

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 278 Session of  
1989INTRODUCED BY STOUT, STAPLETON, AFFLERBACH, PETERSON, SALVATORE,  
LINCOLN, O'PAKE, LEWIS AND ANDREZESKI, JANUARY 24, 1989SENATE AMENDMENTS TO HOUSE AMENDMENTS,  
NOVEMBER 21, 1990

## AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, further providing for ~~pedestrian control signals;~~ <—  
3 ~~and further providing for the prohibition against~~  
4 ~~discharging, disciplining or discriminating against an~~  
5 ~~employee for refusal to operate a motor vehicle or for filing~~  
6 ~~a complaint or instituting or testifying in a proceeding~~  
7 ~~relating to a motor vehicle safety rule.~~ FOR PROCEDURES <—  
8 RELATING TO THE DISCHARGE OF CERTAIN EMPLOYEES HOLDING  
9 COMMERCIAL DRIVER LICENSES, FOR SUSPENSION OF REGISTRATION  
10 AND OPERATING PRIVILEGES RELATING TO FAILURE TO MAINTAIN  
11 FINANCIAL RESPONSIBILITY AND FOR PEDESTRIAN-CONTROL SIGNALS.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 ~~Section 1. Title 75 of the Pennsylvania Consolidated~~ <—  
15 ~~Statutes is amended by adding a section to read:~~

16 ~~§ 1619. Prohibition against discharging, disciplining or~~  
17 ~~discriminating against employees.~~

18 ~~(a) General rule. No person shall discharge, discipline or~~  
19 ~~in any manner discriminate against any employee with respect to~~  
20 ~~the employee's compensation, terms, conditions or privileges of~~  
21 ~~employment because such employee, or person acting pursuant to a~~  
22 ~~request of the employee:~~

~~(1) refuses to operate a commercial motor vehicle which is not in compliance with the provisions of 67 Pa. Code Ch. 231 (relating to intrastate motor carrier safety requirements) and existing safety laws; or~~

~~(2) has filed any complaint or instituted or caused to be instituted any proceeding relating to a violation of a commercial motor vehicle safety rule, regulation, standard or order, or has testified or is about to testify in any such proceeding.~~

~~(b) Unsafe conditions. No person shall discharge, discipline or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury or serious impairment of health resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.~~

~~(c) Procedure.~~

~~(1) Any employee who believes he has been discharged, disciplined or otherwise discriminated against by any person in violation of subsection (a) or (b) may, within 180 days~~

1 ~~after such alleged violation occurs, file, or have filed by~~  
2 ~~any person on the employee's behalf, a complaint with the~~  
3 ~~Pennsylvania Public Utility Commission alleging such~~  
4 ~~discharge, discipline or discrimination. Upon receipt of such~~  
5 ~~a complaint, the Pennsylvania Public Utility Commission shall~~  
6 ~~notify the person named in the complaint of the filing of the~~  
7 ~~complaint.~~

8 ~~(2) (i) Within 60 days of receipt of a complaint filed~~  
9 ~~under paragraph (1), the Pennsylvania Public Utility~~  
10 ~~Commission shall conduct an investigation and determine~~  
11 ~~whether there is reasonable cause to believe that the~~  
12 ~~complaint has merit and notify the complainant and the~~  
13 ~~person alleged to have committed a violation of this~~  
14 ~~section of its findings. Where the Pennsylvania Public~~  
15 ~~Utility Commission has concluded that there is reasonable~~  
16 ~~cause to believe that a violation has occurred, its~~  
17 ~~finding shall be accompanied by a preliminary order~~  
18 ~~providing the relief prescribed by subparagraph (ii).~~  
19 ~~Thereafter, either the person alleged to have committed~~  
20 ~~the violation or the complainant may, within 30 days,~~  
21 ~~file objections to the findings or preliminary order, or~~  
22 ~~both, and request a hearing on the record, except that~~  
23 ~~the filing of such objections shall not operate to stay~~  
24 ~~any reinstatement remedy contained in the preliminary~~  
25 ~~order. Such hearings shall be expeditiously conducted.~~  
26 ~~Where a hearing is not timely requested, the preliminary~~  
27 ~~order shall be deemed a final order which is not subject~~  
28 ~~to judicial review. Upon the conclusion of such hearing,~~  
29 ~~the Pennsylvania Public Utility Commission shall issue a~~  
30 ~~final order within 120 days. In the interim, such~~

