
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 93 Session of
2023

INTRODUCED BY TARTAGLIONE, BARTOLOTTA, BREWSTER, HUGHES,
KEARNEY, FONTANA, KANE, SCHWANK, COLLETT, DILLON, STREET,
COSTA, CAPPELLETTI, SANTARSIERO AND COMITTA, JANUARY 18, 2023

REFERRED TO LABOR AND INDUSTRY, JANUARY 18, 2023

AN ACT

1 Providing for workplace health and safety standards for public
2 employees and for powers and duties of the Secretary of Labor
3 and Industry; establishing the Pennsylvania Occupational
4 Safety and Health Review Board; providing for workplace
5 inspections; and imposing penalties.

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

14 Section 1. Short title.

15 This act shall be known and may be cited as the Public
16 Employees Occupational Safety and Health Act.

17 Section 2. Legislative intent.

18 The General Assembly hereby declares as follows:

19 (1) It is a basic right of all employees to work in an
20 environment that is free from hazards and risks to their
21 safety. It is the intent of the General Assembly to ensure
22 that this right is also afforded to employees of the
23 Commonwealth, its counties, cities, towns, boroughs and other
24 public employers who serve the people of this Commonwealth.

25 (2) A significant percentage of employees in this
26 Commonwealth are employed by the Commonwealth or by one of
27 its political subdivisions. Many of these public employees
28 perform job functions comparable to those performed by
29 workers in the private sector who are protected by the
30 Occupational Safety and Health Act of 1970. The General

1 Assembly, therefore, finds it inappropriate to continue two
2 standards for employee safety, one applicable to those who
3 work in the private sector and one for those who are employed
4 by a public employer.

5 (3) The General Assembly has further determined that a
6 safe place in which to work is economically advantageous to
7 employers. Work-related accidents and injuries and the
8 absences caused thereby decrease employee productivity and
9 increase workers' compensation costs. In addition, unsafe
10 premises increase the risk of financial liability for
11 injuries to members of the public who frequent public
12 buildings.

13 (4) The General Assembly, in an exercise of the
14 Commonwealth's police power, charges the secretary with the
15 responsibility to ensure that all public employees are
16 afforded the same safeguards in their workplace as are
17 granted to employees in the private sector.

18 Section 3. Definitions.

19 The following words and phrases when used in this act shall
20 have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Authorized employee representative." An employee authorized
23 by employees or the designated representative of an employee
24 organization recognized or certified to represent the employees.

25 "Employee." An individual employed by a public employer.

26 "Employee organization." An organization of any kind, or an
27 agency or employee representation committee or plan in which
28 membership includes public employees, and which exists for the
29 purpose, in whole or in part, of dealing with employers
30 concerning grievances, employee-employer disputes, wages, rates

1 of pay, hours of employment or conditions of work. The term does
2 not include an organization that practices discrimination in
3 membership because of race, color, creed, national origin or
4 political affiliation.

5 "Employer." The Commonwealth, any of its political
6 subdivisions, including a school district, and any office,
7 board, commission, agency, authority, local transportation
8 organization or other instrumentality or nonprofit organization
9 or institution or a charitable, religious, scientific, literary,
10 recreational, health, educational or welfare institution
11 receiving grants or appropriations from Federal, State or local
12 government. The term does not include an employer covered or
13 presently subject to coverage under the Occupational Safety and
14 Health Act of 1970.

15 "Occupational Safety and Health Act of 1970." 29 U.S.C. Ch.
16 15 (relating to occupational safety and health).

17 "Occupational safety and health standard." A standard which
18 requires conditions, or the adoption or use of one or more
19 practices, means, methods, operations or processes, reasonably
20 necessary or appropriate to provide safe or healthful employment
21 in places of employment.

22 "Person." An individual, partnership, association,
23 corporation, business trust, legal representative or an
24 organized group of individuals, partnerships, associations,
25 corporations, business trusts or legal representatives.

26 "Review board." The Pennsylvania Occupational Safety and
27 Health Review Board established under section 9.

