

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 118 Session of 2013

INTRODUCED BY ELLIS, METCALFE, R. BROWN, D. COSTA, BROOKS, M. K. KELLER, SAYLOR, GINGRICH, O'NEILL, B. BOYLE, RAVENSTAHL, STURLA, REED, CAUSER, WATSON, FLECK, MAJOR, KNOWLES, HICKERNELL, ROZZI, STEPHENS, MUNDY, MILLARD, CARROLL, SCHLOSSBERG, BAKER, AUMENT, BOBACK, KAUFFMAN, PICKETT, HARKINS, MACKENZIE, MOUL, MILLER, SONNEY, GROVE, MARSHALL, HAHN, READSHAW, RAPP, STEVENSON, O'BRIEN, C. HARRIS, CUTLER, PYLE, OBERLANDER, REESE, MURT, P. COSTA, COHEN, SWANGER, PETRI, DEASY, GIBBONS, QUINN, CLYMER, GOODMAN, MATZIE, ROCK, GRELL, PEIFER, MOLCHANY AND COX, JANUARY 16, 2013

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 22, 2013

AN ACT

1 Amending the act of December 12, 1986 (P.L.1559, No.169),
2 entitled "An act providing protection for employees who
3 report a violation or suspected violation of State, local or
4 Federal law; providing protection for employees who
5 participate in hearings, investigations, legislative
6 inquiries or court actions; and prescribing remedies and
7 penalties," further providing for the definitions of
8 "APPROPRIATE AUTHORITY," "employee" and "employer," for <--
9 protection of employees, for enforcement and for penalties.

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

12 Section 1. The definitions of "APPROPRIATE AUTHORITY," <--
13 "employee" and "employer" in section 2 of the act of December
14 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law, are
15 amended to read:

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 \* \* \*

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4 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL <--  
5 GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER  
6 CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL  
7 CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT,  
8 REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR  
9 ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE  
10 OFFICE OF INSPECTOR GENERAL, THE OFFICE OF ATTORNEY GENERAL, THE  
11 DEPARTMENT OF THE AUDITOR GENERAL, THE TREASURY DEPARTMENT, THE  
12 GENERAL ASSEMBLY AND COMMITTEES OF THE GENERAL ASSEMBLY HAVING  
13 THE POWER AND DUTY TO INVESTIGATE CRIMINAL LAW ENFORCEMENT,  
14 REGULATORY VIOLATIONS, PROFESSIONAL CONDUCT OR ETHICS, OR WASTE.

15 "Employee." A person who performs a service for wages or  
16 other remuneration under a contract of hire, written or oral,  
17 express or implied, for [a public body] an employer.

18 "Employer." [A person supervising one or more employees,  
19 including the employee in question; a superior of that  
20 supervisor; or an agent of a public body.] A public body or any  
21 of the following which receives money from a public body to  
22 perform work or provide services:

23 (1) An individual.

24 (2) A partnership.

25 (3) An association.

26 (4) A corporation for profit.

27 (5) A corporation not for profit.

28 \* \* \*

29 Section 2. ~~Sections 3(a), 5 and 6 of the act are amended~~ <--

30 SECTION 3(A) OF THE ACT IS AMENDED AND THE SECTION IS AMENDED BY <--

1 ADDING A SUBSECTION to read:

2 Section 3. Protection of employees.

3 (a) Persons not to be discharged.--No employer may  
4 discharge, threaten or otherwise discriminate or retaliate  
5 against an employee regarding the employee's compensation,  
6 terms, conditions, location or privileges of employment because  
7 the employee or a person acting on behalf of the employee makes  
8 a good faith report or is about to report, verbally or in  
9 writing, to the employer or appropriate authority an instance of  
10 wrongdoing or waste by a public body or an instance of waste by  
11 any other employer.

12 \* \* \*

13 (C) DISCLOSURE PROHIBITION.--AN APPROPRIATE AUTHORITY TO <--  
14 WHICH A VIOLATION OF THIS ACT WAS REPORTED MAY NOT DISCLOSE THE  
15 IDENTITY OF A WHISTLEBLOWER WITHOUT THE WHISTLEBLOWER'S CONSENT  
16 UNLESS DISCLOSURE IS UNAVOIDABLE IN THE INVESTIGATION OF THE  
17 ALLEGED VIOLATION.

18 SECTION 3. SECTIONS 5 AND 6 OF THE ACT ARE AMENDED TO READ:

19 Section 5. Enforcement.

20 A court, in rendering a judgment in an action brought under  
21 this act, shall order, as the court considers appropriate,  
22 reinstatement of the employee, the payment of back wages, full  
23 reinstatement of fringe benefits and seniority rights, actual  
24 damages or any combination of these remedies. A court [may]  
25 shall also award the complainant all or a portion of the costs  
26 of litigation, including reasonable attorney fees and witness  
27 fees[, if the court determines that the award is appropriate],  
28 if the complainant prevails in the civil action.

29 Section 6. Penalties.

30 A person who, under color of an employer's authority,

1 violates this act shall be liable for a civil fine of not more  
2 than [\$500] \$10,000. Additionally, except where the person holds  
3 an elected public office, if the court specifically finds that  
4 the person, while in the employment of the Commonwealth or a  
5 political subdivision, committed a violation of this act with  
6 the intent to discourage the disclosure of criminal activity,  
7 the court may order the person's suspension from public service  
8 for not more than [six months] seven years. A civil fine which  
9 is ordered under this section shall be paid to the State  
10 Treasurer for deposit into the General Fund.

11 Section 3 4. This act shall take effect in 60 days.

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