~~proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Pennsylvania Public Utility Commission, the complainant and the person alleged to have committed the violation.~~

~~(ii) If, in response to a complaint filed under paragraph (1), the Pennsylvania Public Utility Commission determines that a violation of subsection (a) or (b) has occurred, the Pennsylvania Public Utility Commission shall order:~~

~~(A) the person who committed such violation to take affirmative action to abate the violation;~~

~~(B) such person to reinstate the complainant to the complainant's former position together with the compensation, including back pay, terms, conditions and privileges of the complainant's employment; and~~

~~(C) compensatory damages.~~

~~(3) If an order is issued under paragraph (2), the Pennsylvania Public Utility Commission, at the request of the complainant may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses, including attorney fees, reasonably incurred, as determined by the Pennsylvania Public Utility Commission, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.~~

~~(d) Review of order.~~

~~(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) may obtain review of the order in the Commonwealth Court. The petition for review must be filed within 60 days from the issuance of~~

~~the Pennsylvania Public Utility Commission's order. Such review shall be in accordance with the provisions of 42 Pa.C.S. (relating to Judiciary and Judicial Procedure), and shall be heard and decided expeditiously.~~

~~(2) An order of the Pennsylvania Public Utility Commission, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.~~

~~(c) Enforcement of order. Whenever a person has failed to comply with an order issued under subsection (c)(2), the Pennsylvania Public Utility Commission shall file a civil action in the court of common pleas for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the court of common pleas shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement and compensatory damages.~~

SECTION 1. SECTIONS 1619(C), (D) AND (E) AND 1786(D) OF TITLE 75 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

§ 1619. PROHIBITION AGAINST DISCHARGING, DISCIPLINING OR DISCRIMINATING AGAINST EMPLOYEES.

\* \* \*

(C) PROCEDURE.--

(1) ANY EMPLOYEE WHO BELIEVES HE HAS BEEN DISCHARGED, DISCIPLINED OR OTHERWISE DISCRIMINATED AGAINST BY ANY PERSON IN VIOLATION OF SUBSECTION (A) OR (B) MAY, WITHIN 180 DAYS AFTER SUCH ALLEGED VIOLATION OCCURS, FILE OR HAVE FILED BY ANY PERSON ON THE EMPLOYEE'S BEHALF A COMPLAINT WITH [THE PENNSYLVANIA PUBLIC UTILITY COMMISSION] A DISTRICT JUSTICE

1 ALLEGING SUCH DISCHARGE, DISCIPLINE OR DISCRIMINATION. [UPON  
2 RECEIPT OF SUCH A COMPLAINT, THE PENNSYLVANIA PUBLIC UTILITY  
3 COMMISSION SHALL NOTIFY THE PERSON NAMED IN THE COMPLAINT OF  
4 THE FILING OF THE COMPLAINT.

