

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1234 Session of 2019

INTRODUCED BY COX, DUSH, FRITZ, KAUFFMAN, MACKENZIE, MILLARD, NELSON, RIGBY AND WHEELAND, APRIL 9, 2019

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 29, 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 the definitions of
8 "injury," "personal injury" and "injury arising in the course
9 of his employment," providing for diseases with long latency
10 periods between occupational exposure and manifestation of
11 the disease and further providing for liability.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Sections 301(c) and 303(a) of the act of June 2, <--~~
15 ~~1915 (P.L.736, No.338), known as the Workers' Compensation Act,~~
16 ~~are amended and the sections are amended by adding subsections~~
17 ~~to read:~~

18 SECTION 1. SECTION 301(C) OF THE ACT OF JUNE 2, 1915 <--
19 (P.L.736, NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT, IS
20 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
21 READ:

22 Section 301. * * *

1 (c) (1) The terms "injury" and "personal injury," as used
2 in this act, shall be construed to mean an injury to an employe,
3 regardless of his previous physical condition, except as
4 provided under [subsection (f)] subsections (f) and (g), arising
5 in the course of his employment and related thereto, and such
6 disease or infection as naturally results from the injury or is
7 aggravated, reactivated or accelerated by the injury; and
8 wherever death is mentioned as a cause for compensation under
9 this act, it shall mean only death resulting from such injury
10 and its resultant effects, and occurring within three hundred
11 weeks after the injury. THE LIMITATION WITH RESPECT TO A DISEASE <--
12 UNDER THIS PARAGRAPH HAVING TO OCCUR WITHIN THREE YEARS OF THE
13 LAST DATE OF EXPOSURE SHALL NOT APPLY TO CLAIMS FILED UNDER
14 SUBSECTION (G) (1). The term "injury arising in the course of his
15 employment," as used in this article, shall not include an
16 injury caused by an act of a third person intended to injure the
17 employe because of reasons personal to him, and not directed
18 against him as an employe or because of his employment; nor
19 shall it include injuries sustained while the employe is
20 operating a motor vehicle provided by the employer if the
21 employe is not otherwise in the course of employment at the time
22 of injury; but shall include all other injuries sustained while
23 the employe is actually engaged in the furtherance of the
24 business or affairs of the employer, whether upon the employer's
25 premises or elsewhere, and shall include all injuries caused by
26 the condition of the premises or by the operation of the
27 employer's business or affairs thereon, sustained by the
28 employe, who, though not so engaged, is injured upon the
29 premises occupied by or under the control of the employer, or
30 upon which the employer's business or affairs are being carried

1 on, the employe's presence thereon being required by the nature
2 of his employment.

3 (2) The terms "injury," "personal injury," and "injury
4 arising in the course of his employment," as used in this act,
5 shall include, unless the context clearly requires otherwise,
6 occupational disease as defined in section 108 of this act:
7 Provided, That whenever occupational disease is the basis for
8 compensation, for disability or death under this act, it shall
9 apply only to disability or death resulting from such disease
10 and occurring within three hundred weeks after the last date of
11 employment in an occupation or industry to which he was exposed
12 to hazards of such disease: And provided further, That if the
13 employe's compensable disability has occurred within such
14 period, his subsequent death as a result of the disease shall
15 likewise be compensable. This limitation shall not apply to
16 claims filed under subsection (g)(1). The provisions of this
17 paragraph (2) shall apply only with respect to the disability or
18 death of an employe which results in whole or in part from the
19 employe's exposure to the hazard of occupational disease after
20 June 30, 1973 in employment covered by The Pennsylvania
21 Workmen's Compensation Act. The employer liable for compensation
22 provided by section 305.1 or section 108, subsections (k), (l),
23 (m), (o), (p), (q) or (r), shall be the employer in whose
24 employment the employe was last exposed for a period of not less
25 than one year to the hazard of the occupational disease claimed.
26 In the event the employe did not work in an exposure at least
27 one year for any employer during the three hundred week period
28 prior to disability or death, the employer liable for the
29 compensation shall be that employer giving the longest period of
30 employment in which the employe was exposed to the hazards of

1 the disease claimed.

