

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 695 Session of
2021

INTRODUCED BY TARTAGLIONE, SCHWANK, KANE, FONTANA, HUGHES,
KEARNEY, COMITTA, COSTA, YUDICHAK AND SAVAL, MAY 19, 2021

REFERRED TO LABOR AND INDUSTRY, MAY 19, 2021

AN ACT

1 Providing for regulation of the meat packing and food processing
2 industry by creating facility health and safety committees in
3 the workplace; establishing the industry workers' rights
4 coordinator within the Department of Labor and Industry; and
5 providing for public health emergency protections for
6 workers.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Meat Packing
11 and Food Processing Protection Act.

12 Section 2. Definitions.

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

16 "Department." The Department of Labor and Industry of the
17 Commonwealth.

18 "Employee." An individual who is employed by a meatpacking,
19 meat processing or food processing facility licensed under the
20 act of July 9, 1968 (P.L.304, No.151), known as Pennsylvania

1 Meat and Poultry Hygiene Law of 1968.

2 "Employer." A business located in this Commonwealth and
3 licensed under the Pennsylvania Meat and Poultry Hygiene Law of
4 1968.

5 "Facility." The location of an employer that the employees
6 perform job-related duties or the following occurs, but not
7 limited to:

8 (1) slaughtering or butchering;

9 (2) meat canning, meatpacking or meat manufacturing;

10 (3) poultry canning, packing or manufacturing;

11 (4) pet food manufacturing;

12 (5) egg production;

13 (6) processing of meatpacking products;

14 (7) commercial packaging; or

15 (8) the making, cooking, mixing, processing, bottling,
16 baking, canning, freezing, packing or rendering of meat
17 products.

18 "Facility health and safety committee" or "committee." A
19 committee authorized and established under section 5.

20 "Industry workers' rights coordinator" or "coordinator." The
21 coordinator appointed by the secretary under section 5(j).

22 "Public health emergency." One or more of the following
23 occurrences:

24 (1) Imminent threat of an illness or health condition
25 caused by epidemic or pandemic disease.

26 (2) A novel and highly fatal infectious agent or
27 biological toxin that poses a substantial risk of a
28 significant number of human fatalities or permanent or long-
29 term disability.

30 (3) A declaration by the Governor of disaster emergency

1 under 35 Pa.C.S. section 7301(c) (relating to general
2 authority of Governor) issued because of an occurrence
3 described in paragraph (1) or (2).

4 (4) A Federal public health emergency declared by the
5 Secretary of Health and Human Services.

6 (5) A national public health emergency declared by the
7 President of the United States.

8 "Secretary." The Secretary of Labor and Industry of the
9 Commonwealth.

10 Section 3. Training provided by employer.

11 (a) General rule.--Upon hire, an employer must provide to an
12 employee in the language that the employee speaks, if at least
13 5% of the employer's workforce speaks the language, information
14 on the following:

15 (1) Health risks directly associated with the duties of
16 employment, including repetitive strain injuries,
17 musculoskeletal disorders and respiratory hazards.

18 (2) The employee's right to seek medical care for
19 injuries that occur as a result of employment.

20 (3) A summary of the rights and requirements under the
21 Occupational Safety and Health Act of 1970 (Public Law 91-
22 596, 29 U.S.C. § 651 et seq.) and related Federal
23 regulations.

24 (4) The facility health and safety committee established
25 under section 5.

26 (5) The employee's right to paid sick time off as
27 provided under section 4.

28 (b) Training provided.--

29 (1) An employer shall provide worker safety training to
30 new employees during normal working hours and at the standard

1 rate of compensation.

2 (2) Training shall be available in languages spoken by
3 at least 5% of employees.

4 (3) Training shall be provided without a penalty imposed
5 by the employer.

6 (4) An employee shall have the right to additional
7 training, upon request, within 30 days of the employee's hire
8 date.

