

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1837 Session of
2021INTRODUCED BY IRVIN, JAMES, KEEFER, PICKETT, ROWE AND JOZWIAK,
SEPTEMBER 2, 2021SENATOR BARTOLOTTA, LABOR AND INDUSTRY, IN SENATE, AS AMENDED,
NOVEMBER 10, 2021

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 procedure, further
7 providing for MODIFICATIONS, REINSTATEMENTS, SUSPENSIONS AND <--
8 TERMINATIONS AND FOR compromise and release.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. Section 449(c) of the act of June 2, 1915~~ <--
12 ~~(P.L.736, No.338), known as the Workers' Compensation Act, is~~
13 ~~amended to read:~~

14 SECTION 1. SECTIONS 413(C) AND (D) AND 449(C) OF THE ACT OF <--
15 JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS THE WORKERS'
16 COMPENSATION ACT, ARE AMENDED TO READ:

17 SECTION 413. * * *

18 (C) NOTWITHSTANDING ANY PROVISION OF THIS ACT, AN INSURER
19 MAY SUSPEND THE COMPENSATION DURING THE TIME THE EMPLOYE HAS
20 RETURNED TO WORK AT HIS PRIOR OR INCREASED EARNINGS UPON WRITTEN

1 NOTIFICATION OF SUSPENSION BY THE INSURER TO THE EMPLOYE AND THE
2 DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT FOR THIS
3 PURPOSE. THE NOTIFICATION OF SUSPENSION SHALL INCLUDE [AN
4 AFFIDAVIT] A VERIFICATION BY THE INSURER THAT COMPENSATION HAS
5 BEEN SUSPENDED BECAUSE THE EMPLOYE HAS RETURNED TO WORK AT PRIOR
6 OR INCREASED EARNINGS. THE INSURER MUST MAIL THE NOTIFICATION OF
7 SUSPENSION TO THE EMPLOYE AND THE DEPARTMENT WITHIN SEVEN DAYS
8 OF THE INSURER SUSPENDING COMPENSATION.

9 (1) IF THE EMPLOYE CONTESTS THE AVERMENTS OF THE INSURER'S
10 [AFFIDAVIT] VERIFICATION, A SPECIAL SUPERSEDEAS HEARING BEFORE A
11 WORKERS' COMPENSATION JUDGE MAY BE REQUESTED BY THE EMPLOYE
12 INDICATING BY A CHECKOFF ON THE NOTIFICATION FORM THAT THE
13 SUSPENSION OF BENEFITS IS BEING CHALLENGED AND FILING THE
14 NOTIFICATION OF CHALLENGE WITH THE DEPARTMENT WITHIN TWENTY DAYS
15 OF RECEIPT OF THE NOTIFICATION OF SUSPENSION FROM THE INSURER.
16 THE SPECIAL SUPERSEDEAS HEARING SHALL BE HELD WITHIN TWENTY-ONE
17 DAYS OF THE EMPLOYE'S FILING OF THE NOTIFICATION OF CHALLENGE.

18 (2) IF THE EMPLOYE DOES NOT CHALLENGE THE INSURER'S
19 NOTIFICATION OF SUSPENSION WITHIN TWENTY DAYS UNDER PARAGRAPH
20 (1), THE EMPLOYE SHALL BE DEEMED TO HAVE ADMITTED TO THE RETURN
21 TO WORK AND RECEIPT OF WAGES AT PRIOR OR INCREASED EARNINGS. THE
22 INSURER'S NOTIFICATION OF SUSPENSION SHALL BE DEEMED TO HAVE THE
23 SAME BINDING EFFECT AS A FULLY EXECUTED SUPPLEMENTAL AGREEMENT
24 FOR THE SUSPENSION OF BENEFITS.