28 "Secretary." The Secretary of Labor and Industry of the
29 Commonwealth or a designated agent.

30 Section 4. Application.

1 (a) General rule.--Each occupational safety or health
2 standard promulgated under this act shall apply to all public
3 employers and public employees, and the secretary shall have
4 authority to enforce the standards in accordance with this act.

5 (b) Statutory and common law rights preserved.--Nothing in
6 this act shall be construed to supersede or in any manner affect
7 any workers' compensation law or to enlarge, diminish or affect
8 in any manner common law or statutory rights, duties or
9 liabilities of employers or employees under any law with respect
10 to injuries, diseases or death of employees arising out of and
11 in the course of employment.

12 (c) Employees not covered by Federal standard.--
13 Notwithstanding any other provision in this act, an occupational
14 safety or health standard promulgated under this act shall apply
15 only to employees not covered by a Federal occupational safety
16 or health standard promulgated under 29 U.S.C. § 655 (relating
17 to standards) or amendments thereto.

18 Section 5. Employer duties.

19 (a) General rule.--An employer shall furnish to each
20 employee:

21 (1) Employment.

22 (2) A place of employment:

23 (i) Free from recognized hazards that are causing or
24 are likely to cause death or serious physical harm.

25 (ii) Which will provide reasonable and adequate
26 protection to the lives, safety or health of the
27 employees.

28 (b) Compliance with act.--An employer shall comply with the
29 occupational safety and health standards promulgated under this
30 act.

1 (c) Written statement of substances.--An employer shall,
2 upon the written request of an employee, furnish the employee
3 with a written statement listing the substances the employee
4 uses or with which the employee comes into contact that have
5 been identified as toxic or hazardous by occupational safety and
6 health standards under 29 CFR Pt. 1910 Subpt. H (relating to
7 hazardous materials) or under the act of February 14, 2008
8 (P.L.6, No.3), known as the Right-to-Know Law, or both.

9 (d) Law compliance with regulations and orders.--An employee
10 and employer shall comply with occupational safety and health
11 standards and all rules, regulations and orders issued under
12 this act which are applicable to the employer's or employee's
13 own actions and conduct.

14 (e) State plan for standards.--The Commonwealth shall
15 promulgate a plan for the development and enforcement of
16 occupational safety and health standards with respect only to
17 public employers and employees, in accordance with 29 U.S.C. §
18 667(b) (relating to state jurisdiction and plans).

19 Section 6. Regulations.

20 The secretary may promulgate regulations to administer and
21 enforce this act and shall:

22 (1) Prepare, adopt, amend or repeal regulations
23 governing the conditions of employment of general and special
24 application in all workplaces.

25 (2) Provide:

26 (i) A method of encouraging employers and employees
27 in efforts to reduce the number of safety and health
28 hazards arising from undesirable or inappropriate working
29 conditions at the workplace.

30 (ii) A method of stimulating employers and employees

1 to institute new or to perfect existing programs for safe
2 and healthful working conditions.

3 (3) Provide for appropriate reporting procedures by
4 employers with respect to information relating to conditions
5 of employment that will assist in achieving the objectives of
6 this act.

7 (4) Provide for the frequency, method and manner of
8 making inspections of workplaces without advance notice. In
9 the event of an emergency or unusual situation, the secretary
10 may give advance notice.

11 (5) Publish and disseminate to employers, employees,
12 organizations representing employees and labor organizations
13 and ensure the posting, where appropriate, by employers of
14 informational, educational or training materials designed to
15 aid and assist in achieving the objectives of this act.

16 (6) Provide for the establishment of new and the
17 perfection and expansion of existing programs for
18 occupational safety and health education for employers and
19 employees and institute methods and procedures for the
20 establishment of a program for voluntary compliance by
21 employers and employees with the requirements of this act and
22 all applicable occupational safety and health standards and
23 regulations promulgated under this act.