5 (2) (I) WITHIN 60 DAYS OF RECEIPT OF A COMPLAINT FILED  
6 UNDER PARAGRAPH (1), THE PENNSYLVANIA PUBLIC UTILITY  
7 COMMISSION SHALL CONDUCT AN INVESTIGATION AND DETERMINE  
8 WHETHER THERE IS REASONABLE CAUSE TO BELIEVE THAT THE  
9 COMPLAINT HAS MERIT AND NOTIFY THE COMPLAINANT AND THE  
10 PERSON ALLEGED TO HAVE COMMITTED A VIOLATION OF THIS  
11 SECTION OF ITS FINDINGS. WHERE THE PENNSYLVANIA PUBLIC  
12 UTILITY COMMISSION HAS CONCLUDED THAT THERE IS REASONABLE  
13 CAUSE TO BELIEVE THAT A VIOLATION HAS OCCURRED, ITS  
14 FINDING SHALL BE ACCOMPANIED BY A PRELIMINARY ORDER  
15 PROVIDING THE RELIEF PRESCRIBED BY SUBPARAGRAPH (II).  
16 THEREAFTER, EITHER THE PERSON ALLEGED TO HAVE COMMITTED  
17 THE VIOLATION OR THE COMPLAINANT MAY, WITHIN 30 DAYS,  
18 FILE OBJECTIONS TO THE FINDINGS OR PRELIMINARY ORDER, OR  
19 BOTH, AND REQUEST A HEARING ON THE RECORD, EXCEPT THAT  
20 THE FILING OF SUCH OBJECTIONS SHALL NOT OPERATE TO STAY  
21 ANY REINSTATEMENT REMEDY CONTAINED IN THE PRELIMINARY  
22 ORDER. SUCH HEARINGS SHALL BE EXPEDITIOUSLY CONDUCTED.  
23 WHERE A HEARING IS NOT TIMELY REQUESTED, THE PRELIMINARY  
24 ORDER SHALL BE DEEMED A FINAL ORDER WHICH IS NOT SUBJECT  
25 TO JUDICIAL REVIEW. UPON THE CONCLUSION OF SUCH HEARING,  
26 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION SHALL ISSUE A  
27 FINAL ORDER WITHIN 120 DAYS. IN THE INTERIM, SUCH  
28 PROCEEDINGS MAY BE TERMINATED AT ANY TIME ON THE BASIS OF  
29 A SETTLEMENT AGREEMENT ENTERED INTO BY THE PENNSYLVANIA  
30 PUBLIC UTILITY COMMISSION, THE COMPLAINANT AND THE PERSON

1           ALLEGED TO HAVE COMMITTED THE VIOLATION.

2           (II) IF, IN RESPONSE TO A COMPLAINT FILED UNDER  
3           PARAGRAPH (1), THE PENNSYLVANIA PUBLIC UTILITY  
4           COMMISSION] ACTIONS BROUGHT UNDER THIS SECTION SHALL BE  
5           BROUGHT IN THE COURT OF COMMON PLEAS IF THE COMPLAINT  
6           STATES A CLAIM FOR DAMAGES IN EXCESS OF THE  
7           JURISDICTIONAL LIMITS PROVIDED BY 42 PA.C.S. § 1515  
8           (RELATING TO JURISDICTION AND VENUE) AND THE PLAINTIFF  
9           DECLINES TO WAIVE THE PORTION OF HIS CLAIM EXCEEDING THE  
10          JURISDICTIONAL AMOUNT.

11          (2) UPON REQUEST OF THE EMPLOYEE, THE EMPLOYER OR ANY  
12          REPRESENTATIVE OF THE EMPLOYEE OR EMPLOYER, THE PENNSYLVANIA  
13          PUBLIC UTILITY COMMISSION SHALL ASSIGN AND DIRECT AN  
14          INVESTIGATOR WITH QUALIFICATIONS IN MOTOR VEHICLE SAFETY  
15          INSPECTIONS TO EXAMINE THE VEHICLE OR VEHICLES IN QUESTION  
16          AND RENDER A SIGNED REPORT. SUCH REPORT SHALL BE PRIMA FACIE  
17          EVIDENCE OF THE FACTS AND THE CONCLUSIONS CONTAINED THEREIN,  
18          AND MAY BE INTRODUCED IN A LEGAL PROCEEDING BROUGHT UNDER  
19          THIS SECTION. ANY PARTY MAY CALL THE INVESTIGATOR AS IF ON  
20          CROSS EXAMINATION IN A LEGAL PROCEEDING BROUGHT UNDER THIS  
21          SECTION.

