

## AMENDMENTS TO HOUSE BILL NO. 1170

Sponsor: REPRESENTATIVE COX

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1 Amend Bill, page 2, line 7, by inserting after

2 "Commonwealth."

3 The term includes a staffing agency that supplies workers to  
4 a construction industry employer.

5 "Department." The Department of Labor and Industry of the  
6 Commonwealth.

7 "Employ." To enter into an employer-employee relationship  
8 with an individual or to use a contract, subcontract or exchange  
9 with an individual to obtain labor.

10 Amend Bill, page 2, lines 8 through 10, by striking out "An  
11 individual for whom a construction industry" in line 8 and all  
12 of lines 9 and 10 and inserting

13 An individual who has entered into an employer-employee  
14 relationship with a construction industry employer or enters  
15 into a contract, subcontract or exchange with a construction  
16 industry employer to provide labor.

17 Amend Bill, page 2, by inserting between lines 23 and 24

18 "Subcontractor." A person regardless of tier, including, but  
19 not limited to, a staffing agency that supplies workers to a  
20 construction industry employer under a contract. The term shall  
21 not include persons that are material suppliers for a project.

22 Amend Bill, page 3, by inserting between lines 5 and 6

23 (c) Staffing agencies.--If a staffing agency supplies  
24 workers to multiple industries, subsections (a) and (b) shall  
25 only apply to workers supplied for the construction industry.

26 Amend Bill, page 3, by inserting between lines 6 and 7

27 (a) Complaints.--A complaint about a violation of section  
28 3(a) may be submitted to the department.

29 Amend Bill, page 3, line 7, by striking out "(a)" and

30 inserting

1 (b)

2 Amend Bill, page 3, line 7, by striking out "Attorney  
3 General" and inserting  
4 department

5 Amend Bill, page 3, line 13, by striking out "(b)" and  
6 inserting

7 (c)

8 Amend Bill, page 3, line 15, by striking out "Attorney  
9 General" and inserting  
10 department

11 Amend Bill, page 3, line 17, by striking out "(c)" and  
12 inserting

13 (d)

14 Amend Bill, page 3, line 17, by striking out "Attorney  
15 General" and inserting  
16 department

17 Amend Bill, page 3, line 20, by striking out "(d)" and  
18 inserting

19 (e)

20 Amend Bill, page 3, line 20, by striking out "Attorney  
21 General" and inserting  
22 department

23 Amend Bill, page 3, line 23, by striking out "(e)" and  
24 inserting

25 (f)

26 Amend Bill, page 3, line 24, by striking out "Attorney  
27 General" and inserting  
28 department

29 Amend Bill, page 4, line 2, by striking out "(f)" and  
30 inserting

31 (g)

1 Amend Bill, page 4, line 3, by striking out "Attorney  
2 General" and inserting  
3 department

4 Amend Bill, page 4, line 4, by striking out "Attorney  
5 General" and inserting  
6 department

7 Amend Bill, page 4, lines 6 through 8, by striking out all of  
8 lines 6 and 7 and "(2) Bring" in line 8 and inserting

9 (1) For a first violation, the department shall issue a  
10 warning letter detailing the violation and informing the  
11 construction industry employer of the provisions of this act.  
12 Notwithstanding paragraph (2), a violation by a construction  
13 industry employer that occurs 10 years or more after a prior  
14 violation shall be deemed a first violation. The following  
15 shall apply:

16 (i) The department may not issue a warning letter if  
17 the employer demonstrates that the employment eligibility  
18 of the unauthorized employee was verified in good faith  
19 through the E-Verify Program in accordance with section  
20 3(b).

21 (ii) After the issuance of a warning letter, the  
22 employer shall verify in writing to the department within  
23 10 business days that the employer has terminated the  
24 employment of each unauthorized employee in this  
25 Commonwealth. If the employer fails to provide such  
26 verification, the violation shall constitute a second  
27 violation, and the department shall make a referral to  
28 the Attorney General under paragraph (2).

29 (iii) The employer may appeal the issuance of the  
30 warning letter under the provisions of 2 Pa.C.S.  
31 (relating to administrative law and procedure).