24 Section 7. Standards.

25 (a) General rule.--The secretary shall, by regulation, adopt
26 all occupational safety and health standards, amendments or
27 changes adopted or recognized by the United States Secretary of
28 Labor under the authority of the Occupational Safety and Health
29 Act of 1970 in order to provide reasonable and adequate
30 protection to the lives, safety and health of public employees.

1 Except as provided under subsection (b), the secretary shall
2 promulgate and repeal regulations as necessary to conform to the
3 standards established under the Occupational Safety and Health
4 Act of 1970. Where no Federal standards are applicable, the
5 secretary shall provide for the development of State standards
6 as necessary in special circumstances.

7 (b) Interstate commerce.--The secretary may not adopt
8 standards for products distributed or used in interstate
9 commerce which are different from Federal standards for products
10 unless the standards are required by compelling local conditions
11 and do not unduly burden interstate commerce.

12 (c) Challenge to standard or regulation.--A person who may
13 be adversely affected by a standard or regulation issued under
14 this act may challenge the validity or application of the
15 standard or regulation by bringing an action for declaratory
16 judgment.

17 Section 8. Variances.

18 (a) Variance procedure.--

19 (1) A public employer may apply to the secretary for a
20 temporary order granting a variance from a standard or a
21 provision promulgated under this act. A temporary order shall
22 be granted only if the employer files an application that
23 meets the requirements of subsection (b) and establishes all
24 of the following:

25 (i) The employer is unable to comply with a standard
26 by the standard's effective date because of
27 unavailability of professional or technical personnel or
28 of materials and equipment needed to come into compliance
29 with the standard or because necessary construction or
30 alteration of facilities cannot be completed by the

1 effective date.

2 (ii) The employer is taking all available steps to
3 safeguard employees against the hazards covered by the
4 standard.

5 (iii) The employer has an effective program for
6 complying with the standard as quickly as practicable.

7 (2) (i) A temporary order issued under this section
8 shall prescribe the practices, means, methods, operations
9 and processes which the employer must adopt and use while
10 the order is in effect and state in detail the employer's
11 program for complying with the standard.

12 (ii) A temporary order may be granted only after
13 notice to employees and an opportunity for a hearing. The
14 secretary may issue one interim order to be effective
15 until a decision is made on the basis of a hearing.

16 (iii) A temporary order may not be in effect for
17 longer than the period needed by the employer to achieve
18 compliance with the standard or one year, whichever is
19 shorter. An order may be renewed not more than twice so
20 long as the requirements of this section are met and an
21 application for renewal is filed at least 90 days prior
22 to the expiration date of the order.

23 (iv) An interim renewal of an order may not remain
24 in effect longer than 180 days.

25 (b) Contents of application for variance.--An application
26 for a temporary variance order shall contain all of the
27 following:

28 (1) A specification of the standard or portion from
29 which the employer or owner seeks a variance.

30 (2) A representation by the employer, supported by

1 representations from qualified persons who have firsthand
2 knowledge of the facts represented, that the employer is
3 unable to comply with the standard or portion and a detailed
4 statement of the reasons.

5 (3) A statement of the steps the employer has taken and
6 will take, with specific dates, to protect employees against
7 the hazard covered by the standard.

8 (4) A statement of when the employer expects to be able
9 to comply with the standard and what steps the employer has
10 taken and will take, with dates specified, to come into
11 compliance with the standard.

12 (5) A certification that the employer has informed the
13 employees of the application by giving a copy of the
14 application to the authorized employee representative,
15 posting a statement giving a summary of the application and
16 specifying where a copy may be examined at the place or
17 places where notices to employees are normally posted, and by
18 other appropriate means. A description of how employees have
19 been informed shall be contained in the certification. The
20 information to employees shall also inform them of the right
21 to petition the secretary for a hearing.

22 (c) Variance for experimental program.--The secretary may
23 grant a variance from any standard or portion whenever the
24 secretary determines that a variance is necessary to permit an
25 employer to participate in an experimental program approved by
26 the secretary, which is designed to demonstrate or validate new
27 and improved techniques to safeguard the health or safety of
28 workers.

