or physical harm. An order
14 issued under this section may require such steps to be taken as
15 may be necessary to avoid, correct or remove an imminent danger
16 and prohibit the employment or presence of an individual in
17 locations or under conditions where an imminent danger exists,
18 except individuals whose presence is necessary to avoid, correct
19 or remove the imminent danger or to maintain the capacity of a
20 continuous process operation to resume normal operations without
21 a complete cessation of operations, or, where a cessation of
22 operations is necessary, to permit it to be accomplished in a
23 safe and orderly manner.

24 (g) Failure of the board to act.--Whenever the board fails
25 to seek relief under this section within ~~48 hours~~ FIVE DAYS of <—
26 being notified of such condition, any employee who may be
27 injured by reason of the failure, or the authorized employee
28 representative of such employee or the committee, may seek
29 injunctive relief, as provided in this section or any other
30 appropriate remedies. In the event that such an action is

1 successful, the employer shall pay the costs and legal fees of
2 the petitioning parties.

3 (h) Follow-up inspection.--If at the time of or after
4 inspection or investigation, the inspector or board issues an
5 order for a violation, the board shall conduct a reinspection at
6 the end of the period fixed for abatement of the violation. No
7 employer shall be given advance warning of a reinspection by any
8 authorized representative of the board. Any authorized
9 representative of the board who gives advance notice of any
10 inspection to be conducted commits a misdemeanor and shall, upon
11 conviction, be punished by a fine of not more than \$1,000 or by
12 imprisonment for not more than six months, or both.

13 ~~(i) Pay of employees. Whenever the employer, by requirement~~ <—
14 ~~of a court order or an order of the board, or voluntarily~~
15 ~~because of a health or safety hazard, ceases work, resulting in~~
16 ~~employees being denied the opportunity to work, the employer~~
17 ~~shall pay the employees their regular pay and regular benefits,~~
18 ~~during the period they are prevented from working, for work that~~
19 ~~would have been performed if the employer had been operational.~~

20 Section ~~16~~ 17. Variances. <—

21 (a) Application for exception.--An employer may apply to the
22 board for a temporary order granting an exception from a
23 standard promulgated under this act. The temporary order may be
24 granted only if the employer files an application which meets
25 the requirements of this section and establishes that the
26 employer:

27 (1) Is unable to comply with a standard by its effective
28 date because of the unavailability of professional or
29 technical personnel or of materials and equipment needed to
30 come into compliance with the standard or because necessary

1 construction or alteration of facilities cannot be completed
2 by the effective date.

3 (2) Is taking all available steps to safeguard employees
4 against the hazards covered by the standard.

5 (3) Has an effective program for coming into compliance
6 with the standard as quickly as possible.

7 (b) Temporary orders.--A temporary order issued under this
8 section shall prescribe the practices, means, methods,
9 operations and processes which the employer must adopt and use
10 while the order is in effect and state in detail compliance
11 requirements. The temporary order may be granted only after
12 notice to employees, employee representatives, and the
13 committee, and after an opportunity for a hearing. The board
14 may, however, issue one interim order to be effective until a
15 decision is made on the basis of the hearing. A temporary order
16 shall not be in effect for longer than the period needed by the
17 employer to achieve compliance with the standard, or one year,
18 whichever is shorter. An order may be renewed not more than
19 twice, if the requirements of this section are met and if an
20 application for renewal is filed at least 90 days prior to the
21 expiration date of the order. An interim renewal of an order
22 shall remain in effect no longer than 180 days.

23 (c) Contents of application for temporary order.--An
24 application for a temporary order shall contain:

25 (1) A specification of the standard or portion thereof
26 from which the employer or owner seeks a variance.

27 (2) A representation by the employer, supported by
28 representations from qualified persons who have first-hand
29 knowledge of the facts represented, that the employer is
30 unable to comply with the standard or portion thereof and a

1 detailed statement of the reasons therefor.

2 (3) A statement of the steps the employer has taken and
3 will take, with dates specified, to protect employees against
4 the hazard covered by the standard.

5 (4) A statement of when the employer expects to be able
6 to comply with the standard and what steps the employer has
7 taken and will take, with dates specified, to come into
8 compliance with the standard.

9 (5) A certification that the employer has informed his
10 employees of the application by giving a copy of the
11 application to their authorized representative and committee;
12 by posting a statement giving a summary of the application
13 and specifying where a copy may be examined at the place or
14 places where notices to employees are normally posted; and by
15 other appropriate means. A description of how employees have
16 been informed shall be contained in the certification. The
17 information to employees shall also inform them of their
18 right to petition the board for a hearing.

