AN ACT

Providing for workplace health and safety standards for public employees and for powers and duties of the Secretary of Labor and Industry; establishing the Pennsylvania Occupational Safety and Health Review Board; providing for workplace inspections; and imposing penalties.

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

Section 1. Short title.

This act shall be known and may be cited as the Public Employees Occupational Safety and Health Act.

Section 2. Legislative intent.

The General Assembly hereby declares as follows:

(1) It is a basic right of all employees to work in an environment that is free from hazards and risks to their safety. It is the intent of the General Assembly to ensure that this right is also afforded to employees of the Commonwealth, its counties, cities, towns, boroughs and other public employers who serve the people of this Commonwealth.

(2) A significant percentage of employees in this Commonwealth are employed by the Commonwealth or by one of its political subdivisions. Many of these public employees perform job functions comparable to those performed by workers in the private sector who are protected by the Occupational Safety and Health Act of 1970. The General
Assembly, therefore, finds it inappropriate to continue two standards for employee safety, one applicable to those who work in the private sector and one for those who are employed by a public employer.

(3) The General Assembly has further determined that a safe place in which to work is economically advantageous to employers. Work-related accidents and injuries and the absences caused thereby decrease employee productivity and increase workers' compensation costs. In addition, unsafe premises increase the risk of financial liability for injuries to members of the public who frequent public buildings.

(4) The General Assembly, in an exercise of the Commonwealth's police power, charges the secretary with the responsibility to ensure that all public employees are afforded the same safeguards in their workplace as are granted to employees in the private sector.

Section 3. Definitions.

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

"Authorized employee representative." An employee authorized by employees or the designated representative of an employee organization recognized or certified to represent the employees.

"Employee." An individual employed by a public employer.

"Employee organization." An organization of any kind, or an agency or employee representation committee or plan in which membership includes public employees, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates
of pay, hours of employment or conditions of work. The term does not include an organization that practices discrimination in membership because of race, color, creed, national origin or political affiliation.

"Employer." The Commonwealth, any of its political subdivisions, including a school district, and any office, board, commission, agency, authority, local transportation organization or other instrumentality or nonprofit organization or institution or a charitable, religious, scientific, literary, recreational, health, educational or welfare institution receiving grants or appropriations from Federal, State or local government. The term does not include an employer covered or presently subject to coverage under the Occupational Safety and Health Act of 1970.


"Occupational safety and health standard." A standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations or processes, reasonably necessary or appropriate to provide safe or healthful employment in places of employment.

"Person." An individual, partnership, association, corporation, business trust, legal representative or an organized group of individuals, partnerships, associations, corporations, business trusts or legal representatives.


"Secretary." The Secretary of Labor and Industry of the Commonwealth or a designated agent.
(a) General rule.--Each occupational safety or health standard promulgated under this act shall apply to all public employers and public employees, and the secretary shall have authority to enforce the standards in accordance with this act.

(b) Statutory and common law rights preserved.--Nothing in this act shall be construed to supersede or in any manner affect any workers' compensation law or to enlarge, diminish or affect in any manner common law or statutory rights, duties or liabilities of employers or employees under any law with respect to injuries, diseases or death of employees arising out of and in the course of employment.

(c) Employees not covered by Federal standard.--Notwithstanding any other provision in this act, an occupational safety or health standard promulgated under this act shall apply only to employees not covered by a Federal occupational safety or health standard promulgated under 29 U.S.C. § 655 (relating to standards) or amendments thereto.

Section 5. Employer duties.

(a) General rule.--An employer shall furnish to each employee:

(1) Employment.

(2) A place of employment:

   (i) Free from recognized hazards that are causing or are likely to cause death or serious physical harm.

   (ii) Which will provide reasonable and adequate protection to the lives, safety or health of the employees.

