
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 85 Session of
2019

INTRODUCED BY KAUFFMAN, GROVE, RYAN, ROTHMAN, PYLE, RAPP,
KEEFER, ZIMMERMAN, OBERLANDER AND DUSH, JANUARY 28, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JANUARY 28, 2019

AN ACT

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

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 319 of the act of June 2, 1915 (P.L.736,
12 No.338), known as the Workers' Compensation Act, is amended to
13 read:

14 Section 319. Where the compensable injury is caused in whole
15 or in part by the act or omission of a third party, the employer
16 shall be subrogated to the right of the employe, his personal
17 representative, his estate or his dependents, against such third
18 party to the extent of the compensation payable under this
19 article by the employer; reasonable attorney's fees and other
20 proper disbursements incurred in obtaining a recovery or in
21 effecting a compromise settlement shall be prorated between the

1 employer and employe, his personal representative, his estate or
2 his dependents. The employer shall pay that proportion of the
3 attorney's fees and other proper disbursements that the amount
4 of compensation paid or payable at the time of recovery or
5 settlement bears to the total recovery or settlement. Any
6 recovery against such third person in excess of the compensation
7 theretofore paid by the employer shall be paid forthwith to the
8 employe, his personal representative, his estate or his
9 dependents, and shall be treated as an advance payment by the
10 employer on account of any future [instalments of] compensation.

11 Where an employe has received payments for the disability or
12 medical expense resulting from an injury in the course of his
13 employment paid by the employer or an insurance company on the
14 basis that the injury and disability were not compensable under
15 this act in the event of an agreement or award for that injury
16 the employer or insurance company who made the payments shall be
17 subrogated out of the agreement or award to the amount so paid,
18 if the right to subrogation is agreed to by the parties or is
19 established at the time of hearing before the referee or the
20 board.

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