9 Section 4. Sick and medical benefits.

10 (a) Paid sick time.--

11 (1) An employer shall provide its employees who work
12 full time not less than seven paid sick days, paid at the
13 regular rate of pay, to be used for illness or injury
14 annually. Paid sick time may be used for care to the employee
15 or for care to a sick or injured immediate family member.
16 Unused paid sick time shall carry forward to the next
17 calendar year.

18 (2) An employer shall provide employees who work part-
19 time five paid sick days, paid at the regular rate of pay, to
20 be used for illness or injury annually. Paid sick time may be
21 used to care for the employee or to care for a sick or
22 injured immediate family member. Unused paid sick time shall
23 carry forward to the next calendar year.

24 (b) Medical transportation.--If an employee is injured or
25 becomes ill at the facility as a result of duties associated
26 with the employee's employment and requires immediate emergency
27 medical attention that cannot be acquired from an on-site
28 licensed medical professional, the employer shall pay for out-
29 of-pocket expenses not covered by an insurance plan associated
30 with the emergency medical transportation.

1 (c) Penalties prohibited.--An employer may not penalize an
2 employee who exercises the employee's rights under this section.
3 Section 5. Facility health and safety committee.

4 (a) Establishment.--An employer shall establish and
5 administer a joint labor-management facility health and safety
6 committee to help reduce the risk of injury and unsafe
7 conditions at the facility.

8 (b) Committee membership.--

9 (1) The committee membership shall represent all primary
10 operations of the workplace.

11 (2) The committees shall be composed of a minimum of two
12 employer-representatives and a minimum of two employee
13 representatives.

14 (3) Employer-representatives must be individuals who,
15 regardless of job title or labor organization affiliation,
16 and based upon an examination of that individual's authority
17 or responsibility, perform one or more of the following
18 duties:

19 (i) Select or hire an employee.

20 (ii) Remove or terminate an employee.

21 (iii) Direct the manner of employee performance.

22 (iv) Control an employee.

23 (4) Employee-representatives must be individuals who
24 perform services for an employer for valuable consideration
25 and do not possess the authority or responsibility described
26 in paragraph (3).

27 (5) An individual may not function as both an employer-
28 representative and an employee representative.

29 (6) If a collective bargaining agreement is in place at
30 the facility:

1 (i) Paragraph (4) shall not apply.

2 (ii) The union may select the employee-
3 representatives.

4 (iii) Employee-representatives may be union
5 representatives who are not employees at the facility.

6 (c) Committee formation.--

7 (1) An employer that has only one workplace within this
8 Commonwealth shall form a single workplace safety committee
9 at the workplace.

10 (2) An employer that has more than one workplace within
11 this Commonwealth shall form separate and individual safety
12 committees at each facility within this Commonwealth.

13 (3) The committee shall be composed of at least an equal
14 number of employer and employee representatives.

15 (4) The committee shall establish procedures that retain
16 a core group of experienced members to serve on the committee
17 at all times.

18 (5) Employee representatives of the committees shall:

19 (i) Be permitted to take reasonable time from work
20 to perform committee duties, without loss of pay or
21 benefits.

22 (ii) Join the committee for a continuous term of one
23 year from the date of the first meeting attended.

24 (d) Committee responsibilities.--The facility health and
25 safety committee shall have responsibilities of:

26 (1) Representing the accident and illness prevention
27 concerns of employees for the employer.

28 (2) Reviewing the employer's hazard detection and
29 accident and illness prevention programs and formulating
30 written proposals.

1 (3) Establishing procedures for periodic workplace
2 inspections by the committee for the purpose of locating and
3 identifying health and safety hazards. The locations and
4 identity of hazards shall be documented in writing, and the
5 committee shall make proposals to the employer regarding
6 correction of the hazards.

7 (4) Conducting review of incidents resulting in work-
8 related deaths, injuries and illnesses and of complaints
9 regarding health and safety hazards made by committee members
10 or other employees.

