

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2112 Session of
2003

INTRODUCED BY VEON, DeWEESE, BELFANTI, MANN, PISTELLA, BELARDI,
FABRIZIO, SHANER, KELLER, LEVDANSKY, BEBKO-JONES, LEACH,
DONATUCCI, STABACK, KIRKLAND, SURRA, JAMES, WALKO, CURRY,
DALEY, YOUNGBLOOD, FREEMAN, HORSEY, DeLUCA, GOODMAN AND
SCRIMENTI, OCTOBER 21, 2003

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 21, 2003

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to
3 workplace safety and dangerous business practices; and
4 imposing a penalty.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding sections to read:

9 § 7516. Removal of safety devices.

10 An owner or possessor of a machine, tool, implement or piece
11 of equipment commits a misdemeanor of the first degree if he
12 removes, disconnects, alters or causes to have removed,
13 disconnected or altered or has knowledge of and takes no
14 corrective action with regard to the removal, disconnection or
15 altering of a warning, guard or other safety device from a
16 machine, tool, implement or piece of equipment located in a
17 workplace.

1 § 7517. Dangerous business practices.

2 (a) Offense defined.--A person who is a manager with respect
3 to a product, facility, process, place of employment or business
4 practice commits an offense if he:

5 (1) (i) Has actual knowledge of a serious concealed
6 danger that is subject to the regulatory authority of an
7 appropriate agency and is associated with that product or
8 a component of that product or business practice; and

9 (ii) knowingly fails during the period ending 15
10 days after the actual knowledge is acquired or, if there
11 is imminent risk of great bodily harm or death,
12 immediately to:

13 (A) inform the department in writing, unless the
14 person has actual knowledge that the department has
15 been so informed; and

16 (B) warn the affected employees in writing,
17 unless the person has actual knowledge that the
18 employees have been so warned.

19 (2) Has actual knowledge of and takes no corrective
20 action with regard to a pattern or established practice of
21 smoking in nondesignated areas.

22 (b) Notification of another agency.--Where the department is
23 not informed under subsection (a)(1)(ii)(A), but the person
24 reasonably and in good faith believed that he was complying with
25 the requirements of this section by notifying another government
26 agency, no penalties shall apply.

27 (c) Abatement of hazard.--The requirements for notification
28 and warning shall not apply if the serious concealed danger is
29 abated within the time prescribed for notification and warning,
30 unless the appropriate regulatory agency nonetheless requires

1 notification or warning or both by regulation.

2 (d) Duty of department.--Where the serious concealed danger
3 is subject to the regulatory authority of an agency other than
4 the department, it shall be the responsibility of the department
5 within 24 hours of the receipt of the information to notify the
6 appropriate agency of the hazard and forward any written
7 notification.

8 (e) Use of notification.--Notification received under this
9 section shall not be used against a person in a criminal case
10 except for prosecution for perjury or for giving a false
11 statement.

12 (f) Grading.--An offense under subsection (a)(1) is a
13 misdemeanor of the first degree. An offense under subsection
14 (a)(2) is a summary offense.

15 (g) Definitions.--As used in this section, the following
16 words and phrases shall have the meanings given to them in this
17 subsection:

18 "Department." The Department of Labor and Industry of the
19 Commonwealth.

20 "Person." Includes a corporation as well as a natural
21 person.

22 "Serious concealed danger." Used with respect to a product
23 or business practice, the term means that the normal or
24 reasonably foreseeable use of, or the exposure of an individual
25 to, a product or business practice creates a substantial
26 probability of death, great bodily harm or serious exposure to
27 an individual, and the danger is not readily apparent to an
28 individual who is likely to be exposed.

29 "Serious exposure." An exposure to a hazardous substance,
30 when the exposure occurs as a result of an incident or exposure

1 over time and to a degree or in an amount sufficient to create a
2 substantial probability that death or great bodily harm in the
3 future would result from the exposure.

4 Section 2. This act shall take effect in 60 days.