

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 906 Session of 2023

INTRODUCED BY KEEFER, HAMM, MOUL, SCHLEGEL CULVER, KAUFFMAN, ROWE, ZIMMERMAN, GLEIM AND LEADBETER, APRIL 12, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 12, 2023

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, providing for registration of status as
 8 independent contractor.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. The act of June 2, 1915 (P.L.736, No.338), known
 12 as the Workers' Compensation Act, is amended by adding a section
 13 to read:

14 Section 304.3. (a) Notwithstanding any other provision of
 15 this act, a person may file a registration with the department
 16 regarding the status of an individual who is classified for
 17 Federal income tax purposes as an independent contractor of the
 18 person.

19 (b) A registration under this section shall include the
 20 following:

21 (1) A written waiver by the individual of all benefits under

1 this act from the person.

2 (2) An affidavit by the individual specifying that the
3 individual understands and agrees that the individual:

4 (i) is not an employe of the person;

5 (ii) is not entitled to benefits under this act from the
6 person;

7 (iii) may purchase workers' compensation insurance under
8 this act or other disability insurance at the individual's own
9 expense; and

10 (iv) is not entitled to benefits from the Uninsured
11 Employers Guaranty Fund if the individual is injured while
12 performing services for the person.

13 (c) The waiver and affidavit under subsection (b) shall be
14 made upon forms prescribed by the department.

15 (d) The following apply:

16 (1) A person who registers an individual as an independent
17 contractor under this section:

18 (i) shall not be liable to the individual for benefits under
19 this act; and

20 (ii) shall not be required to provide insurance coverage or
21 self-insure under this act regarding the individual.

22 (2) An individual registered as an independent contractor
23 under this section shall not be eligible for benefits from the
24 Uninsured Employers Guaranty Fund if the person is injured while
25 performing services as an independent contractor pursuant to the
26 registration.

27 (e) A registration identifying an individual as an
28 independent contractor shall be valid for each future year,
29 except that the individual may request that the registration be
30 revoked at any time. The following apply:

1 (1) The request for revocation shall be on a form prescribed
2 by the department.

3 (2) The individual shall file the request for revocation
4 with the department and concurrently provide notice by certified
5 mail of the filing of the request with the person who filed the
6 registration.

7 (3) The department shall confirm receipt of the request for
8 revocation with the individual and the person within five days
9 of the receipt of the request.

10 (4) The revocation shall be effective ten days after the
11 receipt of the request by the department.

12 (f) A person shall not do any of the following to persuade
13 an individual to complete the waiver and affidavit under
14 subsection (b) or refrain from filing a request for revocation
15 under subsection (e):

16 (1) Knowingly provide an incentive to the individual,
17 pecuniary or otherwise.

18 (2) Knowingly provide materially false information to the
19 individual.

20 (3) Knowingly withhold information from the individual in
21 order to deceive the individual.

22 (g) A person violating subsection (f) shall be subject to
23 the penalties for an intentional violation of section 305.

24 (h) As used in this section:

25 (1) "Independent contractor" includes an individual who
26 performs services for a person for valuable consideration but
27 who is not classified as an employe of the person for Federal
28 income tax purposes.

29 (2) "Person" includes a corporation, partnership, limited
30 liability company, business trust, other association, government

1 entity other than the Commonwealth, estate, trust, foundation or
2 individual.

3 Section 2. The addition of section 304.3 of the act shall
4 not be construed to alter, repeal or supersede any provision of
5 the act of October 13, 2010 (P.L.506, No.72), known as the
6 Construction Workplace Misclassification Act.

7 Section 3. This act shall take effect in 180 days.