

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 401 Session of  
2021

INTRODUCED BY GALLOWAY, DELLOSO, McNEILL, SANCHEZ, NEILSON,  
FREEMAN AND WARREN, FEBRUARY 4, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 4, 2021

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 independent contractors.

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

9 Section 1. Section 3(a) 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 3. Independent contractors.

13 (a) General rule.--For purposes of workers' compensation,  
14 unemployment compensation and improper classification of  
15 employees provided herein, an individual who performs services  
16 in the construction industry for remuneration is an independent  
17 contractor only if:

18 (1) The individual has a written contract [to perform  
19 such services.] that is project-specific and contains a  
20 particular scope of work and definitive time period to

1     perform the services.

2           (2) The individual is free from control or direction  
3     over performance of such services both under the contract of  
4     service and in fact.

5           (3) As to such services, the individual is customarily  
6     engaged in an independently established trade, occupation,  
7     profession or business.

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