29 (d) Hearing and order.--

30 (1) An affected employer may apply to the secretary for

1 a rule or order for a variance from a standard promulgated
2 under this act. Affected employees shall be given notice of
3 each application and an opportunity to participate in a
4 hearing.

5 (2) The secretary shall issue a rule or order if the
6 secretary determines on the record, after opportunity for an
7 inspection where appropriate and a hearing, that the
8 proponent of the variance has demonstrated by a preponderance
9 of the evidence that the conditions, practices, means,
10 methods, operations or processes used or proposed to be used
11 by an employer will provide employment and places of
12 employment which are as safe and healthful as those which
13 would prevail if the employer complied with the standard. The
14 rule or order shall prescribe the conditions the employer
15 must maintain and the practices, means, methods, operations
16 and processes which the employer must adopt and utilize to
17 the extent they differ from the standard in question.

18 (3) A rule or order may be modified or revoked upon
19 application by an employer, an employee, an authorized
20 employee representative or by the secretary on the
21 secretary's own motion, in the manner prescribed for issuance
22 under this section at any time after six months from the date
23 the rule or order was entered.

24 (e) Challenge to standard or regulation.--A person who may
25 be adversely affected by a standard or regulation issued under
26 this section may challenge the validity or applicability of the
27 standard or regulation by bringing an action for declaratory
28 judgment.

29 Section 9. Pennsylvania Occupational Safety and Health Review
30 Board.

1 (a) Establishment.--The Pennsylvania Occupational Safety and
2 Health Review Board is established to have and exercise the
3 powers, duties and prerogatives under this act. The review board
4 shall consist of five persons appointed by the Governor from
5 among persons who by reason of training, education or experience
6 are qualified to carry out the functions of the review board.

7 (b) Terms of members.--Each member shall serve a term of
8 four years and until the member's successor is appointed. The
9 Governor shall designate one of the members to serve as
10 chairperson.

11 (c) Power to hear appeals.--A member of the review board
12 shall hear and rule on appeals from compliance orders,
13 notifications and penalties issued under this act. The secretary
14 shall adopt and promulgate rules and regulations with respect to
15 the procedures for review board hearings.

16 (d) Schedule for hearing appeals.--A review board member
17 hearing an appeal or appeals under this act shall be paid a per
18 diem amount to be determined by the secretary. The members shall
19 alternate the hearing of appeals according to a schedule adopted
20 by the secretary. If a member is unable to hear an appeal, the
21 next available member, in accordance with the schedule, shall
22 hear the appeal. A member shall be selected to hear the appeal
23 within 30 days after the date it was filed.

24 (e) Necessary staff.--Any staff necessary for the purposes
25 of conducting hearings shall be provided by the Department of
26 Labor and Industry.

27 (f) Subpoena power and oaths.--In the conduct of hearings
28 the review board member may subpoena and examine witnesses,
29 require the production of evidence, administer oaths and take
30 testimony and depositions.

1 (g) Ruling on appeal.--After hearing an appeal, the review
2 board member may sustain, modify or dismiss a compliance order
3 or penalty, provided that decision shall be issued within 120
4 days after the appeal was filed.

5 Section 10. Appeal from review board.

6 A person, including the secretary, adversely affected or
7 aggrieved by an order of the review board, after all
8 administrative remedies under this act have been exhausted, is
9 entitled to judicial review.

10 Section 11. Inspection and investigation powers.

11 (a) Right to inspect.--

12 (1) To carry out the purposes of this act, the secretary
13 or a designated representative, upon presenting appropriate
14 credentials to the employer, may enter a workplace or
15 environment where work is performed by an employee, without
16 advance notice and at reasonable times, to inspect and
17 investigate a place of employment and all pertinent
18 conditions, structures, machines, apparatus, devices,
19 equipment and materials and question an employer or employee
20 privately.

21 (2) Whenever the secretary, proceeding under this
22 section, is denied admission to a place of employment, the
23 secretary may obtain a warrant to make an inspection or
24 investigation of the place of employment from any judge of
25 Commonwealth Court.