(b) Compliance with act.--An employer shall comply with the occupational safety and health standards promulgated under this act.
(c) Written statement of substances.--An employer shall, upon the written request of an employee, furnish the employee with a written statement listing the substances the employee uses or with which the employee comes into contact that have been identified as toxic or hazardous by occupational safety and health standards under 29 CFR Pt. 1910 Subpt. H (relating to hazardous materials) or under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, or both.

(d) Law compliance with regulations and orders.--An employee and employer shall comply with occupational safety and health standards and all rules, regulations and orders issued under this act which are applicable to the employer's or employee's own actions and conduct.

(e) State plan for standards.--The Commonwealth shall promulgate a plan for the development and enforcement of occupational safety and health standards with respect only to public employers and employees, in accordance with 29 U.S.C. § 667(b) (relating to state jurisdiction and plans).

Section 6. Regulations.

The secretary may promulgate regulations to administer and enforce this act and shall:

(1) Prepare, adopt, amend or repeal regulations governing the conditions of employment of general and special application in all workplaces.

(2) Provide:

(i) A method of encouraging employers and employees in efforts to reduce the number of safety and health hazards arising from undesirable or inappropriate working conditions at the workplace.

(ii) A method of stimulating employers and employees
to institute new or to perfect existing programs for safe and healthful working conditions.

(3) Provide for appropriate reporting procedures by employers with respect to information relating to conditions of employment that will assist in achieving the objectives of this act.

(4) Provide for the frequency, method and manner of making inspections of workplaces without advance notice. In the event of an emergency or unusual situation, the secretary may give advance notice.

(5) Publish and disseminate to employers, employees, organizations representing employees and labor organizations and ensure the posting, where appropriate, by employers of informational, educational or training materials designed to aid and assist in achieving the objectives of this act.

(6) Provide for the establishment of new and the perfection and expansion of existing programs for occupational safety and health education for employers and employees and institute methods and procedures for the establishment of a program for voluntary compliance by employers and employees with the requirements of this act and all applicable occupational safety and health standards and regulations promulgated under this act.

Section 7. Standards.

(a) General rule.--The secretary shall, by regulation, adopt all occupational safety and health standards, amendments or changes adopted or recognized by the United States Secretary of Labor under the authority of the Occupational Safety and Health Act of 1970 in order to provide reasonable and adequate protection to the lives, safety and health of public employees.
Except as provided under subsection (b), the secretary shall promulgate and repeal regulations as necessary to conform to the standards established under the Occupational Safety and Health Act of 1970. Where no Federal standards are applicable, the secretary shall provide for the development of State standards as necessary in special circumstances.

(b) Interstate commerce.--The secretary may not adopt standards for products distributed or used in interstate commerce which are different from Federal standards for products unless the standards are required by compelling local conditions and do not unduly burden interstate commerce.

(c) Challenge to standard or regulation.--A person who may be adversely affected by a standard or regulation issued under this act may challenge the validity or application of the standard or regulation by bringing an action for declaratory judgment.

Section 8. Variances.

(a) Variance procedure.--

(1) A public employer may apply to the secretary for a temporary order granting a variance from a standard or a provision promulgated under this act. A temporary order shall be granted only if the employer files an application that meets the requirements of subsection (b) and establishes all of the following:

(i) The employer is unable to comply with a standard by the standard's effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the
effective date.

(ii) The employer is taking all available steps to safeguard employees against the hazards covered by the standard.

(iii) The employer has an effective program for complying with the standard as quickly as practicable.

(2) (i) A temporary order issued under this section shall prescribe the practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect and state in detail the employer's program for complying with the standard.

(ii) A temporary order may be granted only after notice to employees and an opportunity for a hearing. The secretary may issue one interim order to be effective until a decision is made on the basis of a hearing.

(iii) A temporary order may not be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter. An order may be renewed not more than twice so long as the requirements of this section are met and an application for renewal is filed at least 90 days prior to the expiration date of the order.

(iv) An interim renewal of an order may not remain in effect longer than 180 days.

