

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 218 Session of
2007

INTRODUCED BY COHEN, BELFANTI, JOSEPHS, BLACKWELL, CALTAGIRONE,
CURRY, DALEY, FREEMAN, GEORGE, GIBBONS, GOODMAN, GRUCELA,
JAMES, KULA, LEACH, MAHONEY, MELIO, MUNDY, M. O'BRIEN,
PETRONE, SIPTROTH, SOLOBAY, STABACK, SURRA, TANGRETTI, WALKO,
WATERS AND YOUNGBLOOD, FEBRUARY 5, 2007

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 5, 2007

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing penalties," further providing for schedule of
8 compensation.

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

11 Section 1. Section 306 of the act of June 2, 1915 (P.L.736,
12 No.338), known as the Workers' Compensation Act, reenacted and
13 amended June 21, 1939 (P.L.520, No.281), is amended by adding a
14 subsection to read:

15 Section 306. The following schedule of compensation is
16 hereby established:

17 * * *

18 (a.3) (1) Where an employe has suffered an injury which
19 results from the employer's reckless, wilful or wanton disregard

1 for the safety of the employee, or results from employer's
2 intentional misconduct, the employee, his legal representative,
3 husband or wife, parents, dependents, next of kin or anyone
4 otherwise entitled to damages shall have a cause of action
5 against the employer.

6 (2) An employee, his legal representative, husband or wife,
7 parents, dependents, next of kin and anyone else entitled to
8 damages and any cause of action or otherwise on account of
9 injury or death shall have the right of action against the
10 employer for failure to maintain proper duty of care by a
11 physician conducting an independent medical examination.

12 (3) In any action brought to recover damages for a personal
13 injury under this section, or for death resulting from such
14 injury, it shall not be a defense:

15 (i) that the injury was caused in whole or in part by the
16 negligence of a fellow employee;

17 (ii) that the employee has assumed the risk of the injury; or

18 (iii) that the injury was caused in any degree by the
19 negligence of such employee, unless it can be established that
20 the injury was caused by such employee's intoxication or by his
21 reckless indifference to danger. The burden of proving such
22 intoxication or reckless indifference to danger shall be upon
23 the employer and the question shall be one of fact to be
24 determined by the jury.

25 * * *

26 Section 2. Notwithstanding any other provision of law, if an
27 injury is caused by an employer's failure to provide a safety
28 appliance or device or to educate the employee in safety rules
29 known throughout the industry, the compensation otherwise due to
30 the employee under this act shall be increased by 50%.

1 Section 3. This act shall take effect in 60 days.