19 (d) Rights of affected employer or employee.--Affected
20 employees shall be given notice of each application for a
21 variance and an opportunity to participate in a hearing. The
22 board shall issue an order if it determines, on the record,
23 after opportunity for an inspection, where appropriate, and a
24 hearing, that the proponent of the variance has demonstrated by
25 a preponderance of the evidence that the conditions, practices,
26 means, methods, operations or processes used or proposed to be
27 used by an employer will provide employment and ~~places of~~ <—
28 ~~employment~~ WORKPLACES which are as safe and healthful as those <—
29 which would prevail if he complied with the standard. The order
30 shall prescribe the conditions the employer must maintain and

1 the practices, means, methods, operations and processes which he
2 must adopt and utilize to the extent they differ from the
3 standard in question. An order may be modified or revoked upon
4 application by an employer, any employee or employee
5 representative, or by the board on its own motion, in the manner
6 prescribed for its issuance under this section, at any time
7 after six months from its issuance.

8 (e) Time limit for challenge.--A person who may be adversely
9 affected by an order issued under this act may challenge the
10 validity or applicability of the order within 120 days from the
11 date of issuance as provided in section ~~15(d)~~ 16(D). <—

12 ~~Section 17. Civil penalties.~~ <—

13 ~~An employer who violates any rule, regulation or lawful order~~
14 ~~of the board shall be subject to a civil penalty. The board~~
15 ~~shall promulgate regulations covering the assessment of civil~~
16 ~~penalties under this act which give due consideration to the~~
17 ~~appropriateness of the penalty with respect to the following~~
18 ~~factors:~~

19 ~~(1) The size of the employer being charged.~~

20 ~~(2) The gravity of the violation.~~

21 ~~(3) The good faith of the employer.~~

22 ~~(4) The history of previous violations.~~

23 ~~Section 18. Criminal penalties.~~

24 ~~Any employer who does not comply with any rule, regulation or~~
25 ~~lawful order of the board commits a misdemeanor of the third~~
26 ~~degree and shall, upon conviction, be sentenced as follows:~~

27 ~~(1) To pay a fine of not more than \$5,000 or to~~
28 ~~imprisonment for not more than one year, or both, for a first~~
29 ~~offense.~~

30 ~~(2) To pay a fine of not less than \$3,000 nor more than~~

~~\$10,000 or to imprisonment for not more than two years, or both, for a second offense.~~

~~(3) To pay a fine of not less than \$5,000 or to imprisonment for not more than five years, or both, for a subsequent offense.~~

~~Section 19. Employee's right to initiate legal action.~~

~~The statute of limitations affecting the right of any person to file a claim for personal injury, or any other legal action arising from exposure to toxic substances, shall be calculated from the time when an individual becomes aware of the injury, illness or disability arising from work related exposure to such substances.~~

SECTION 18. CIVIL AND CRIMINAL PENALTIES.

<—

(A) CIVIL PENALTIES.--IN ACCORDANCE WITH 2 PA.C.S. CH. 5, SUBCH.A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES), AND CH. 7, SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION), THE BOARD HAS THE AUTHORITY TO ASSESS THE PENALTIES SET FORTH IN THIS SUBSECTION, GIVING DUE CONSIDERATION TO THE APPROPRIATENESS OF THE PENALTY WITH RESPECT TO THE SIZE OF THE BUSINESS OF THE EMPLOYER BEING CHARGED, THE GRAVITY OF THE VIOLATION, THE GOOD FAITH OF THE EMPLOYER AND THE HISTORY OF PREVIOUS VIOLATIONS. PENALTIES COLLECTED SHALL BE DEPOSITED IN A FUND MAINTAINED, ADMINISTERED AND DISTRIBUTED BY THE BOARD FOR PROGRAMS APPROVED UNDER SECTION 7. PENALTIES ARE AS FOLLOWS:

(1) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4), AN EMPLOYER WHO HAS RECEIVED A CITATION FOR A VIOLATION OF SECTION 5 OR OF A STANDARD, RULE, REGULATION OR ORDER PROMULGATED OR ISSUED UNDER THIS ACT MAY BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$1,000 FOR EACH VIOLATION.

1 (2) IN ADDITION TO THE PENALTIES PROVIDED IN PARAGRAPHS
2 (3) AND (4):

3 (I) AN EMPLOYER WHO WILLFULLY OR REPEATEDLY VIOLATES
4 SECTION 5 OR A STANDARD, RULE, REGULATION OR ORDER
5 PROMULGATED OR ISSUED UNDER THIS ACT MAY BE ASSESSED A
6 CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR EACH
7 VIOLATION.

8 (II) AN EMPLOYER WHO FAILS TO CORRECT A VIOLATION
9 FOR WHICH A CITATION HAS BEEN ISSUED WITHIN THE PERIOD
10 PERMITTED FOR ITS CORRECTION MAY BE ASSESSED A CIVIL
11 PENALTY OF NOT MORE THAN \$1,000 FOR EACH DAY DURING WHICH
12 THE VIOLATION CONTINUES.