(b) Contents of application for variance.—An application for a temporary variance order shall contain all of the following:

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

(2) A representation by the employer, supported by
representations from qualified persons who have firsthand
knowledge of the facts represented, that the employer is
unable to comply with the standard or portion and a detailed
statement of the reasons.

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

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

(5) A certification that the employer has informed the
employees of the application by giving a copy of the
application to the authorized employee representative,
posting a statement giving a summary of the application and
specifying where a copy may be examined at the place or
places where notices to employees are normally posted, and by
other appropriate means. A description of how employees have
been informed shall be contained in the certification. The
information to employees shall also inform them of the right
to petition the secretary for a hearing.

(c) Variance for experimental program.--The secretary may
grant a variance from any standard or portion whenever the
secretary determines that a variance is necessary to permit an
employer to participate in an experimental program approved by
the secretary, which is designed to demonstrate or validate new
and improved techniques to safeguard the health or safety of
workers.

(d) Hearing and order.--

(1) An affected employer may apply to the secretary for
a rule or order for a variance from a standard promulgated under this act. Affected employees shall be given notice of each application and an opportunity to participate in a hearing.

(2) The secretary shall issue a rule or order if the secretary determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment which are as safe and healthful as those which would prevail if the employer complied with the standard. The rule or order shall prescribe the conditions the employer must maintain and the practices, means, methods, operations and processes which the employer must adopt and utilize to the extent they differ from the standard in question.

(3) A rule or order may be modified or revoked upon application by an employer, an employee, an authorized employee representative or by the secretary on the secretary's own motion, in the manner prescribed for issuance under this section at any time after six months from the date the rule or order was entered.

(e) Challenge to standard or regulation.--A person who may be adversely affected by a standard or regulation issued under this section may challenge the validity or applicability of the standard or regulation by bringing an action for declaratory judgment.

(a) Establishment.--The Pennsylvania Occupational Safety and Health Review Board is established to have and exercise the powers, duties and prerogatives under this act. The review board shall consist of five persons appointed by the Governor from among persons who by reason of training, education or experience are qualified to carry out the functions of the review board.

(b) Terms of members.--Each member shall serve a term of four years and until the member's successor is appointed. The Governor shall designate one of the members to serve as chairperson.

(c) Power to hear appeals.--A member of the review board shall hear and rule on appeals from compliance orders, notifications and penalties issued under this act. The secretary shall adopt and promulgate rules and regulations with respect to the procedures for review board hearings.

(d) Schedule for hearing appeals.--A review board member hearing an appeal or appeals under this act shall be paid a per diem amount to be determined by the secretary. The members shall alternate the hearing of appeals according to a schedule adopted by the secretary. If a member is unable to hear an appeal, the next available member, in accordance with the schedule, shall hear the appeal. A member shall be selected to hear the appeal within 30 days after the date it was filed.

(e) Necessary staff.--Any staff necessary for the purposes of conducting hearings shall be provided by the Department of Labor and Industry.

(f) Subpoena power and oaths.--In the conduct of hearings the review board member may subpoena and examine witnesses, require the production of evidence, administer oaths and take testimony and depositions.
Section 10. Appeal from review board.

A person, including the secretary, adversely affected or aggrieved by an order of the review board, after all administrative remedies under this act have been exhausted, is entitled to judicial review.

Section 11. Inspection and investigation powers.

(a) Right to inspect.--

(1) To carry out the purposes of this act, the secretary or a designated representative, upon presenting appropriate credentials to the employer, may enter a workplace or environment where work is performed by an employee, without advance notice and at reasonable times, to inspect and investigate a place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials and question an employer or employee privately.

(2) Whenever the secretary, proceeding under this section, is denied admission to a place of employment, the secretary may obtain a warrant to make an inspection or investigation of the place of employment from any judge of Commonwealth Court.

(b) Witnesses and evidences.--

(1) In making inspections and investigations under this section, the secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that
are paid witnesses in the courts of this Commonwealth.