25 (D) NOTWITHSTANDING ANY PROVISION OF THIS ACT, AN INSURER
26 MAY MODIFY THE COMPENSATION PAYMENTS MADE DURING THE TIME THE
27 EMPLOYE HAS RETURNED TO WORK AT EARNINGS LESS THAN THE EMPLOYE
28 EARNED AT THE TIME OF THE WORK-RELATED INJURY, UPON WRITTEN
29 NOTIFICATION OF MODIFICATION BY THE INSURER TO THE EMPLOYE AND
30 THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT FOR THIS

1 PURPOSE. THE NOTIFICATION OF MODIFICATION SHALL INCLUDE [AN
2 AFFIDAVIT] A VERIFICATION BY THE INSURER THAT COMPENSATION HAS
3 BEEN MODIFIED BECAUSE THE EMPLOYE HAS RETURNED TO WORK AT LESSER
4 EARNINGS. THE INSURER MUST MAIL THE NOTIFICATION OF MODIFICATION
5 TO THE EMPLOYE AND THE DEPARTMENT WITHIN SEVEN DAYS OF THE
6 INSURER'S MODIFYING COMPENSATION.

7 (1) IF THE EMPLOYE CONTESTS THE AVERMENTS OF THE INSURER'S
8 [AFFIDAVIT] VERIFICATION, A SPECIAL SUPERSEDEAS HEARING BEFORE A
9 WORKERS' COMPENSATION JUDGE MAY BE REQUESTED BY THE EMPLOYE
10 INDICATING BY A CHECKOFF ON THE NOTIFICATION FORM THAT THE
11 MODIFICATION OF BENEFITS IS BEING CHALLENGED AND FILING THE
12 NOTIFICATION OF CHALLENGE WITH THE DEPARTMENT WITHIN TWENTY DAYS
13 OF RECEIPT OF THE NOTIFICATION OF MODIFICATION FROM THE INSURER.
14 THE SPECIAL SUPERSEDEAS HEARING SHALL BE HELD WITHIN TWENTY-ONE
15 DAYS OF THE EMPLOYE'S FILING OF THE NOTIFICATION OF CHALLENGE.

16 (2) IF THE EMPLOYE DOES NOT CHALLENGE THE INSURER'S
17 NOTIFICATION OF MODIFICATION WITHIN TWENTY DAYS UNDER PARAGRAPH
18 (1), THE EMPLOYE SHALL BE DEEMED TO HAVE ADMITTED TO THE RETURN
19 TO WORK AND RECEIPT OF WAGES AT LESSER EARNINGS AS ALLEGED BY
20 THE INSURER. THE INSURER'S NOTIFICATION OF MODIFICATION SHALL BE
21 DEEMED TO HAVE THE SAME BINDING EFFECT AS A FULLY EXECUTED
22 SUPPLEMENTAL AGREEMENT FOR THE MODIFICATION OF BENEFITS.

23 Section 449. * * *

24 (c) Every compromise and release by stipulation shall be in
25 writing and duly executed, and the signature of the employe,
26 widow or widower or dependent shall be attested by two witnesses
27 or acknowledged before a notary public. However, the attestation
28 by two witnesses or acknowledgment before a notary public shall
29 not be required if the employe, widow or widower or dependent
30 appears before the workers' compensation judge for the purposes

1 of a hearing required under subsection (b) and provides a sworn
2 oral statement that he or she understands the full legal
3 significance of the agreement. The document shall specify:

4 (1) the date of the injury or occupational disease;

5 (2) the average weekly wage of the employe as calculated
6 under section 309;

7 (3) the injury, the nature of the injury and the nature of
8 disability, whether total or partial;

9 (4) the weekly compensation rate paid or payable;

10 (5) the amount paid or due and unpaid to the employe or
11 dependent up to the date of the stipulation or agreement or
12 death and the amount of the payment of disability benefits then
13 or thereafter to be made;

14 (6) the length of time such payment of benefits is to
15 continue;

16 (7) in the event of a lien for subrogation under section
17 319, the total amount of compensation paid or payable which
18 should be allowed to the employer or insurer;

19 (8) in the case of death:

20 (i) the date of death;

21 (ii) the name of the widow or widower;

22 (iii) the names and ages of all children;

23 (iv) the names of all other dependents; and

24 (v) the amount paid or to be paid under section 307 and to
25 whom payment is to be made;

26 (9) a listing of all benefits received or available to the
27 claimant;

28 (10) a disclosure of the issues of the case and the reasons
29 why the parties are agreeing to the agreement; and

30 (11) the fact that the claimant is represented by an

1 attorney of his or her own choosing or that the claimant has
2 been specifically informed of the right to representation by an
3 attorney of his or her own choosing and has declined such
4 representation.

5 * * *

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