22          (3) IF THE DISTRICT JUSTICE OR THE COURT OF COMMON  
23          PLEAS, AFTER NOTICE AND HEARING, DETERMINES THAT A VIOLATION  
24          OF SUBSECTION (A) OR (B) HAS OCCURRED, THE [PENNSYLVANIA  
25          PUBLIC UTILITY COMMISSION] DISTRICT JUSTICE OR COURT OF  
26          COMMON PLEAS HAS THE POWER TO AND SHALL ORDER:

27                [(A)] (I) THE PERSON WHO COMMITTED SUCH  
28                VIOLATION TO TAKE AFFIRMATIVE ACTION TO ABATE THE  
29                VIOLATION;

30                [(B)] (II) SUCH PERSON TO REINSTATE THE

1 COMPLAINT TO THE COMPLAINANT'S FORMER POSITION  
2 TOGETHER WITH THE COMPENSATION, INCLUDING BACK PAY,  
3 TERMS, CONDITIONS AND PRIVILEGES OF THE COMPLAINANT'S  
4 EMPLOYMENT; AND

5 [(C)] (III) COMPENSATORY DAMAGES.

6 [(3)] (4) IF AN ORDER IS ISSUED UNDER PARAGRAPH [(2),  
7 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION] (3), THE DISTRICT  
8 JUSTICE OR COURT OF COMMON PLEAS ISSUING THE ORDER, AT THE  
9 REQUEST OF THE COMPLAINANT, MAY ASSESS AGAINST THE PERSON  
10 AGAINST WHOM THE ORDER IS ISSUED A SUM EQUAL TO THE AGGREGATE  
11 AMOUNT OF ALL COSTS AND EXPENSES, INCLUDING ATTORNEY FEES,  
12 REASONABLY INCURRED[, AS DETERMINED BY THE PENNSYLVANIA  
13 PUBLIC UTILITY COMMISSION,] BY THE COMPLAINANT FOR, OR IN  
14 CONNECTION WITH, THE BRINGING OF THE COMPLAINT UPON WHICH THE  
15 ORDER WAS ISSUED.

16 (D) REVIEW OF ORDER.--

17 [(1)] ANY PERSON ADVERSELY AFFECTED OR AGGRIEVED BY AN  
18 ORDER ISSUED AFTER A HEARING UNDER SUBSECTION (C) MAY OBTAIN  
19 REVIEW OF THE ORDER [IN THE COMMONWEALTH COURT. THE PETITION  
20 FOR REVIEW MUST BE FILED WITHIN 60 DAYS FROM THE ISSUANCE OF  
21 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION'S ORDER. SUCH  
22 REVIEW SHALL BE] IN ACCORDANCE WITH THE PROVISIONS OF 42  
23 PA.C.S. (RELATING TO JUDICIARY AND JUDICIAL PROCEDURE). [AND  
24 SHALL BE HEARD AND DECIDED EXPEDITIOUSLY.

25 (2) AN ORDER OF THE PENNSYLVANIA PUBLIC UTILITY  
26 COMMISSION, WITH RESPECT TO WHICH REVIEW COULD HAVE BEEN  
27 OBTAINED UNDER THIS SECTION, SHALL NOT BE SUBJECT TO JUDICIAL  
28 REVIEW IN ANY CRIMINAL OR OTHER CIVIL PROCEEDING.]

29 (E) ENFORCEMENT OF ORDER.--WHENEVER A PERSON HAS FAILED TO  
30 COMPLY WITH AN ORDER ISSUED UNDER SUBSECTION [(C)(2), THE



PENNSYLVANIA PUBLIC UTILITY COMMISSION SHALL FILE A CIVIL ACTION] (C)(3), AN AGGRIEVED PARTY MAY FILE A CIVIL ACTION OR SEEK AN ENFORCEMENT ORDER IN THE COURT OF COMMON PLEAS FOR THE DISTRICT IN WHICH THE VIOLATION WAS FOUND TO OCCUR IN ORDER TO ENFORCE SUCH ORDER. IN ACTIONS BROUGHT UNDER THIS SUBSECTION, THE COURT OF COMMON PLEAS SHALL HAVE JURISDICTION TO GRANT ALL APPROPRIATE RELIEF, INCLUDING INJUNCTIVE RELIEF, REINSTATEMENT AND COMPENSATORY DAMAGES.