13 (3) AN EMPLOYER WHO HAS RECEIVED A CITATION FOR A
14 SERIOUS VIOLATION OF SECTION 5 OR OF A STANDARD, RULE,
15 REGULATION OR ORDER PROMULGATED OR ISSUED UNDER THIS ACT
16 SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$1,000 FOR
17 EACH VIOLATION. FOR PURPOSES OF THIS PARAGRAPH, A SERIOUS
18 VIOLATION SHALL BE DEEMED TO EXIST IN A WORKPLACE IF THERE IS
19 A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS PHYSICAL HARM
20 COULD RESULT FROM A CONDITION WHICH EXISTS, OR FROM ONE OR
21 MORE PRACTICES, MEANS, METHODS, OPERATIONS OR PROCESSES WHICH
22 HAVE BEEN ADOPTED OR ARE IN USE IN THE WORKPLACE UNLESS THE
23 EMPLOYER DID NOT AND COULD NOT, WITH THE EXERCISE OF
24 REASONABLE DILIGENCE, KNOW OF THE PRESENCE OF THE VIOLATION.

25 (4) AN EMPLOYER WHO VIOLATES POSTING REQUIREMENTS
26 PRESCRIBED OR ESTABLISHED UNDER THIS ACT SHALL BE ASSESSED A
27 CIVIL PENALTY OF NOT MORE THAN \$1,000 FOR EACH VIOLATION.

28 (B) CRIMINAL PENALTIES.--CRIMINAL PENALTIES ARE AS FOLLOWS:

29 (1) IF AN EMPLOYER INTENTIONALLY VIOLATES THIS ACT OR A
30 STANDARD, RULE, REGULATION OR ORDER PROMULGATED OR ISSUED

1 UNDER THIS ACT AND IF THE VIOLATION CAUSES THE DEATH OF AN
2 EMPLOYEE, THE EMPLOYER COMMITS A MISDEMEANOR OF THE THIRD
3 DEGREE AND SHALL:

4 (I) UPON CONVICTION FOR THE FIRST OFFENSE, BE
5 SENTENCED TO PAY A FINE OF NOT MORE THAN \$10,000 OR TO
6 IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BOTH.

7 (II) UPON CONVICTION FOR A SUBSEQUENT OFFENSE, BE
8 SENTENCED TO PAY A FINE OF NOT MORE THAN \$20,000 OR TO
9 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

10 (2) A PERSON WHO, WITHOUT AUTHORITY FROM THE EXECUTIVE
11 DIRECTOR OR A DESIGNEE, GIVES ADVANCE NOTICE OF AN INSPECTION
12 TO BE CONDUCTED UNDER THIS ACT COMMITS A MISDEMEANOR OF THE
13 THIRD DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY
14 A FINE OF \$1,000 OR TO IMPRISONMENT FOR NOT MORE THAN SIX
15 MONTHS, OR BOTH.

16 (3) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT,
17 REPRESENTATION OR CERTIFICATION IN AN APPLICATION, RECORD,
18 REPORT, PLAN OR OTHER DOCUMENT FILED OR REQUIRED TO BE
19 MAINTAINED UNDER THIS ACT COMMITS A MISDEMEANOR OF THE THIRD
20 DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE
21 OF \$10,000 OR TO IMPRISONMENT FOR NOT MORE THAN SIX MONTHS,
22 OR BOTH.

23 SECTION 19. RIGHT TO SUE.

24 (A) STANDING.--A PERSON MAY BRING A CIVIL ACTION ON THE
25 PERSON'S OWN BEHALF AGAINST AN EMPLOYER FOR A VIOLATION OF THIS
26 ACT OR OF A RULE OR REGULATION PROMULGATED UNDER THIS ACT OR
27 AGAINST THE BOARD FOR FAILURE TO ENFORCE THIS ACT OR A RULE OR
28 REGULATION PROMULGATED UNDER THIS ACT.

29 (B) COSTS AND FEES.--A COURT OF COMPETENT JURISDICTION MAY
30 AWARD, WHENEVER IT DEEMS APPROPRIATE, COSTS OF LITIGATION,

1 INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS FEES.

2 SECTION 20. SEVERABILITY.

3 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
4 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
5 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
6 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
7 THE INVALID PROVISION OR APPLICATION.

8 Section ~~20~~ 21. Appropriation.

<—

9 The sum of \$3,000,000 is hereby appropriated to the Work
10 Environment Board to carry out the purposes of this act.

11 Section ~~21~~ 22. Effective date.

<—

12 This act shall take effect in 60 days.