11 (5) Conducting follow-up evaluations of newly
12 implemented health and safety equipment or health and safety
13 procedures to assess effectiveness.

14 (6) Establishing a system to allow the committee members
15 to obtain safety-related proposals, reports of hazards or
16 other information directly from individuals involved in the
17 operation of the workplace.

18 (7) Developing operating procedures, including rules or
19 bylaws prescribing the committees' duties.

20 (8) Developing and maintaining membership lists.

21 (9) Developing a written agenda for meetings.

22 (10) Maintaining committee meeting attendance lists.

23 (11) Taking and maintaining minutes of a committee
24 meeting that the employer shall review. Copies of minutes
25 shall be posted or made available for all employees and shall
26 be sent to each committee member.

27 (12) Ensuring that the reports, evaluations and
28 proposals of the committees become part of the minutes of the
29 meeting which shall include:

30 (i) Inspection reports.

1 (ii) Reports on specific hazards and corrective
2 measures taken.

3 (iii) Reports on workplace injuries or illnesses.

4 (iv) Management responses to committee reports.

5 (e) Committee meetings.--

6 (1) A quorum of committee members shall meet at least
7 monthly. A quorum shall consist of at least two-thirds
8 membership being present.

9 (2) All decisions made by the committee at a meeting
10 shall be made by a majority vote.

11 (f) Committee member training.--The employer shall provide
12 adequate, annual training programs for each committee member.
13 Committee member training shall at a minimum address:

14 (1) Hazard detection and inspection.

15 (2) Accident and illness prevention and investigation,
16 including substance abuse awareness and prevention training,
17 safety committee structure and operation.

18 (3) Other health and safety concerns specific to the
19 business of the employer.

20 (g) Committee training records.--An employer shall provide
21 verification of trainer qualifications to the industry workers'
22 rights coordinator appointed under subsection (j) and supplying,
23 as necessary, documentation supporting individual trainer
24 qualifications. The employer shall maintain written records of
25 facility health and safety committee training including:

26 (1) The names of committee members trained.

27 (2) The dates of training.

28 (3) The training time period.

29 (4) The training methodology.

30 (5) The names and credentials of personnel conducting

1 the training.

2 (6) The names of training organizations sponsoring
3 training, if applicable.

4 (7) The training location.

5 (8) The training topics.

6 (h) Interference prohibited.--No employer may interfere with
7 the selection of employee representatives to serve on the
8 committee or the ability for employee representatives to perform
9 the duties authorized under this section.

10 (i) Loss of pay prohibited during training.--An employer
11 shall permit committee members to attend a training without loss
12 of pay.

13 (j) Industry workers' rights coordinator.--

14 (1) The secretary shall appoint in the department an
15 industry workers' rights coordinator to help enforce this
16 section.

17 (2) The coordinator shall review and investigate
18 complaints and make recommendations on worker health and
19 safety standards of employers in this Commonwealth.

20 (3) An employer shall provide the coordinator full
21 access to facility operations at times that employees are
22 performing job-related duties at the facility.

23 (4) The coordinator, either on the coordinator's
24 initiative or in response to a complaint, shall investigate
25 an employer's compliance with this section.

26 Section 6. Public health emergency response.

27 (a) General rule.--After a declaration of a public health
28 emergency, in consultation with the Secretary of Health, the
29 department shall create and publish, in English, Spanish and any
30 language spoken by at least 5% of the workforce in this

1 Commonwealth, a model infectious disease exposure prevention
2 plan and a model infectious disease exposure prevention standard
3 to address the public health emergency specific to the
4 meatpacking and food processing industry to prevent infectious
5 disease exposure and spread, and to protect employees and the
6 food chain from exposure to infectious disease.

7 (b) Plan contents.--

8 (1) Each model infectious disease exposure prevention
9 plan and model infectious disease exposure prevention
10 standard shall take into account the types of risks present
11 at industry facilities including:

12 (i) A facility's maximum occupancy.

