

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 716 Session of 2019

INTRODUCED BY GALLOWAY, RABB, MURT, T. DAVIS, HILL-EVANS, CALTAGIRONE, ISAACSON, FREEMAN, NEILSON, DALEY, WARREN, DeLUCA, KORTZ, DAVIDSON, KRUEGER, WILLIAMS, MACKENZIE, GAINNEY AND D. MILLER, APRIL 5, 2019

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 4, 2019

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act ~~reviding~~ PROVIDING for and reorganizing the conduct <--
3 of the executive and administrative work of the Commonwealth
4 by the Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," in powers and duties of the Department of Labor
22 and Industry, its departmental administrative and advisory
23 boards and departmental administrative officers, providing
24 for joint ~~agency~~ task force on misclassification of <--
25 employees.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. The act of April 9, 1929 (P.L.177, No.175), known

1 as The Administrative Code of 1929, is amended by adding a
2 section to read:

3 Section 2209.4. Joint ~~Agency~~ Task Force on Misclassification <--
4 of Employes.--(a) A joint ~~agency~~ task force is established in <--
5 the Department of Labor and Industry to investigate the practice
6 of employe misclassification occurring in this Commonwealth and
7 to develop and implement a comprehensive plan with measurable
8 goals to reduce misclassification of employes in this
9 Commonwealth.

10 (b) Members of the joint ~~agency~~ task force shall be as <--
11 follows:

12 (1) The Attorney General.

13 ~~(2) The Secretary of Community and Economic Development.~~ <--

14 ~~(3) The Secretary of Environmental Protection.~~

15 ~~(4) The Secretary of General Services.~~

16 ~~(5) The Secretary of the Budget.~~

17 ~~(6) (2) The Secretary of Labor and Industry, who shall serve~~ <--
18 as chairperson of the task force.

19 ~~(7) (3) The Secretary of Revenue.~~ <--

20 (4) AN INDIVIDUAL WITH EXPERIENCE IN AN INDUSTRY AFFECTED BY <--
21 EMPLOYE MISCLASSIFICATION, APPOINTED BY THE PRESIDENT PRO
22 TEMPORE OF THE SENATE.

23 (5) AN INDIVIDUAL WITH EXPERIENCE IN AN INDUSTRY AFFECTED BY
24 EMPLOYE MISCLASSIFICATION, APPOINTED BY THE MINORITY LEADER OF
25 THE SENATE.

26 (6) AN INDIVIDUAL WITH EXPERIENCE IN AN INDUSTRY AFFECTED BY
27 EMPLOYE MISCLASSIFICATION, APPOINTED BY THE SPEAKER OF THE HOUSE
28 OF REPRESENTATIVES.

29 (7) AN INDIVIDUAL WITH EXPERIENCE IN AN INDUSTRY AFFECTED BY
30 EMPLOYE MISCLASSIFICATION, APPOINTED BY THE MINORITY LEADER OF

1 THE HOUSE OF REPRESENTATIVES.

2 (c) The task force shall meet and organize no later than
3 thirty (30) days after the effective date of this section. Each
4 member of the agency task force WHO IS THE HEAD OF A <--
5 COMMONWEALTH AGENCY may designate an individual who is employed
6 within their respective department to attend meetings in their
7 place.

8 (d) The task force shall have the following powers and
9 duties:

10 (1) Examine and evaluate existing employe misclassification
11 enforcement by Commonwealth agencies.

12 (2) Ensure that agencies and departments undertake timely
13 enforcement and that any penalties are PURSUANT TO A FINAL <--
14 ADJUDICATION ARE INCLUDED IN ANY APPLICABLE ANNUAL REPORTS OR
15 posted on their respective publicly accessible Internet websites
16 IN ACCORDANCE WITH STATUTE. <--

17 (3) Coordinate the review of existing law and other methods
18 to improve monitoring and enforcement of employe
19 misclassification.

20 (4) Review current procedures and establish reasonable
21 methods to accept and acknowledge complaints of employe
22 misclassification.