26 (b) Witnesses and evidences.--

27 (1) In making inspections and investigations under this
28 section, the secretary may require the attendance and
29 testimony of witnesses and the production of evidence under
30 oath. Witnesses shall be paid the same fees and mileage that

1 are paid witnesses in the courts of this Commonwealth.

2 (2) In case of a failure or refusal of a person to obey
3 an order, the court of common pleas for the judicial district
4 where the person resides, is found or transacts business
5 shall issue to the person an order requiring the person to
6 appear to produce evidence if asked and, when so ordered, to
7 give testimony relating to the matter under investigation or
8 in question.

9 (3) A failure to obey an order of the court may be
10 punished by the court as a contempt.

11 (c) People to accompany secretary or representative.--

12 (1) Subject to regulations issued by the secretary, a
13 representative of the employer and an authorized employee
14 representative shall be given an opportunity to accompany the
15 secretary or an authorized representative during the physical
16 inspection of a workplace for the purposes of aiding the
17 inspection. Where there is no authorized employee
18 representative, the secretary or an authorized representative
19 shall consult with a reasonable number of employees
20 concerning matters of health and safety in the workplace.

21 (2) An employee who accompanies the secretary or an
22 authorized representative on an inspection may not suffer any
23 reduction in wages as a result.

24 Section 12. Inspection and investigation of violations.

25 (a) Request for inspection.--

26 (1) An employee or authorized employee representative
27 who believes that a violation of an occupational safety or
28 health standard exists or that an imminent danger exists may
29 request an inspection by giving notice of a violation or
30 danger to the secretary.

1 (2) The notice and request shall be in writing, specify
2 with reasonable particularity the grounds for the notice and
3 be signed by an employee or authorized employee
4 representative.

5 (3) A copy of the notice shall be provided by the
6 secretary to the employer or an agent of the employer no
7 later than at the time of inspection, except that on the
8 request of the person giving notice, the names of individual
9 employees or the authorized employee representative shall be
10 kept confidential.

11 (b) Action by secretary.--

12 (1) Whenever the secretary receives a request for
13 inspection and determines that there are reasonable grounds
14 to believe that a violation or danger exists, the secretary
15 shall make an inspection as soon as practicable to determine
16 if a violation or danger exists. The inspection may be
17 limited to the alleged violation or danger.

18 (2) If the secretary determines there are no reasonable
19 grounds to believe that a violation or danger exists, the
20 secretary shall notify the employer, employee or authorized
21 employee representative in writing of the determination.
22 Notification may not preclude future enforcement action if
23 conditions change.

24 (c) Notice of violation during inspection.--

25 (1) Prior to or during an inspection of a workplace, an
26 employee or authorized employee representative in the
27 workplace may notify in writing the secretary or a
28 representative of the secretary responsible for conducting
29 the inspection of a violation of this act which the person
30 has reason to believe exists in the workplace.

1 (2) The secretary shall by regulation establish
2 procedures for informal review of a refusal by a
3 representative of the secretary to issue a citation with
4 respect to an alleged violation and shall furnish the
5 employer and the employees or authorized employee
6 representative requesting a review a written statement of the
7 reasons for the secretary's final disposition of the case.
8 Notification may not preclude future enforcement action if
9 conditions change.

10 (d) Summary by secretary.--The secretary shall compile,
11 analyze and publish in either summary or detailed form all
12 reports or information obtained under this section.

13 (e) Rules and regulations.--The secretary shall prescribe
14 rules and regulations as the secretary deems necessary to carry
15 out the secretary's responsibilities under this act, including
16 rules and regulations dealing with the inspection of an
17 employer's or owner's establishment.

18 Section 13. Recordkeeping.

19 (a) Employer's duties prescribed by regulation.--In
20 accordance with the secretary's regulations, an employer shall
21 make, keep and preserve and make available to the secretary
22 records regarding activities relating to this act as the
23 secretary deems necessary or appropriate for developing
24 information regarding the causes and prevention of occupational
25 accidents and illness. The regulations may include provisions
26 requiring an employer to conduct periodic inspections. The
27 secretary shall issue regulations requiring that an employer,
28 through posting of notices, training or other appropriate means,
29 keep employees informed of the protections and obligations under
30 this act, including the provisions and regulations of this act.