§ 1786. REQUIRED FINANCIAL RESPONSIBILITY.

\* \* \*

(D) SUSPENSION OF REGISTRATION AND OPERATING PRIVILEGE.--THE DEPARTMENT OF TRANSPORTATION SHALL SUSPEND THE REGISTRATION OF A VEHICLE IF IT DETERMINES THE REQUIRED FINANCIAL RESPONSIBILITY [HAS] WAS NOT [BEEN] SECURED AS REQUIRED BY THIS CHAPTER AND SHALL SUSPEND THE OPERATING PRIVILEGE OF THE OWNER OR REGISTRANT FOR A PERIOD OF THREE MONTHS IF THE DEPARTMENT DETERMINES THAT THE OWNER OR REGISTRANT HAS OPERATED OR PERMITTED THE OPERATION OF THE VEHICLE WITHOUT THE REQUIRED FINANCIAL RESPONSIBILITY. THE OPERATING PRIVILEGE SHALL NOT BE RESTORED UNTIL THE RESTORATION FEE FOR OPERATING PRIVILEGE PROVIDED BY SECTION 1960 (RELATING TO REINSTATEMENT OF OPERATING PRIVILEGE OR VEHICLE REGISTRATION) IS PAID. WHENEVER THE DEPARTMENT REVOKES OR SUSPENDS THE REGISTRATION OF ANY VEHICLE UNDER THIS CHAPTER, THE DEPARTMENT SHALL NOT RESTORE THE REGISTRATION UNTIL THE VEHICLE OWNER FURNISHES PROOF OF FINANCIAL RESPONSIBILITY IN A MANNER DETERMINED BY THE DEPARTMENT AND SUBMITS AN APPLICATION FOR REGISTRATION TO THE DEPARTMENT, ACCOMPANIED BY THE FEE FOR RESTORATION OF REGISTRATION PROVIDED BY SECTION 1960. THIS SUBSECTION SHALL NOT APPLY IN THE FOLLOWING CIRCUMSTANCES:

(1) THE OWNER OR REGISTRANT PROVES TO THE SATISFACTION

1 OF THE DEPARTMENT THAT THE LAPSE IN FINANCIAL RESPONSIBILITY  
2 COVERAGE WAS FOR A PERIOD OF LESS THAN 21 DAYS AND THAT THE  
3 OWNER OR REGISTRANT DID NOT OPERATE OR PERMIT THE OPERATION  
4 OF THE VEHICLE DURING THE PERIOD OF LAPSE IN FINANCIAL  
5 RESPONSIBILITY.

6 (2) THE OWNER OR REGISTRANT IS A MEMBER OF THE ARMED  
7 SERVICES OF THE UNITED STATES, THE OWNER OR REGISTRANT HAS  
8 PREVIOUSLY HAD THE FINANCIAL RESPONSIBILITY REQUIRED BY THIS  
9 CHAPTER, FINANCIAL RESPONSIBILITY HAD LAPSED WHILE THE OWNER  
10 OR REGISTRANT WAS ON TEMPORARY, EMERGENCY DUTY AND THE  
11 VEHICLE WAS NOT OPERATED DURING THE PERIOD OF LAPSE IN  
12 FINANCIAL RESPONSIBILITY. THE EXEMPTION GRANTED BY THIS  
13 PARAGRAPH SHALL CONTINUE FOR 30 DAYS AFTER THE OWNER OR  
14 REGISTRANT RETURNS FROM DUTY AS LONG AS THE VEHICLE IS NOT  
15 OPERATED UNTIL THE REQUIRED FINANCIAL RESPONSIBILITY HAS BEEN  
16 ESTABLISHED.