(2) In case of a failure or refusal of a person to obey an order, the court of common pleas for the judicial district where the person resides, is found or transacts business shall issue to the person an order requiring the person to appear to produce evidence if asked and, when so ordered, to give testimony relating to the matter under investigation or in question.

(3) A failure to obey an order of the court may be punished by the court as a contempt.

(c) People to accompany secretary or representative.--

(1) Subject to regulations issued by the secretary, a representative of the employer and an authorized employee representative shall be given an opportunity to accompany the secretary or an authorized representative during the physical inspection of a workplace for the purposes of aiding the inspection. Where there is no authorized employee representative, the secretary or an authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(2) An employee who accompanies the secretary or an authorized representative on an inspection may not suffer any reduction in wages as a result.

Section 12. Inspection and investigation of violations.

(a) Request for inspection.--

(1) An employee or authorized employee representative who believes that a violation of an occupational safety or health standard exists or that an imminent danger exists may request an inspection by giving notice of a violation or danger to the secretary.
(2) The notice and request shall be in writing, specify with reasonable particularity the grounds for the notice and be signed by an employee or authorized employee representative.

(3) A copy of the notice shall be provided by the secretary to the employer or an agent of the employer no later than at the time of inspection, except that on the request of the person giving notice, the names of individual employees or the authorized employee representative shall be kept confidential.

(b) Action by secretary.--

(1) Whenever the secretary receives a request for inspection and determines that there are reasonable grounds to believe that a violation or danger exists, the secretary shall make an inspection as soon as practicable to determine if a violation or danger exists. The inspection may be limited to the alleged violation or danger.

(2) If the secretary determines there are no reasonable grounds to believe that a violation or danger exists, the secretary shall notify the employer, employee or authorized employee representative in writing of the determination. Notification may not preclude future enforcement action if conditions change.

(c) Notice of violation during inspection.--

(1) Prior to or during an inspection of a workplace, an employee or authorized employee representative in the workplace may notify in writing the secretary or a representative of the secretary responsible for conducting the inspection of a violation of this act which the person has reason to believe exists in the workplace.
(2) The secretary shall by regulation establish procedures for informal review of a refusal by a representative of the secretary to issue a citation with respect to an alleged violation and shall furnish the employer and the employees or authorized employee representative requesting a review a written statement of the reasons for the secretary's final disposition of the case. Notification may not preclude future enforcement action if conditions change.

(d) Summary by secretary.--The secretary shall compile, analyze and publish in either summary or detailed form all reports or information obtained under this section.

(e) Rules and regulations.--The secretary shall prescribe rules and regulations as the secretary deems necessary to carry out the secretary's responsibilities under this act, including rules and regulations dealing with the inspection of an employer's or owner's establishment.

Section 13. Recordkeeping.

(a) Employer's duties prescribed by regulation.--In accordance with the secretary's regulations, an employer shall make, keep and preserve and make available to the secretary records regarding activities relating to this act as the secretary deems necessary or appropriate for developing information regarding the causes and prevention of occupational accidents and illness. The regulations may include provisions requiring an employer to conduct periodic inspections. The secretary shall issue regulations requiring that an employer, through posting of notices, training or other appropriate means, keep employees informed of the protections and obligations under this act, including the provisions and regulations of this act.
(b) Records relating to death and injury.--The secretary shall prescribe regulations requiring an employer to maintain accurate records and to make public periodic reports of work-related deaths, injuries and illnesses, other than minor injuries requiring only first aid treatment and not involving lost time from work, medical treatment, loss of consciousness, restriction of work or motion or transfer to another job.

(c) Exposure to toxic or harmful agents.--

(1) The secretary shall issue regulations requiring an employer to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any occupational safety and health standard adopted under this act. The regulations shall provide employees or the authorized employee representative with an opportunity to observe monitoring or measuring and have access to the records. The regulations shall allow each employee or former employee to have access to records that indicate the employee's own exposure to toxic materials or harmful physical agents.