1 (b) Records relating to death and injury.--The secretary
2 shall prescribe regulations requiring an employer to maintain
3 accurate records and to make public periodic reports of work-
4 related deaths, injuries and illnesses, other than minor
5 injuries requiring only first aid treatment and not involving
6 lost time from work, medical treatment, loss of consciousness,
7 restriction of work or motion or transfer to another job.

8 (c) Exposure to toxic or harmful agents.--

9 (1) The secretary shall issue regulations requiring an
10 employer to maintain accurate records of employee exposures
11 to potentially toxic materials or harmful physical agents
12 which are required to be monitored or measured under any
13 occupational safety and health standard adopted under this
14 act. The regulations shall provide employees or the
15 authorized employee representative with an opportunity to
16 observe monitoring or measuring and have access to the
17 records. The regulations shall allow each employee or former
18 employee to have access to records that indicate the
19 employee's own exposure to toxic materials or harmful
20 physical agents.

21 (2) An employer shall promptly notify each employee who
22 has been or is being exposed to toxic materials or harmful
23 physical agents in concentrations or at levels that exceed
24 those prescribed by an occupational safety and health
25 standard promulgated under this act and shall inform each
26 employee who is being exposed of the corrective action taken.

27 Section 14. Compliance orders.

28 (a) Issuance.--Whenever the secretary, upon inspection or
29 investigation, determines that an employer has violated a
30 provision of this act, an occupational safety or health standard

1 or regulation promulgated under this act, the secretary shall
2 with reasonable promptness issue a compliance order to the
3 employer. Each compliance order shall be in writing and shall
4 describe the nature of the violation, including a reference to
5 the provisions of this act or the standard, regulation or order
6 alleged to have been violated. The compliance order shall fix a
7 reasonable time for the abatement of the violation.

8 (b) Posting of order.--Each compliance order issued under
9 this section or a copy or copies of the order shall be
10 prominently posted as prescribed in regulations issued by the
11 secretary at or near each place a violation referred to in the
12 compliance order occurred and at other locations within the
13 workplace reasonably accessible to the employees.

14 Section 15. Enforcement procedures.

15 (a) Notice of order and penalty.--

16 (1) If, after inspection or investigation, the secretary
17 issues a compliance order under section 14(a), the secretary
18 shall, within a reasonable time after the termination of the
19 inspection or investigation, notify the employer by certified
20 mail and email, if email is available, of the penalty, if
21 any, proposed to be assessed under section 17. The
22 notification shall inform the employer that the employer has
23 15 working days from the receipt of the notice by certified
24 mail within which to notify the secretary that the employer
25 wishes to contest the compliance order or proposed assessment
26 of penalty.

27 (2) If the employer fails to notify the secretary within
28 15 days and if no notice is filed by any employee or
29 authorized employee representative under subsection (c)
30 within 15 days, the compliance order and the assessment, as

1 proposed, shall be deemed a final order of the secretary and
2 not subject to review by any court or agency.

3 (b) Notice of failure to correct violation.--

4 (1) If the secretary has reason to believe that an
5 employer has failed to correct a violation for which a
6 compliance order has been issued within the period permitted
7 for correction, the secretary shall notify the employer by
8 certified mail and email, if email is available, of the
9 failure and of the penalty proposed to be assessed under
10 section 17 by reason of the failure. In the case, however, of
11 a review proceeding initiated by the employer under this
12 section in good faith and not solely for delay or the
13 avoidance of penalties, the period permitted for correction
14 of the violation may not begin to run until the entry of a
15 final order by the review board. Notification by the
16 secretary shall inform the employer that the employer has 15
17 working days from the receipt of the notice by certified mail
18 within which to notify the secretary that the employer wishes
19 to contest the notification or the proposed assessment of
20 penalty.