2 * * *

3 (g) (1) Notwithstanding the ~~limitation~~ LIMITATIONS WITH <--
4 RESPECT TO A DISEASE UNDER SUBSECTION (C) (1) HAVING TO OCCUR
5 WITHIN THREE YEARS OF THE LAST DATE OF EXPOSURE, AND under
6 subsection (c) (2) with respect to disability or death resulting
7 from an occupational disease having to occur within three
8 hundred weeks after the last date of employment in an occupation
9 or industry to which a claimant was exposed to the hazards of
10 disease, claims filed for ~~any disease~~ A DISEASE UNDER SUBSECTION <--
11 (C) (1) OR (2) for which the time period between exposure to the
12 hazard of disease in the workplace and manifestation of disease
13 is greater than three hundred weeks must be filed within three
14 hundred weeks of the date on which a claimant is diagnosed with
15 the disease or the disease is detectable. It shall be a <--
16 claimant's burden to prove that the disease for which
17 compensation is sought has a latency period of more than three
18 hundred weeks.

19 (2) THE FOLLOWING SHALL APPLY TO CLAIMS MADE UNDER THIS <--
20 SUBSECTION, WHERE THE LAST DATE OF EMPLOYMENT IN THE OCCUPATION
21 OR INDUSTRY TO WHICH A CLAIMANT WAS EXPOSED TO THE HAZARDS OF
22 DISEASE OCCURRED PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH:

23 (I) A SELF-INSURED EMPLOYER SHALL PAY COMPENSABLE CLAIMS
24 UNDER THIS SUBSECTION IN ACCORDANCE WITH THIS ACT.

25 (II) AN INSURER SHALL NOT BE LIABLE FOR A COMPENSABLE CLAIM
26 UNDER THIS SUBSECTION THAT WAS NOT COMPENSABLE PRIOR TO THE
27 EFFECTIVE DATE OF THIS PARAGRAPH AS THE RESULT OF THE LIMITATION
28 WITH RESPECT TO A DISEASE UNDER SUBSECTION (C) (1) HAVING TO
29 OCCUR WITHIN THREE YEARS OF THE LAST DATE OF EXPOSURE OR THE
30 LIMITATION UNDER SUBSECTION (C) (2) WITH RESPECT TO DISABILITY OR

1 DEATH RESULTING FROM AN OCCUPATIONAL DISEASE HAVING TO OCCUR
2 WITHIN THREE HUNDRED WEEKS AFTER THE LAST DATE OF EMPLOYMENT IN
3 AN OCCUPATION OR INDUSTRY TO WHICH A CLAIMANT WAS EXPOSED TO THE
4 HAZARDS OF DISEASE.

5 (III) AN INSURED EMPLOYER WHO RECEIVES A NOTICE OR PETITION
6 FOR A COMPENSABLE CLAIM UNDER THIS SUBSECTION, WHICH THE INSURER
7 IS NOT REQUIRED TO PAY UNDER SUBPARAGRAPH (II), MAY REFER THE
8 CLAIM TO THE WORKERS' COMPENSATION SECURITY FUND, ESTABLISHED
9 UNDER THE ACT OF JULY 1, 1937 (P.L.2532, NO.470), KNOWN AS THE
10 WORKERS' COMPENSATION SECURITY FUND ACT. AN EMPLOYER WHO REFERS
11 A CLAIM SHALL IMMEDIATELY REPORT THE CLAIM TO THE WORKERS'
12 COMPENSATION SECURITY FUND AND SEND WRITTEN NOTICE BY CERTIFIED
13 MAIL TO THE CLAIMANT, THE INSURER AND THE WORKERS' COMPENSATION
14 SECURITY FUND WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE NOTICE OR
15 PETITION, OR WITHIN FORTY-FIVE DAYS FROM THE TIME THE EMPLOYER
16 WAS INFORMED BY THE INSURER THAT THE INSURER IS NOT REQUIRED TO
17 PAY THE CLAIM UNDER SUBPARAGRAPH (II). THE NOTICE SHALL INCLUDE
18 ALL CLAIM INFORMATION RECEIVED BY THE EMPLOYER, CONTACT
19 INFORMATION FOR THE CLAIMANT AND ANY OTHER INFORMATION REQUIRED
20 BY THE WORKERS' COMPENSATION SECURITY FUND.