13 (ii) The proximity of workstations to each other and
14 the proximity of employees to each other.

15 (iii) Access to personal protective equipment.

16 (iv) The ability to socially distance while
17 performing job duties.

18 (2) Each model infectious disease exposure prevention
19 plan and model infectious disease exposure prevention
20 standard shall take into consideration all applicable
21 Federal, State and local established standards.

22 (3) The models shall include establishing requirements
23 on procedures and methods for:

24 (i) Employee health screenings.

25 (ii) Face coverings at no cost to the employee.

26 (iii) Required personal protective equipment
27 applicable to the industry for eyes, face, head and
28 extremities, protective clothing, respiratory devices and
29 protective shields and barriers that shall be provided,
30 used and maintained in a sanitary and reliable condition

1 at the expense of the employer.

2 (iv) Accessible facility hand hygiene stations to
3 maintain healthy hand hygiene and that employers provide
4 adequate break times for workers to use hand-washing
5 facilities as needed.

6 (v) Regular cleaning and disinfecting of shared
7 equipment and frequently touched surfaces, including
8 workstations, equipment, door handles, railings and all
9 surfaces and washable items in other high-risk areas
10 including restrooms, dining areas, break rooms and locker
11 rooms.

12 (vi) Effective social distancing for employees as
13 the risk of illness may warrant, including options for
14 social distancing including sign postage or markers,
15 increasing physical space between workers at the
16 facility, limiting the maximum occupancy of facilities,
17 reconfiguring spaces where workers congregate or
18 implementing flexible work hours such as staggered
19 shifts.

20 (vii) Compliance with mandatory or precautionary
21 orders of isolation or quarantine that have been issued
22 to employees.

23 (viii) Compliance with applicable engineering
24 controls including proper air flow, exhaust ventilation
25 or other special design requirements.

26 (ix) Designation of one or more supervisory
27 employees to enforce compliance with the infectious
28 disease exposure prevention plan and other Federal, State
29 or local guidance related to avoidance of spreading an
30 infectious disease as applicable to employees.

(x) Compliance with applicable laws, rules, regulations, standards or guidance on notification to employees and relevant Federal, State and local agencies of potential exposure to infectious disease at the facility.

(xi) Verbal review of infectious disease standards, employer policies and employee rights under this section, including an employee's right to an interpreter for the purpose of reviewing infectious disease standards.

(xii) Anti-retaliation provisions.

Section 7. Employer duties during public health emergency.

(a) Adoption of plan.--

(1) Upon declaration of a public health emergency, an employer shall adopt an infectious disease exposure prevention plan either through adopting the model infectious disease exposure prevention plan developed by the department under section 6 that applies to the employer's industry or by designing, adopting and implementing an infectious disease exposure prevention plan that equals or exceeds the model plan developed by the department.

(2) If the employer does not adopt the model plan, the adopted plan shall be made in consultation with the designee from the collective bargaining agreement, if any, and the facility health and safety committee.

(b) Distribution of plan to employees.--

(1) Employers shall distribute, in writing, the infectious disease prevention plan adopted under subsection (a) to each employee in the language that the employee speaks, for each language spoken by at least 5% of the workforce.

1 (2) The infectious disease prevention plan shall be
2 posted in visible and prominent locations within the
3 facility, including break areas, restrooms, dining areas and
4 locker rooms.

5 (c) Adverse action prohibited.--No employer or employer's
6 agent shall threaten, retaliate against or take adverse action
7 against an employee for:

8 (1) Exercising the employee's rights under this section
9 or under the applicable infectious disease exposure
10 prevention plan.

11 (2) Reporting violations of this section or the
12 applicable infectious disease exposure prevention plan to a
13 Federal, State or local government entity, public officer or
14 elected official.