(2) An employer shall promptly notify each employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels that exceed those prescribed by an occupational safety and health standard promulgated under this act and shall inform each employee who is being exposed of the corrective action taken.

Section 14. Compliance orders.

(a) Issuance.--Whenever the secretary, upon inspection or investigation, determines that an employer has violated a provision of this act, an occupational safety or health standard
or regulation promulgated under this act, the secretary shall
with reasonable promptness issue a compliance order to the
employer. Each compliance order shall be in writing and shall
describe the nature of the violation, including a reference to
the provisions of this act or the standard, regulation or order
alleged to have been violated. The compliance order shall fix a
reasonable time for the abatement of the violation.

(b) Posting of order.--Each compliance order issued under
this section or a copy or copies of the order shall be
prominently posted as prescribed in regulations issued by the
secretary at or near each place a violation referred to in the
compliance order occurred and at other locations within the
workplace reasonably accessible to the employees.

Section 15. Enforcement procedures.

(a) Notice of order and penalty.--

(1) If, after inspection or investigation, the secretary
issues a compliance order under section 14(a), the secretary
shall, within a reasonable time after the termination of the
inspection or investigation, notify the employer by certified
mail and email, if email is available, of the penalty, if
any, proposed to be assessed under section 17. The
notification shall inform the employer that the employer has
15 working days from the receipt of the notice by certified
mail within which to notify the secretary that the employer
wishes to contest the compliance order or proposed assessment
of penalty.

(2) If the employer fails to notify the secretary within
15 days and if no notice is filed by any employee or
authorized employee representative under subsection (c)
within 15 days, the compliance order and the assessment, as
proposed, shall be deemed a final order of the secretary and not subject to review by any court or agency.

(b) Notice of failure to correct violation.--

(1) If the secretary has reason to believe that an employer has failed to correct a violation for which a compliance order has been issued within the period permitted for correction, the secretary shall notify the employer by certified mail and email, if email is available, of the failure and of the penalty proposed to be assessed under section 17 by reason of the failure. In the case, however, of a review proceeding initiated by the employer under this section in good faith and not solely for delay or the avoidance of penalties, the period permitted for correction of the violation may not begin to run until the entry of a final order by the review board. Notification by the secretary shall inform the employer that the employer has 15 working days from the receipt of the notice by certified mail within which to notify the secretary that the employer wishes to contest the notification or the proposed assessment of penalty.

(2) If, within 15 days from the receipt of notification by certified mail under this section, the employer fails to notify the secretary that the employer intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the review board and not be subject to review by any court or agency.

(c) Action by review board.--

(1) If an employer notifies the secretary that the employer intends to contest a compliance order issued under
section 14(a) or a notification issued under subsection (a) or (b) or if, within 15 days after the issuance of a compliance order under section 14(a), an employee or authorized employee representative files a notice with the secretary alleging that the period of time fixed in the compliance order for abatement of the violation is unreasonable, the secretary shall immediately advise the review board of the notification, and the review board shall afford an opportunity for a hearing.

(2) The review board shall issue an order, based on findings of fact, affirming, modifying or vacating the secretary's compliance order or proposed penalty or directing other appropriate relief. The order shall become final 30 days after the order's issuance.

(3) Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a compliance order and a showing that abatement has not been completed because of factors beyond the employer's reasonable control, the secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in the compliance order.

(4) The rules of procedure prescribed by the secretary shall provide affected employees or the authorized employee representative of affected employees an opportunity to participate as parties to hearings under this subsection.

Section 16. Injunction proceedings.

(a) Temporary restraining order.--

(1) Commonwealth Court shall have jurisdiction, upon petition of the secretary, to restrain conditions or practices in any place of employment when a danger exists
that could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through the abatement procedures otherwise provided for by this act.

(2) An order issued under this section shall require necessary actions to avoid, correct or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove the imminent danger.

