
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2160 Session of
2021

INTRODUCED BY DeLUCA, SANCHEZ, McNEILL, HOWARD, SCHLOSSBERG,
DELLOSO, CIRESI, MALAGARI AND N. NELSON, DECEMBER 13, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, DECEMBER 13, 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 improper classification of employees
7 and for criminal penalties.

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

10 Section 1. Sections 4(a) and 5 of the act of October 13,
11 2010 (P.L.506, No.72), known as the Construction Workplace
12 Misclassification Act, are amended to read:

13 Section 4. Improper classification of employees.

14 (a) Violation.--An employer, or officer or agent of an
15 employer, shall be in violation of this act and shall be subject
16 to the penalties, remedies and actions contained in this act if
17 the employer, officer or agent:

18 (1) fails to properly classify an individual as an
19 employee for purposes of the Workers' Compensation Act and
20 fails to provide the coverage required under the Workers'

1 Compensation Act; [or]

2 (2) fails to properly classify an individual as an
3 employee for purposes of the Unemployment Compensation Law
4 and fails to pay contributions, reimbursements or other
5 amounts required to be paid under the Unemployment
6 Compensation Law[.]; or

7 (3) is convicted of an offense under 18 Pa.C.S. § 4107
8 (relating to deceptive or fraudulent business practices)
9 reasonably related to a violation under paragraph (1) or (2).

10 * * *

11 Section 5. Criminal penalties.

12 (a) Grading.--An employer, or officer or agent of an
13 employer, that intentionally violates section [4(a)] 4(a)(1) or
14 (2) commits:

15 (1) A misdemeanor of the [third] second degree for a
16 first offense.

17 (2) A misdemeanor of the [second] first degree for a
18 second or subsequent offense.

19 [(b) Summary offense.--An employer, or officer or agent of
20 an employer, that negligently fails to properly classify an
21 individual as an employee under section 4(a) commits a summary
22 offense and shall, upon conviction, be sentenced to pay a fine
23 of not more than \$1,000. Evidence of a prior conviction under
24 this subsection shall be admissible as evidence of intent under
25 subsection (a).]

26 (b.1) Debarment.--A person sentenced under subsection (a)
27 shall be prohibited from contracting or in any manner doing
28 business with the Commonwealth for a period of five years.

29 (c) Concurrent jurisdiction.--

30 (1) The Attorney General shall have concurrent

1 prosecutorial jurisdiction with the district attorney of the
2 appropriate county for violations under this section and any
3 offense arising out of the activity prohibited by this
4 section.

5 (2) No person charged with a violation of this section
6 by the Attorney General shall have standing to challenge the
7 authority of the Attorney General to prosecute the case, and
8 if a challenge is made, the challenge shall be dismissed, and
9 no relief shall be available in the courts of this
10 Commonwealth to the person making the challenge.

11 Section 2. This act shall apply to offenses committed and
12 sentences imposed on and after the effective date of this
13 section.

14 Section 3. This act shall take effect in 60 days.