

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2081 Session of 2014

INTRODUCED BY ADOLPH, SCAVELLO, W. KELLER, KILLION, MILLARD, MICOZZIE, SWANGER, THOMAS, KOTIK, MENTZER, CLYMER, SONNEY, GINGRICH, LAWRENCE, GILLEN, ROSS, GROVE, TRUITT, O'BRIEN, MALONEY, HACKETT, HENNESSEY, WATSON, PARKER, TAYLOR, EVERETT, MASSER, MURT, F. KELLER, MCGINNIS, GRELL, GERGELY, CORBIN, LUCAS, KORTZ, P. COSTA, COX, DONATUCCI AND MARKOSEK, MARCH 11, 2014

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 11, 2014

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
 2 reenacted and amended, "An act defining the liability of an
 3 employer to pay damages for injuries received by an employe
 4 in the course of employment; establishing an elective
 5 schedule of compensation; providing procedure for the
 6 determination of liability and compensation thereunder; and
 7 prescribing penalties," in interpretation and definitions,
 8 further providing for definitions; and in liability and
 9 compensation, further providing for the receipt of
 10 compensation.

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

13 Section 1. Section 104 of the act of June 2, 1915 (P.L.736,
 14 No.338), known as the Workers' Compensation Act, reenacted and
 15 amended June 21, 1939 (P.L.520, No.281) and amended June 24,
 16 1996 (P.L.350, No.57), is amended to read:

17 Section 104. The term "employe," as used in this act is
 18 declared to be synonymous with servant, and includes--

19 All natural persons who perform services for another for a

1 valuable consideration, exclusive of persons subject to coverage
2 under the Longshore and Harbor Workers' Compensation Act (44
3 Stat. 1424, 33 U.S.C. § 901 et seq.) or the Merchant Marine Act
4 of 1920 (41 Stat. 988, 46 U.S.C. § 861 et seq.), or any other
5 workers' compensation laws of the Federal Government, or persons
6 whose employment is casual in character and not in the regular
7 course of the business of the employer, and exclusive of persons
8 to whom articles or materials are given out to be made up,
9 cleaned, washed, altered, ornamented, finished or repaired, or
10 adapted for sale in the worker's own home, or on other premises,
11 not under the control or management of the employer. Except as
12 hereinafter provided in clause (c) of section 302 and sections
13 305 and 321, every executive officer of a corporation elected or
14 appointed in accordance with the charter and by-laws of the
15 corporation, except elected officers of the Commonwealth or any
16 of its political subdivisions, shall be an employe of the
17 corporation. An executive officer of a for-profit corporation or
18 an executive officer of a nonprofit corporation who serves
19 voluntarily and without remuneration may, however, elect not to
20 be an employe of the corporation for the purposes of this act.
21 For purposes of this section, an executive officer of a for-
22 profit corporation is an individual who has an ownership
23 interest in the corporation, in the case of a Subchapter S
24 corporation as defined by the act of March 4, 1971 (P.L.6,
25 No.2), known as the "Tax Reform Code of 1971," or an ownership
26 interest in the corporation of at least five per centum, in the
27 case of a Subchapter C corporation as defined by the Tax Reform
28 Code of 1971.

29 Section 2. Section 322 of the act, added July 2, 1993
30 (P.L.190, No.44), is amended to read:

1 Section 322. It shall be unlawful for any employe to receive
2 compensation under this act if he is [at the same time] subject
3 to receiving workers' compensation under the laws of [the
4 Federal Government or] any other state, or if he is subject to
5 coverage under the Longshore and Harbor Workers' Compensation
6 Act (44 Stat. 1424, 33 U.S.C. § 901 et seq.) or the Merchant
7 Marine Act of 1920 (41 Stat. 988, 46 U.S.C. § 861 et seq.), or
8 any other workers' compensation laws of the Federal Government
9 for the same injury. Further, it shall be unlawful for an
10 employe receiving compensation under this act simultaneously
11 from two or more employers or insurers during any period of
12 total disability to receive total compensation in excess of the
13 maximum benefit under this act. Nothing in this section shall be
14 deemed to prohibit payment of workers' compensation on a pro-
15 rata basis, where an employe suffers from more than one injury
16 while in the employ of more than one employer: Provided,
17 however, That the total compensation paid shall not exceed the
18 maximum weekly compensation payable under this act: And,
19 Provided further, That any such pro rata calculation shall be
20 based upon the earnings by such an employe in the employ of each
21 such employer and that all wage losses suffered as a result of
22 any injury which is compensable under this act shall be used as
23 the basis for calculating the total compensation to be paid on a
24 pro rata basis.

25 Section 3. This act shall take effect immediately.