21 (2) If, within 15 days from the receipt of notification
22 by certified mail under this section, the employer fails to
23 notify the secretary that the employer intends to contest the
24 notification or proposed assessment of penalty, the
25 notification and assessment, as proposed, shall be deemed a
26 final order of the review board and not be subject to review
27 by any court or agency.

28 (c) Action by review board.--

29 (1) If an employer notifies the secretary that the
30 employer intends to contest a compliance order issued under

1 section 14(a) or a notification issued under subsection (a)
2 or (b) or if, within 15 days after the issuance of a
3 compliance order under section 14(a), an employee or
4 authorized employee representative files a notice with the
5 secretary alleging that the period of time fixed in the
6 compliance order for abatement of the violation is
7 unreasonable, the secretary shall immediately advise the
8 review board of the notification, and the review board shall
9 afford an opportunity for a hearing.

10 (2) The review board shall issue an order, based on
11 findings of fact, affirming, modifying or vacating the
12 secretary's compliance order or proposed penalty or directing
13 other appropriate relief. The order shall become final 30
14 days after the order's issuance.

15 (3) Upon a showing by an employer of a good faith effort
16 to comply with the abatement requirements of a compliance
17 order and a showing that abatement has not been completed
18 because of factors beyond the employer's reasonable control,
19 the secretary, after an opportunity for a hearing as provided
20 in this subsection, shall issue an order affirming or
21 modifying the abatement requirements in the compliance order.

22 (4) The rules of procedure prescribed by the secretary
23 shall provide affected employees or the authorized employee
24 representative of affected employees an opportunity to
25 participate as parties to hearings under this subsection.

26 Section 16. Injunction proceedings.

27 (a) Temporary restraining order.--

28 (1) Commonwealth Court shall have jurisdiction, upon
29 petition of the secretary, to restrain conditions or
30 practices in any place of employment when a danger exists

1 that could reasonably be expected to cause death or serious
2 physical harm immediately or before the imminence of the
3 danger can be eliminated through the abatement procedures
4 otherwise provided for by this act.

5 (2) An order issued under this section shall require
6 necessary actions to avoid, correct or remove the imminent
7 danger and prohibit the employment or presence of any
8 individual in locations or under conditions where the
9 imminent danger exists, except individuals whose presence is
10 necessary to avoid, correct or remove the imminent danger.

11 (3) A temporary restraining order issued without notice
12 may not be effective for more than five days.

13 (b) Action by inspector.--As soon as an inspector concludes
14 that conditions or practices described in subsection (a) exist
15 in a place of employment, the inspector shall inform the
16 affected employees and employers of the danger and shall further
17 inform them that the inspector is recommending to the secretary
18 that relief be sought.

19 (c) Failure of secretary to seek relief.--If the secretary
20 arbitrarily or capriciously fails to seek relief under this
21 section, an employee who may be injured by reason of the failure
22 or the authorized employee representative may bring an action
23 against the secretary in Commonwealth Court to compel the
24 secretary to seek an order and for further relief as may be
25 appropriate.

26 Section 17. Penalties.

27 (a) Willful or repeated violations.--An employer who
28 willfully or repeatedly violates the requirements of section 4
29 or 5, an occupational safety and health standard promulgated
30 under section 7 or regulations prescribed under this act may be

1 assessed a civil penalty of not more than \$10,000 for each
2 violation.

3 (b) Compliance order for serious violation.--An employer who
4 has received a compliance order for a serious violation of the
5 requirements of section 4 or 5, an occupational safety and
6 health standard promulgated under section 7 or regulations
7 prescribed under this act shall be assessed a civil penalty of
8 not more than \$1,000 for each violation.

9 (c) Compliance order for lesser violation.--An employer who
10 has received a compliance order for a violation of the
11 requirements of section 4 or 5, an occupational safety and
12 health standard promulgated under section 7 or regulations
13 prescribed under this act, which violation has been determined
14 not to be of a serious nature, may be assessed a civil penalty
15 of not more than \$1,000 for each violation.