21 (IV) THE WORKERS' COMPENSATION SECURITY FUND SHALL PAY
22 COMPENSABLE CLAIMS SUBMITTED UNDER SUBPARAGRAPH (III) IN
23 ACCORDANCE WITH THIS ACT, IF THE EMPLOYER HAS PROVIDED NOTICE
24 UNDER SUBPARAGRAPH (III) AND THE CLAIM IS COMPENSABLE UNDER THIS
25 SUBSECTION. THE WORKERS' COMPENSATION SECURITY FUND SHALL NOT BE
26 REQUIRED TO PAY ANY CLAIM THAT IS NOT AUTHORIZED UNDER THIS
27 SUBSECTION OR ANY CLAIM UNDER THIS SUBSECTION WHERE THE LAST
28 DATE OF EMPLOYMENT IN THE OCCUPATION OR INDUSTRY TO WHICH A
29 CLAIMANT WAS EXPOSED TO THE HAZARDS OF DISEASE OCCURRED ON OR
30 AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, UNLESS REQUIRED BY

1 THE WORKERS' COMPENSATION SECURITY FUND ACT. THE WORKERS'
2 COMPENSATION SECURITY FUND MAY ESTABLISH REGULATIONS, POLICIES
3 AND PROCEDURES FOR THE SUBMISSION OF CLAIMS UNDER SUBPARAGRAPH
4 (III), INCLUDING THE FORM OF THE NOTICE, AND THE ADMINISTRATION
5 OF CLAIMS.

6 (V) THE INSURANCE COMMISSIONER SHALL INCLUDE IN HIS REGULAR
7 REPORT TO THE GOVERNOR A STATEMENT OF THE EXPENSES OF
8 ADMINISTERING CLAIMS PAID UNDER THIS SUBSECTION, ALONG WITH THE
9 INFORMATION REQUIRED UNDER SECTION 14 OF THE WORKERS'
10 COMPENSATION SECURITY FUND ACT.

11 ~~(2)~~ (3) This subsection shall not apply to claims filed <--
12 under section 108(r).

13 Section 303. ~~(a) The liability of an employer, together~~ <--
14 ~~with its holding companies, subsidiaries and affiliates, under~~
15 ~~this act shall be exclusive and in place of any and all other~~
16 ~~liability to such employes, his legal representative, husband or~~
17 ~~wife, parents, dependents, next of kin or anyone otherwise~~
18 ~~entitled to damages in any action at law or otherwise on account~~
19 ~~of any injury or death as defined in section 301 (c) (1) and (2)~~
20 ~~or occupational disease as defined in section 108.~~

21 * * *

22 SECTION 1.1. SECTION 303 OF THE ACT IS AMENDED BY ADDING A <--
23 SUBSECTION TO READ:

24 SECTION 303. * * *

25 (c) This act provides the exclusive remedy AGAINST A <--
26 CLAIMANT'S EMPLOYER for any injury or disease that may arise out
27 of hazardous occupational exposure, whether the disease is
28 compensable as an occupational disease or not. <--

29 Section 2. This act shall apply as follows:

30 (1) Except as provided in paragraph (2), this act shall

1 apply to claims filed on or after the effective date of this
2 act.

3 (2) The addition of sections 301(g) and 303(c) of the
4 act shall apply ~~retroactively~~ to civil claims existing as of <--
5 the effective date of this paragraph, if the plaintiff was
6 barred from seeking compensation for an occupational disease
7 by the time limit under section 301(c)(2), for which
8 compensation has not been paid or awarded.

9 Section 3. This act shall take effect immediately.