

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 143 Session of 2019

INTRODUCED BY K. WARD, MARTIN, FOLMER, MENSCH, HUTCHINSON AND GORDNER, JANUARY 31, 2019

REFERRED TO LABOR AND INDUSTRY, JANUARY 31, 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. Section 301(c) of the act of June 2, 1915
 15 (P.L.736, No.338), known as the Workers' Compensation Act, is
 16 amended and the section is amended by adding a subsection to
 17 read:

18 Section 301. * * *

19 (c) (1) The terms "injury" and "personal injury," as used
 20 in this act, shall be construed to mean an injury to an employe,
 21 regardless of his previous physical condition, except as
 22 provided under [subsection] subsections (f) and (g), arising in

1 the course of his employment and related thereto, and such
2 disease or infection as naturally results from the injury or is
3 aggravated, reactivated or accelerated by the injury; and
4 wherever death is mentioned as a cause for compensation under
5 this act, it shall mean only death resulting from such injury
6 and its resultant effects, and occurring within three hundred
7 weeks after the injury. The term "injury arising in the course
8 of his employment," as used in this article, shall not include
9 an injury caused by an act of a third person intended to injure
10 the employe because of reasons personal to him, and not directed
11 against him as an employe or because of his employment; nor
12 shall it include injuries sustained while the employe is
13 operating a motor vehicle provided by the employer if the
14 employe is not otherwise in the course of employment at the time
15 of injury; but shall include all other injuries sustained while
16 the employe is actually engaged in the furtherance of the
17 business or affairs of the employer, whether upon the employer's
18 premises or elsewhere, and shall include all injuries caused by
19 the condition of the premises or by the operation of the
20 employer's business or affairs thereon, sustained by the
21 employe, who, though not so engaged, is injured upon the
22 premises occupied by or under the control of the employer, or
23 upon which the employer's business or affairs are being carried
24 on, the employe's presence thereon being required by the nature
25 of his employment.

26 (2) The terms "injury," "personal injury," and "injury
27 arising in the course of his employment," as used in this act,
28 shall include, unless the context clearly requires otherwise,
29 occupational disease as defined in section 108 of this act:
30 Provided, That whenever occupational disease is the basis for

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

25 * * *

26 (g) (1) Notwithstanding the limitation under subsection (c)
27 (2) with respect to disability or death resulting from an
28 occupational disease having to occur within three hundred weeks
29 after the last date of employment in an occupation or industry
30 to which a claimant was exposed to the hazards of disease,

1 claims filed for any disease for which the time period between
2 exposure to the hazard of disease in the workplace and
3 manifestation of disease is greater than three hundred weeks
4 must be filed within three hundred weeks of the date on which a
5 claimant is diagnosed with the disease or the disease is
6 detectable. It shall be a claimant's burden to prove that the
7 disease for which compensation is sought has a latency period of
8 more than three hundred weeks.

9 (2) This subsection shall not apply to claims filed under
10 section 108(r).

11 Section 2. Section 303 of the act is amended by adding a
12 clause to read:

13 Section 303. * * *

14 (c) This act provides the exclusive remedy for any injury or
15 disease that may arise out of hazardous occupational exposure,
16 whether the disease is compensable as an occupational disease or
17 not.

18 Section 3. The date of loss for claims filed pursuant to
19 section 301(g) of the act shall be the last date of injurious
20 occupational exposure to the hazard.

21 Section 4. The provisions of this act shall apply
22 retroactively to the date on which the last injurious exposure
23 occurred.

24 Section 5. This act shall take effect immediately.