
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 718 Session of
2019

INTRODUCED BY SNYDER, KORTZ, HILL-EVANS, McNEILL, BERNSTINE,
MILLARD, SCHLOSSBERG, CALTAGIRONE, FREEMAN, DeLUCA, NEILSON,
GALLOWAY, McCLINTON, GAINEY AND D. MILLER, APRIL 5, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 5, 2019

AN ACT

1 Amending the act of October 13, 2010 (P.L.506, No.72), entitled
2 "An act providing for the criteria for independent
3 contractors in the construction industry and for the powers
4 and duties of the Department of Labor and Industry and the
5 Secretary of Labor and Industry; and imposing penalties,"
6 further providing for improper classification of employees.

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

9 Section 1. Section 4 of the act of October 13, 2010
10 (P.L.506, No.72), known as the Construction Workplace
11 Misclassification Act, is amended to read:

12 Section 4. Improper classification of employees.

13 (a) Violation.--An employer, or officer or agent of an
14 employer, shall be in violation of this act and shall be subject
15 to the penalties, remedies and actions contained in this act if
16 the employer, officer or agent:

17 (1) fails to properly classify an individual as an
18 employee for purposes of the Workers' Compensation Act and
19 fails to provide the coverage required under the Workers'

1 Compensation Act; or

2 (2) fails to properly classify an individual as an
3 employee for purposes of the Unemployment Compensation Law
4 and fails to pay contributions, reimbursements or other
5 amounts required to be paid under the Unemployment
6 Compensation Law.

7 (b) Separate offenses.--Each individual who is not properly
8 classified as an employee shall be the basis of a separate
9 violation of this section.

10 (b.1) Complaint.--If the secretary receives a written
11 complaint indicating that a person has violated this act, the
12 secretary shall within 15 days of the receipt of the complaint
13 respond in writing to the person who filed the complaint that
14 the complaint has been received.

15 (c) [Order] Investigation and order to show cause.--

16 (1) If the secretary receives a written complaint or
17 information indicating that any person has violated this act,
18 the secretary [may] shall, unless the complaint appears to be
19 frivolous, investigate the matter and issue an order to show
20 cause why the person should not be found in violation of this
21 act.

22 (2) A person served with an order to show cause shall
23 have a period of 20 days from the date the order is served to
24 file an answer in writing.

25 (3) If the person fails to file a timely and adequate
26 answer to the order to show cause, the secretary may,
27 following notice and hearing, do any of the following:

28 (i) petition a court of competent jurisdiction to
29 issue a stop-work order as provided in section 7; or

30 (ii) immediately assess penalties as provided in

1 section 6.

2 (d) Enforcement.--If, subsequent to issuing an order to show
3 cause under subsection (c), the secretary finds probable cause
4 that an employer has committed a criminal violation of this act,
5 the secretary shall refer the matter to the Office of Attorney
6 General for investigation or impose administrative penalties
7 under section 6.

8 (e) Acting in concert with other parties.--A party that does
9 not meet the definition of "employer" in section 2, but which
10 intentionally contracts with an employer knowing the employer
11 intends to misclassify employees in violation of this act, shall
12 be subject to the same penalties, remedies or other actions as
13 the employer found to be in violation of this act.

14 (f) Defense.--It shall be a defense to an alleged violation
15 of this section if the person for whom the services are
16 performed in good faith believed that the individual who
17 performed the services qualified as an independent contractor at
18 the time the services were performed.

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