

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2220

Session of
1978

INTRODUCED BY MRS. WISE, MRS. HARPER, MESSRS. IRVIS, MANDERINO, REED, FLAHERTY, DAVIES, GLEESON, J. L. WRIGHT, MEBUS, BROWN, HOFFEL, KUKOVICH, COLE, RHODES, ITKIN, HASKELL, MILANOVICH, COHEN, O'DONNELL, SWEET, ZEARFOSS, LEVIN, MRS. HONAMAN, MRS. TAYLOR, MESSRS. PICCOLA, SCIRICA, COWELL, WILSON, MRS. GEORGE, MRS. GILLETTE, MRS. KERNICK, MESSRS. POTT, RICHARDSON AND WHITE, APRIL 3, 1978

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, NOVEMBER 14, 1978

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 amended, "An act defining the liability of an employer to pay
3 damages for injuries received by an employe in the course of
4 employment; establishing an elective schedule of
5 compensation; providing procedure for the determination of
6 liability and compensation thereunder and prescribing
7 penalties," ~~to provide for equal rights between widows and~~ <—
8 ~~widowers and~~ further providing for workmen's compensation
9 referees EMPOWERING THE BOARD OR REFEREE TO DETERMINE A <—
10 REASONABLE AMOUNT AS ATTORNEY'S FEES.

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

13 Section 1. Section 101, act of June 2, 1915 (P.L.736,
14 No.338), known as "The Pennsylvania Workmen's Compensation Act,"
15 reenacted and amended June 21, 1939 (P.L.520, No.281) and
16 amended December 5, 1974 (P.L.782, No.263), is amended to read:

17 Section 101. That this act shall be called and cited as The
18 Pennsylvania [Workmen's] Worker's Compensation Act, and shall
19 apply to all injuries occurring within this Commonwealth,

1 irrespective of the place where the contract of hiring was made,
2 renewed, or extended, and extraterritorially as provided by
3 section 305.2.

4 ~~Section 2. The second paragraph of section 307 of the act,~~ <—
5 ~~amended December 5, 1974 (P.L.782, No.263), is amended to read:~~

6 ~~Section 307. * * *~~

7 ~~Compensation shall be payable under this section to or on~~
8 ~~account of any child, brother, or sister, only if and while such~~
9 ~~child, brother, or sister, is under the age of eighteen unless~~
10 ~~such child, brother or sister is dependent because of disability~~
11 ~~when compensation shall continue or be paid during such~~
12 ~~disability of a child, brother or sister over eighteen years of~~
13 ~~age or unless such child is enrolled as a full time student in~~
14 ~~any accredited educational institution when compensation shall~~
15 ~~continue until such student becomes twenty three. No~~
16 ~~compensation shall be payable under this section to a [widow]~~
17 ~~surviving spouse, unless [she] he was living with [her] his~~
18 ~~deceased [husband] spouse at the time of his death, or was then~~
19 ~~actually dependent upon [him] the deceased spouse and receiving~~
20 ~~from [him] such deceased spouse a substantial portion of [her]~~
21 ~~his support. [No compensation shall be payable under this~~
22 ~~section to a widower, unless he be incapable of self support at~~
23 ~~the time of his wife's death and be at such time dependent upon~~
24 ~~her for support.] If members of decedent's household at the time~~
25 ~~of his death, the terms "child" and "children" shall include~~
26 ~~step children, adopted children and children to whom he stood in~~
27 ~~loco parentis, and shall include posthumous children. Should any~~
28 ~~dependent or surviving spouse of a deceased employe die or~~
29 ~~remarry, [or should the widower become capable of self support,]~~
30 ~~the right of such dependent [or widower] or surviving spouse to~~

1 compensation under this section shall cease except that if a
2 [widow] ~~surviving spouse~~ remarries, [she] ~~he~~ shall receive one
3 hundred four weeks compensation at a rate computed in accordance
4 with clause 2. of section 307 in a lump sum after which
5 compensation shall cease: Provided, however, That if, upon
6 investigation and hearing, it shall be ascertained that the
7 widow or widower is living with a man or woman, as the case may
8 be, in meretricious relationship and not married, [or the widow
9 living a life of prostitution,] the board may order the
10 termination of compensation payable to such widow or widower. If
11 the compensation payable under this section to any person shall,
12 for any cause, cease, the compensation to the remaining persons
13 entitled thereunder shall thereafter be the same as would have
14 been payable to them had they been the only persons entitled to
15 compensation at the time of the death of the deceased.

16 * * *

17 Section 3 2. Section 310 of the act is repealed. <—

18 Section 4 3. The first paragraph of section 401 of the act, <—
19 amended February 8, 1972 (P.L.25, No.12), is amended to read:

20 Section 401. The term "referee," when used in this article,
21 shall mean Workmen's Compensation Referee of the Department of
22 Labor and Industry, appointed by and subject to the general
23 supervision of the Secretary of Labor and Industry for the
24 purpose of conducting departmental hearings under this act. The
25 secretary may establish different classes of referees. No person
26 shall be eligible for appointment and no person currently
27 holding office shall be eligible to remain in office as a
28 referee if such person has been convicted of a felony or other
29 infamous crime in any State or Federal court. Any referee
30 holding such office on the effective date of this amendatory act

1 and who has been so convicted shall immediately forfeit such
2 office. Every citizen of the Commonwealth shall have standing to <—
3 petition the Commonwealth Court for removal of any person who
4 has been so convicted and who has not been removed from office.