17 \* \* \*

18 Section 2. Section 3113 of Title 75 is amended to read:

19 § 3113. Pedestrian-control signals.

20 (a) General rule.--Whenever special pedestrian-control  
21 signals exhibiting [the words "Walk" or "Don't Walk"] words or  
22 symbols are in place, the signals shall indicate as follows:

23 (1) Word "Walk" or walking person symbol.--Pedestrians  
24 facing the signal should proceed across the roadway in the  
25 direction of the signal and shall be given the right-of-way  
26 by the drivers of all vehicles.

27 (2) Phrase "Don't Walk" or upraised hand symbol.--  
28 Pedestrians should not start to cross the roadway in the  
29 direction of the signal, but any pedestrian who has partially  
30 completed his crossing on the "Walk" signal should proceed to

1 a sidewalk or safety zone while the "Don't Walk" signal is  
2 showing.

3 (3) Flashing "Walk".--[Whenever the "Walk" indication is  
4 flashing, pedestrians] Pedestrians facing the signal are  
5 cautioned that there is possible hazard from turning  
6 vehicles, but pedestrians may proceed across the roadway in  
7 the direction of the signal [indication] and shall be given  
8 the right-of-way by the drivers of all vehicles.

9 (4) Flashing "Don't Walk" Signal.--[Whenever the "Don't  
10 Walk" indication is flashing, pedestrians] Pedestrians should  
11 not start to cross the roadway in the direction of the  
12 [indication] signal, but any pedestrian who has partly  
13 completed crossing during the "Walk" [indication] signal  
14 should proceed to a sidewalk or safety zone, and all drivers  
15 of vehicles shall yield to the pedestrian.

16 (b) Local regulation.--This section does not prohibit a  
17 municipality from establishing a summary offense for violation  
18 of subsection (a)(2) or (4).

19 ~~Section 3. Section 21 of the act of May 30, 1990 (P.L.173,~~ <—  
20 ~~No.42), entitled "An act amending Title 75 (Vehicles) of the~~  
21 ~~Pennsylvania Consolidated Statutes, further providing for~~  
22 ~~payment of fees and taxes when applying for a certificate of~~  
23 ~~title; providing for commercial drivers; further providing for~~  
24 ~~buses, for antique and classic vehicles, for exemptions from~~  
25 ~~licensing, for classes of licenses, for school bus drivers, for~~  
26 ~~issuance and content of driver's license, for production of a~~  
27 ~~driver's license or evidence to avoid certain penalties, for~~  
28 ~~revocation or suspension of operating privilege, for schedule of~~  
29 ~~convictions and points, for surrender of license, for chemical~~  
30 ~~testing to determine amount of alcohol or controlled substance,~~

1 ~~for occupational limited licenses, for judicial review, for~~  
2 ~~violations concerning licenses, for driving under foreign~~  
3 ~~license during suspension or revocation, for certain~~  
4 ~~indemnification payments; providing for the registration of~~  
5 ~~limousines; authorizing dealers of motor carrier vehicles and~~  
6 ~~designated agents of the Department of Transportation to be~~  
7 ~~agents for the Department of Revenue for certain purposes~~  
8 ~~relating to the motor carrier road tax identification marker;~~  
9 ~~further providing for penalties, for operation of certain~~  
10 ~~vehicles without required identification markers for reckless~~  
11 ~~driving, for driving under the influence of alcohol or~~  
12 ~~controlled substance, for enforcement agreements and for reports~~  
13 ~~by courts; and providing for careless driving," is repealed.~~

14 ~~Section 4. This act shall take effect in 60 days.~~

15 SECTION 3. THE AMENDMENTS AFFECTING 75 PA.C.S. § 1786(D) <—  
16 SHALL BE RETROACTIVE TO JULY 1, 1990.

17 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.