

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 307** Session of
1997

INTRODUCED BY KASUNIC, ARMSTRONG, STOUT, RHOADES, COSTA,
STAPLETON, SCHWARTZ, HART, HELFRICK, AFFLERBACH, O'PAKE AND
BELAN, JANUARY 29, 1997

SENATE AMENDMENTS TO HOUSE AMENDMENTS, DECEMBER 9, 1997

AN ACT

1 Prohibiting termination and discipline of an employee for
2 failing to report to work during a state of emergency; and
3 providing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Definitions.

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

10 "Discipline." The taking of any action against an employee
11 which adversely affects his regular pay, his job status or
12 opportunity for promotion or his right to any benefit granted by
13 the employer to other similarly situated employees.

14 Section 2. Termination or discipline of employees.

15 An employer may not terminate or discipline an employee for
16 failing to report to work due to a closure of the roads in the
17 county of the employer's place of business or the county of the
18 employee's residence resulting from a state of emergency

1 declared by the Governor under 35 Pa.C.S. § 7301 (relating to
2 general authority of Governor) or 75 Pa.C.S. § 6108 (relating to
3 power of Governor during emergency).

4 Section 3. Payment not required.

5 An employer shall not be required to pay an employee for a
6 work day on which the employee fails to report to work due to
7 road closures.

8 Section 4. Remedies.

9 (a) Civil action.--An employee may bring an action against
10 an employer for a violation of section 2.

11 (b) Limitation.--Notwithstanding 42 Pa.C.S. § 5524(7)
12 (relating to two year limitation), an action under this section
13 must be commenced within 90 days of the date the cause of action
14 arises.

15 (c) Elements.--To recover under this section, an employee
16 must prove by a preponderance of the evidence that the employer
17 intentionally and knowingly violated section 2.

18 (d) Defense.--It shall be a defense to an action under this
19 section if the employer proves by a preponderance of the
20 evidence that the action by the employer occurred for a
21 legitimate reason separate from the failure to report under
22 section 2.

23 (e) Relief.--If an employee is successful in an action under
24 this section, the court may order any of the following:

25 (1) An injunction ordering the employer to:

26 (i) revoke the disciplinary action or penalty; and

27 (ii) if necessary, reinstate the employee.

28 (2) Damages in the amount of wages and benefits lost
29 from the time of the violation to the time of compliance with
30 the injunction under paragraph (1).

1 (f) Costs and fees.--If an employee is successful in an
2 action under this section, the court may award the employee
3 court costs and reasonable attorney fees.

4 Section 5. Applicability.

5 This act shall not affect drivers of emergency vehicles,
6 ESSENTIAL CORRECTIONS PERSONNEL, police, emergency service <—
7 personnel, hospital and nursing home staffs, pharmacists,
8 essential health care professionals, public utility personnel,
9 EMPLOYEES OF RADIO OR TELEVISION STATIONS ENGAGED IN THE <—
10 GATHERING AND DISSEMINATION OF NEWS, road crews and oil and milk
11 truck delivery personnel.

12 Section 6. Effective date.

13 This act shall take effect in 60 days.