(3) A temporary restraining order issued without notice may not be effective for more than five days.

(b) Action by inspector.—As soon as an inspector concludes that conditions or practices described in subsection (a) exist in a place of employment, the inspector shall inform the affected employees and employers of the danger and shall further inform them that the inspector is recommending to the secretary that relief be sought.

(c) Failure of secretary to seek relief.—If the secretary arbitrarily or capriciously fails to seek relief under this section, an employee who may be injured by reason of the failure or the authorized employee representative may bring an action against the secretary in Commonwealth Court to compel the secretary to seek an order and for further relief as may be appropriate.

Section 17. Penalties.

(a) Willful or repeated violations.—An employer who willfully or repeatedly violates the requirements of section 4 or 5, an occupational safety and health standard promulgated under section 7 or regulations prescribed under this act may be
assessed a civil penalty of not more than $10,000 for each violation.

(b) Compliance order for serious violation.--An employer who has received a compliance order for a serious violation of the requirements of section 4 or 5, an occupational safety and health standard promulgated under section 7 or regulations prescribed under this act shall be assessed a civil penalty of not more than $1,000 for each violation.

(c) Compliance order for lesser violation.--An employer who has received a compliance order for a violation of the requirements of section 4 or 5, an occupational safety and health standard promulgated under section 7 or regulations prescribed under this act, which violation has been determined not to be of a serious nature, may be assessed a civil penalty of not more than $1,000 for each violation.

(d) Failure to correct violation.--An employer who fails to correct a violation for which a compliance order has been issued under section 14 within the period permitted for its correction, the period may not begin to run until the date of the final order of the review board in the case of a review proceeding under section 15 initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than $1,000 for each day during which the failure or violation continues.

(e) Violation causing death.--

(1) An employer who willfully violates a standard or order promulgated under section 7 or a regulation adopted under this act, which violation caused death to an employee, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $10,000 or to
imprisonment for not more than six months, or both.

(2) If a conviction is for a violation committed after a first conviction, the person shall be sentenced to pay a fine of not more than $20,000 or to imprisonment for not more than one year, or both.

(f) Providing advance notice of inspection.--A person who gives advance notice of an inspection to be conducted under this act without authority from the secretary or a designee commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $1,000 or to imprisonment for not more than six months, or both.

(g) False statements.--A person who knowingly makes a false statement, representation or certification in an application, record, report, plan or other document filed or required to be maintained under this act commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $10,000 or to imprisonment for not more than six months, or both.

(h) Violation of posting requirements.--An employer who violates any of the posting requirements as prescribed under the provisions of this act shall be assessed a civil penalty of not more than $1,000 for each violation.

(i) Refusing entry for investigation or inspection.--An employer who refuses entry to the secretary or an authorized representative while the secretary or representative is attempting to conduct an investigation or inspection under this act or willfully obstructs the secretary or an authorized representative from carrying out an investigation or inspection commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $1,000 or to imprisonment for not more than six months, or both.
(j) Causing bodily harm to the secretary or authorized representative.--An employer or individual who willfully causes bodily harm to the secretary or an authorized representative while the secretary or representative is attempting to conduct an investigation or inspection under this act commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $10,000 or to imprisonment for not more than one year, or both.

(k) Authority to assess civil penalties.--The review board shall have authority to assess all civil penalties under this act, giving due consideration to all of the following:

   (1) The appropriateness of the penalty with respect to the size of the business of the employer being charged.

   (2) The gravity of the violation.

   (3) The good faith of the employer.

   (4) The history of previous violations.

(l) Determination of serious violation.--For the purposes of this act, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, in the place of employment unless the employer did not and could not with the exercise of reasonable diligence know of the presence of the violation.

(m) Disposition of civil penalties.--Civil penalties owed under this act shall be paid to the secretary for deposit in the State Treasury and may be recovered in a civil action in the name of the Commonwealth brought in Commonwealth Court.

