

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 643 Session of
2005

INTRODUCED BY GORDNER, SCARNATI, COSTA, ARMSTRONG, CORMAN,
EARLL, GREENLEAF, MADIGAN, ORIE, PUNT, ROBBINS, THOMPSON,
WAUGH, WENGER, M. WHITE AND WONDERLING, APRIL 28, 2005

REFERRED TO LABOR AND INDUSTRY, APRIL 28, 2005

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing penalties," further providing for subcontractors.

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

10 Section 1. Section 302(a) and (d) of the act of June 2, 1915
11 (P.L.736, No.338), known as the Workers' Compensation Act,
12 reenacted and amended June 21, 1939 (P.L.520, No.281) and
13 amended July 2, 1993 (P.L.190, No.44), are amended and the
14 section is amended by adding a subsection to read:

15 Section 302. (a) A contractor who subcontracts all or any
16 part of a contract and his insurer shall be liable for the
17 payment of compensation to the employes of the subcontractor
18 unless the subcontractor primarily liable for the payment of
19 such compensation has secured its payment as provided for in
20 this act or unless the subcontractor complies with subsection

1 (a.1). Any contractor or his insurer who shall become liable
2 hereunder for such compensation may recover the amount thereof
3 paid and any necessary expenses from the subcontractor primarily
4 liable therefor.

5 For purposes of this subsection, a person who contracts with
6 another (1) to have work performed consisting of (i) the
7 removal, excavation or drilling of soil, rock or minerals, or
8 (ii) the cutting or removal of timber from lands, or (2) to have
9 work performed of a kind which is a regular or recurrent part of
10 the business, occupation, profession or trade of such person
11 shall be deemed a contractor, and such other person a
12 subcontractor. This subsection shall not apply, however, to an
13 owner or lessee of land principally used for agriculture who is
14 not a covered employer under this act and who contracts for the
15 removal of timber from such land.

16 (a.1) Subsection (a) does not apply to a subcontractor that
17 has certified on a form established by the department that the
18 subcontractor does not employ other individuals, operates as an
19 independent contractor and is not required to carry workers'
20 compensation insurance under this act. If a form is submitted
21 under this subsection, the subcontractor waives the right to
22 file a claim for benefits under this act against the
23 contractor's insurer.

24 * * *

25 (d) A contractor shall not subcontract all or any part of a
26 contract unless the subcontractor has presented proof of
27 insurance under this act or has complied with subsection (a.1).

28 * * *

29 Section 2. This act shall take effect January 1, 2006.