23 (5) Identify barriers to information sharing among
24 Commonwealth agencies regarding employe misclassification and
25 recommend statutory changes as necessary.

26 (6) Develop and implement a continuous campaign to educate
27 and inform employers, workers and the general public about the
28 illegality of employe misclassification.

29 (7) Collaborate with business, labor and community groups to
30 increase public awareness of the illegality of employe

1 misclassification and undertake efforts to reduce its
2 occurrence.

3 (8) Determine the revenue to the General Fund, the Workmen's
4 Compensation Administration Fund and the Unemployment
5 Compensation Trust Fund that is lost annually due to employe
6 misclassification.

7 (9) Engage in other activities deemed necessary and
8 appropriate by the task force, IF AUTHORIZED BY STATE LAW. <--

9 (e) The task force shall develop a work plan outlining how
10 the task force will approach its duties under subsection (d).
11 The task force shall submit an annual report to the General
12 Assembly by March 1 of the year following the first full year in
13 which this section is in effect, and ~~each year thereafter~~ A <--
14 FINAL REPORT PRIOR TO THE EXPIRATION OF THIS SECTION, detailing,
15 to the maximum extent possible, data on the previous calendar
16 year's administration of this section. ANY MEMBER OF THE TASK <--
17 FORCE WHO DISAGREES WITH A PORTION OF A REPORT SHALL HAVE THE
18 OPPORTUNITY TO INCLUDE A REBUTTAL STATEMENT WITH THE REPORT.

19 ~~(f) Staff necessary for the task force shall be provided by~~ <--
20 ~~the agencies participating with the task force.~~

21 (F) THE FOLLOWING SHALL APPLY: <--

22 (1) STAFF NECESSARY FOR THE TASK FORCE SHALL BE PROVIDED BY
23 THE AGENCIES PARTICIPATING WITH THE TASK FORCE.

24 (2) THE TASK FORCE SHALL CONSULT OTHER COMMONWEALTH AGENCIES
25 AS APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF
26 GENERAL SERVICES, THE DEPARTMENT OF ENVIRONMENTAL PROTECTION,
27 THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT AND THE
28 OFFICE OF BUDGET. IF THE TASK FORCE, THROUGH ITS CHAIRPERSON,
29 REQUESTS THE COOPERATION OF AN AGENCY, THE AGENCY SHALL MAKE
30 REASONABLE EFFORTS TO ASSIST THE TASK FORCE IN THE PERFORMANCE

1 OF ITS DUTIES.

2 (G) FOR THE PURPOSES OF THIS SECTION, THE TERM "EMPLOYEE
3 MISCLASSIFICATION" SHALL MEAN THE CLASSIFICATION OF AN EMPLOYEE
4 AS AN INDEPENDENT CONTRACTOR IN VIOLATION OF ANY LAW OF THIS
5 COMMONWEALTH, INCLUDING, BUT NOT LIMITED TO:

6 (1) THE ACT OF OCTOBER 13, 2010 (P.L.506, NO.72), KNOWN AS
7 THE "CONSTRUCTION WORKPLACE MISCLASSIFICATION ACT."

8 (2) THE ACT OF JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS THE
9 "WORKERS' COMPENSATION ACT."

10 (3) THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937
11 P.L.2897, NO.1), KNOWN AS THE "UNEMPLOYMENT COMPENSATION LAW."

12 (4) THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE
13 "TAX REFORM CODE OF 1971."

14 (H) THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE ANY
15 COMMONWEALTH AGENCY TO PROVIDE A MEMBER OF THE TASK FORCE, WHO
16 IS NOT EMPLOYED BY THE COMMONWEALTH AGENCY, WITH ANY INFORMATION
17 THAT WOULD NOT BE AVAILABLE TO A MEMBER OF THE PUBLIC UNDER THE
18 ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE "RIGHT-TO-
19 KNOW LAW."

20 (I) THIS SECTION SHALL EXPIRE TWO YEARS AFTER THE EFFECTIVE
21 DATE OF THIS SUBSECTION.

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