5 * * *

6 SECTION 4. SECTIONS 442 AND 501 OF THE ACT ARE REPEALED. <—

7 SECTION 5. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

8 SECTION 505. (A) ALL FEE AGREEMENTS OR CLAIMS BETWEEN
9 CLAIMANTS AND THEIR ATTORNEYS FOR COUNSEL FEES FOR SERVICES
10 PERFORMED IN ANY MATTER, WHETHER OR NOT SUCH SERVICES RESULT IN
11 AN AWARD, BROUGHT UNDER THE PROVISIONS OF THIS ACT WHICH ARE
12 SUBJECT TO THE ACTION OR APPROVAL OF THE DEPARTMENT, REFEREE,
13 APPEAL BOARD OR COURT, AS THE CASE MAY BE SHALL BE SUBMITTED TO
14 THE DEPARTMENT, REFEREE, APPEAL BOARD OR COURT AS THE CASE MAY
15 BE FOR APPROVAL BY THE DEPARTMENT, REFEREE, APPEAL BOARD OR
16 COURT BEFORE WHOM THE MATTER IS PENDING.

17 (B) THE DEPARTMENT, REFEREE, APPEAL BOARD OR COURT, AS THE
18 CASE MAY BE, SHALL APPROVE THE FEE AGREEMENT OR CLAIM ONLY IF
19 THE AMOUNT OF SAID FEE OR CLAIM IS COMMENSURATE WITH THE NATURE
20 AND QUALITY OF THE SERVICES RENDERED BY THE ATTORNEY. THE
21 DEPARTMENT MAY ESTABLISH RULES AND REGULATIONS REGARDING THE
22 FACTORS TO BE CONSIDERED UNDER THIS SUBSECTION.

23 (C) ANY FEE SO APPROVED SHALL BE STATED IN A DOLLAR AMOUNT.

24 (D) ANY FEE SO APPROVED SHALL BE DISBURSED IN THE MANNER
25 AUTHORIZED BY THE DEPARTMENT, REFEREE, APPEAL BOARD OR COURT, AS
26 THE CASE MAY BE, SUBJECT TO THE RULES AND REGULATIONS OF THE
27 DEPARTMENT.

28 (E) ANY FEE AGREEMENT OR CLAIM WHICH IS NOT APPROVED AS
29 PROVIDED IN THIS SECTION SHALL NOT BE VALID OR BINDING AND THE
30 DEPARTMENT, REFEREE, APPEAL BOARD OR COURT, AS THE CASE MAY BE,

1 SHALL MAKE ITS OWN DETERMINATION OF A REASONABLE FEE AND APPROVE
2 SAME IN ACCORDANCE WITH THE RULES AND REGULATIONS THAT THE
3 DEPARTMENT MAY ISSUE UNDER SUBSECTION (B). ANY FEE DISAPPROVED
4 AND SUBJECT TO DETERMINATION AS PROVIDED FOR BY THIS SUBSECTION
5 MAY BE APPEALED IN THE SAME MANNER AND ON THE SAME GROUNDS AS
6 PROVIDED FOR IN ARTICLE IV.

7 (F) (1) NO CLAIM OR AGREEMENT FOR LEGAL SERVICES OR
8 DISBURSEMENTS IN SUPPORT OF ANY DEMAND MADE OR SUIT BROUGHT
9 UNDER THE PROVISIONS OF ARTICLE II SHALL BE ENFORCEABLE AS A
10 LIEN AGAINST THE AMOUNT TO BE PAID AS DAMAGES OR BE VALID OR
11 BINDING IN ANY RESPECT, UNLESS THE FEE: (I) BE APPROVED AS
12 OUTLINED ABOVE AND (II) BE APPROVED IN WRITING BY THE JUDGE
13 PRESIDING AT THE TRIAL OR SETTLEMENT WITHOUT TRIAL, OR THE
14 DEPARTMENT, REFEREE, APPEAL BOARD OR COURT TO WHOM THE
15 APPLICATION FOR IMPOSITION OF THE LIEN IS PRESENTED OR ASSIGNED.

16 (2) THE JUDGE OR COURT, THE DEPARTMENT, THE REFEREE OR
17 APPEAL BOARD TO WHOM APPLICATION FOR IMPOSITION OF THE LIEN HAS
18 BEEN PRESENTED SHALL NOTIFY THE APPLICANT, THE EMPLOYER, INSURER
19 OR OTHER PAYOR AND THE EMPLOYEE OR CLAIMANT IN WRITING OF THE
20 ACTION TAKEN ON THE APPLICATION AND THE MANNER OF DISBURSEMENT,
21 IF ANY, TO BE MADE.

22 Section 5—4 6. This act shall take effect in 60 days.

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