(n) Unauthorized disclosure of confidential information.--A
person who violates the provisions of section 22 commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than $1,000 or to imprisonment for not more than one year, or both. In the event that the person is an officer or employee responsible for carrying out the provisions of this act, the officer or employee shall be removed from office or employment upon conviction under this section.

Section 18. Discrimination against employees.

(a) General rule.--An employer or any other person may not discriminate against an employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding under or related to this act or has testified or is about to testify in a proceeding or because of the exercise by an employee on the employee's own behalf or on behalf of others of any right afforded by this act.

(b) Remedy.--

(1) An employee who believes that the employee has been discharged, disciplined or otherwise discriminated against by a person in violation of this section may, within 30 days after a violation occurs, file a complaint with the secretary alleging discrimination.

(2) Upon receipt of the complaint, the secretary shall investigate as deemed appropriate and shall, if requested, withhold the name of the complainant from the employer.

(3) If, upon investigation, the secretary determines that the provisions of this section have been violated, the secretary shall request the Attorney General to bring an action in Commonwealth Court against the person or persons alleged to have violated this act. Commonwealth Court shall have jurisdiction, for cause shown, to restrain violations of
this act and to order all appropriate relief, including reinstatement of the employee to the employee's former position with back pay and benefits.

(c) Notice of determination of complaint.--Within 90 days of receipt of a complaint filed under this section, the secretary shall notify the complainant and the complainant's representative by registered mail and email, if email is available, of the secretary's determination of the complaint.

(d) Other rights preserved.--Nothing in this act shall be construed to diminish the rights of an employee under any law, rule or regulation or under any collective bargaining agreement.

Section 19. Research and demonstration projects.

(a) Secretary to conduct.--

(1) The secretary shall conduct research and undertake demonstration projects relating to occupational safety and health issues and problems either within the Department of Labor and Industry or by grants or contracts. The secretary may prescribe regulations requiring employers to measure, record and make reports on exposure of employees to toxic substances which the secretary believes may endanger the health or safety of employees.

(2) The secretary shall cooperate with the Director of the National Institute for Occupational Safety and Health of the United States Department of Health and Human Services in establishing the programs of medical examinations and tests as may be necessary to determine the incidence of occupational illnesses and employee susceptibility to the illnesses.

(3) The programs, on the request of the employer, may be paid for by the secretary, and the secretary shall provide
other assistance as may be required.

(b) Confidentiality.--Information obtained under this act shall be made public without revealing the names of individual workers covered by physical examination or special studies and shall be made available to employers, employees and the respective organizations.

Section 20. Education programs.

(a) Programs to train personnel.--The secretary shall conduct directly or by grants or contracts education programs to provide an adequate supply of qualified personnel to carry out this act and informational programs on the importance and proper use of adequate safety and health equipment.

(b) Short-term training.--The secretary may conduct directly or by grants or contracts short-term training of personnel engaged in work related to the secretary's responsibilities under this act.

(c) Additional programs.--The secretary shall provide for the establishment and supervision of programs for the education and training of employers, owners and employees in the recognition, avoidance and prevention of unsafe or unhealthful working conditions in employment covered by this act. The secretary shall consult with and advise owners and employers, employees and organizations representing owners, employers and employees as to effective means of preventing occupational injuries and illnesses.

Section 21. Reports to United States Secretary of Labor.

The secretary shall make reports to the United States Secretary of Labor as required by the Secretary of Labor regarding the administration and enforcement of this act.

Section 22. Confidentiality of information maintained.
All information reported to or otherwise obtained by the secretary or an authorized representative or a member of the review board in connection with any inspection or proceeding under this act which contains or might reveal a trade secret shall be considered confidential. The information may be disclosed to other officers or employees concerned with carrying out this act or when relevant in a proceeding under this act. In a proceeding, the secretary, the review board or the court shall issue orders as may be appropriate to protect the confidentiality of trade secrets.

Section 23. Effective date.

This act shall take effect in 60 days.