15 (3) Reporting an infectious disease exposure concern to,
16 or seeking assistance or intervention with respect to
17 airborne infectious disease exposure concerns, to the
18 employer, Federal, State or local government entity, public
19 officer or elected official.

20 (4) Refusing to work where the employee reasonably
21 believes, in good faith, that the work exposes the employee,
22 or other workers or the public, to an unreasonable risk of
23 exposure to an infectious disease due to the existence of
24 working conditions that are inconsistent with law, rule,
25 policy or order of a governmental entity, including the
26 minimum standards provided by the model infectious disease
27 exposure prevention standard, if:

28 (i) the employee, another employee or employee
29 representative notified the employer of the inconsistent
30 working conditions and the employer failed to cure the

1 conditions; or

2 (ii) the employer had or should have had reason to
3 know about the inconsistent working conditions and
4 maintained the inconsistent working conditions.

5 Section 8. Public health emergency paid sick time.

6 (a) Adoption of policy required.--

7 (1) During a public health emergency, an employer shall
8 adopt a paid sick time policy that provides not less than 80
9 additional hours to an employee to be used for an employee's
10 or immediate family member's exposure or infection to the
11 infectious disease related to the declaration.

12 (2) Public health emergency paid sick time shall be paid
13 at the regular rate of pay received.

14 (3) An employer may not require an employee to use paid
15 sick time provided under section 4 before utilizing public
16 health emergency paid sick time as provided under this
17 section.

18 (4) Public health emergency paid sick time may not be
19 carried forward and shall cease at the expiration of the
20 declaration of the public health emergency.

21 (5) An employer may not penalize an employee who
22 exercises the employee's rights under this section.

23 Section 9. Enforcement and penalties.

24 (a) Employer failure to comply.--

25 (1) Upon investigation and a determination by the
26 department that an employer failed to comply with the
27 provisions of section 5, the department may assess a civil
28 penalty of \$500 per day until the failure is cured. If the
29 employer does not cure the failure within 10 days, the
30 department may assess a civil penalty of not more than

1 \$10,000 per day for every day exceeding 10 days.

2 (2) Upon investigation and determination that an
3 employer has failed to comply with the provisions of section
4 7, the department may assess a civil penalty of \$500 per day
5 that the employer fails to adopt an infectious disease
6 exposure prevention plan, not to exceed \$100,000 for failure
7 to comply with an adopted infectious disease exposure
8 prevention plan.

9 (b) Civil actions.--

10 (1) An employee may bring a civil action seeking
11 injunctive relief in a court of competent jurisdiction
12 against an employer alleged to have violated the infectious
13 disease exposure prevention plan in a manner that creates a
14 substantial probability that death or serious physical harm
15 could result from a condition which exists, unless the
16 employer did not and could not, with the exercise of
17 reasonable diligence, know of the presence of the violation.

18 (2) The court shall have jurisdiction to restrain the
19 violation and to order all appropriate relief, including
20 enjoining the conduct of the employer, awarding costs and
21 reasonable attorney fees to the employee and ordering payment
22 of liquidated damages of no greater than \$10,000, unless the
23 employer can demonstrate a good faith belief that the
24 established and implemented health and safety measures were
25 in compliance with the applicable infectious disease exposure
26 prevention standard.

27 Section 10. Rules and regulations.

28 The department may promulgate rules and regulations as
29 necessary to carry out the provisions of this act.

30 Section 11. Collective bargaining agreements.

1 Nothing in this act shall be construed to diminish the
2 rights, privileges or remedies of an employee under a collective
3 bargaining agreement. The provisions of this act may be waived
4 by a collective bargaining agreement provided that, for the
5 waiver to be valid, the waiver explicitly references the section
6 of this act that is waived.

7 Section 12. Abrogation of regulations.

8 Any and all regulations are abrogated to the extent of any
9 inconsistency with this act.

10 Section 13. Effective date.

11 This act shall take effect in 90 days.