32 (2) For a second or subsequent violation, the department  
33 shall refer the case to the Attorney General for enforcement.  
34 The Attorney General shall bring

35 Amend Bill, page 4, line 13, by striking out "(g)" and  
36 inserting

37 (h)

38 Amend Bill, page 4, line 16, by striking out "(h)" and  
39 inserting

40 (i)

1 Amend Bill, page 4, line 26, by striking out "(i)" and  
2 inserting

3 (j)

4 Amend Bill, page 4, line 30, by striking out "(j)" and  
5 inserting

6 (k)

7 Amend Bill, page 5, line 12, by inserting after "3(a)"  
8 pursuant to an action brought by the Attorney General under  
9 this act

10 Amend Bill, page 5, lines 18 and 19, by striking out  
11 "Attorney General" and inserting

12 department

13 Amend Bill, page 5, line 24, by striking out "three" and  
14 inserting

15 five

16 Amend Bill, page 5, line 25, by striking out "Attorney  
17 General" and inserting

18 department

19 Amend Bill, page 6, line 14, by striking out "first" and  
20 inserting

21 second

22 Amend Bill, page 6, line 17, by striking out "10" and  
23 inserting

24 30

25 Amend Bill, page 6, line 18, by inserting after "a" where it  
26 occurs the first time

27 subsequent violation of section 3(a) or a

28 Amend Bill, page 6, line 19, by striking out "may" and  
29 inserting

30 shall

31 Amend Bill, page 6, line 20, by striking out "to exceed" and

1 inserting

2 less than

3 Amend Bill, page 6, line 20, by inserting after "year"

4 up to the permanent revocation of each license

5 Amend Bill, page 7, by inserting between lines 3 and 4

6 (d) Suspension and reinstatement fees.--Nothing in this act  
7 shall prohibit an agency from charging any applicable fee for  
8 the suspension or reinstatement of a license.

9 Section 6. Protection from retaliation.

10 (a) General rule.--It shall be unlawful for a construction  
11 industry employer to discharge, threaten or otherwise retaliate  
12 or discriminate against an employee regarding compensation or  
13 other terms or conditions of employment because the employee:

14 (1) participates in an investigation, hearing or inquiry  
15 held by the Secretary of Labor and Industry or any other  
16 governmental authority under this act; or

17 (2) reports or makes a complaint regarding the violation  
18 of this act to a construction industry employer or  
19 governmental authority.

20 (b) Actions.--

21 (1) An employee who suffers retaliation or  
22 discrimination in violation of this section may bring an  
23 action in a court of common pleas in accordance with  
24 established civil procedures of this Commonwealth.

25 (2) The action must be brought within three years from  
26 the date the employee knew of the retaliation or  
27 discrimination.

28 (c) Relief.--If an employee prevails in an action commenced  
29 under this section, the employee shall be entitled to the  
30 following relief:

31 (1) Reinstatement of the employee, if applicable.

32 (2) Restitution equal to three times the amount of the  
33 employee's wages and fringe benefits calculated from the date  
34 of the retaliation or discrimination.

35 (3) Reasonable attorney fees and costs of the action.

36 (4) Any other legal and equitable relief as the court  
37 deems appropriate.

38 Section 7. Immunity and compliance.

39 (a) Immunity.--A construction industry employer that relies  
40 in good faith on the E-Verify Program to verify employment  
41 eligibility of new employees under this act shall have no  
42 liability to an individual who is not hired or who is discharged  
43 from employment if incorrect information has been provided to  
44 the construction industry employer.

45 (b) Contractor and subcontractor compliance.--Except as  
46 provided in subsection (c), nothing in this act may be construed  
47 to render a contractor responsible for a violation of section

1 3(a) by a subcontractor or a subcontractor responsible for a  
2 violation by another subcontractor.

3 (c) General contractor responsibility.--A contractor shall  
4 not be considered in violation of section 3(a) when a  
5 subcontractor has knowingly employed an unauthorized employee,  
6 if the contractor has done the following:

7 (1) Required compliance with this act in the contract  
8 with the subcontractor, including providing for the  
9 termination of the contract upon a violation of this act by  
10 the subcontractor.

11 (2) Obtained written verification from the subcontractor  
12 that the subcontractor is aware of the provisions of this act  
13 and is responsible for compliance.

14 Amend Bill, page 7, line 4, by striking out "6" and inserting

15 8

16 Amend Bill, page 7, line 5, by striking out "in 60 days" and

17 inserting

18 July 1, 2020