16 (d) Failure to correct violation.--An employer who fails to
17 correct a violation for which a compliance order has been issued
18 under section 14 within the period permitted for its correction,
19 the period may not begin to run until the date of the final
20 order of the review board in the case of a review proceeding
21 under section 15 initiated by the employer in good faith and not
22 solely for delay or avoidance of penalties, may be assessed a
23 civil penalty of not more than \$1,000 for each day during which
24 the failure or violation continues.

25 (e) Violation causing death.--

26 (1) An employer who willfully violates a standard or
27 order promulgated under section 7 or a regulation adopted
28 under this act, which violation caused death to an employee,
29 commits a misdemeanor and shall, upon conviction, be
30 sentenced to pay a fine of not more than \$10,000 or to

1 imprisonment for not more than six months, or both.

2 (2) If a conviction is for a violation committed after a
3 first conviction, the person shall be sentenced to pay a fine
4 of not more than \$20,000 or to imprisonment for not more than
5 one year, or both.

6 (f) Providing advance notice of inspection.--A person who
7 gives advance notice of an inspection to be conducted under this
8 act without authority from the secretary or a designee commits a
9 misdemeanor and shall, upon conviction, be sentenced to pay a
10 fine of not more than \$1,000 or to imprisonment for not more
11 than six months, or both.

12 (g) False statements.--A person who knowingly makes a false
13 statement, representation or certification in an application,
14 record, report, plan or other document filed or required to be
15 maintained under this act commits a misdemeanor and shall, upon
16 conviction, be sentenced to pay a fine of not more than \$10,000
17 or to imprisonment for not more than six months, or both.

18 (h) Violation of posting requirements.--An employer who
19 violates any of the posting requirements as prescribed under the
20 provisions of this act shall be assessed a civil penalty of not
21 more than \$1,000 for each violation.

22 (i) Refusing entry for investigation or inspection.--An
23 employer who refuses entry to the secretary or an authorized
24 representative while the secretary or representative is
25 attempting to conduct an investigation or inspection under this
26 act or willfully obstructs the secretary or an authorized
27 representative from carrying out an investigation or inspection
28 commits a misdemeanor and shall, upon conviction, be sentenced
29 to pay a fine of not more than \$1,000 or to imprisonment for not
30 more than six months, or both.

1 (j) Causing bodily harm to the secretary or authorized
2 representative.--An employer or individual who willfully causes
3 bodily harm to the secretary or an authorized representative
4 while the secretary or representative is attempting to conduct
5 an investigation or inspection under this act commits a
6 misdemeanor and shall, upon conviction, be sentenced to pay a
7 fine of not more than \$10,000 or to imprisonment for not more
8 than one year, or both.

9 (k) Authority to assess civil penalties.--The review board
10 shall have authority to assess all civil penalties under this
11 act, giving due consideration to all of the following:

12 (1) The appropriateness of the penalty with respect to
13 the size of the business of the employer being charged.

14 (2) The gravity of the violation.

15 (3) The good faith of the employer.

16 (4) The history of previous violations.

17 (l) Determination of serious violation.--For the purposes of
18 this act, a serious violation shall be deemed to exist in a
19 place of employment if there is a substantial probability that
20 death or serious physical harm could result from a condition
21 which exists, or from one or more practices, means, methods,
22 operations or processes which have been adopted or are in use,
23 in the place of employment unless the employer did not and could
24 not with the exercise of reasonable diligence know of the
25 presence of the violation.

26 (m) Disposition of civil penalties.--Civil penalties owed
27 under this act shall be paid to the secretary for deposit in the
28 State Treasury and may be recovered in a civil action in the
29 name of the Commonwealth brought in Commonwealth Court.

30 (n) Unauthorized disclosure of confidential information.--A

1 person who violates the provisions of section 22 commits a
2 misdemeanor and shall, upon conviction, be sentenced to pay a
3 fine of not more than \$1,000 or to imprisonment for not more
4 than one year, or both. In the event that the person is an
5 officer or employee responsible for carrying out the provisions
6 of this act, the officer or employee shall be removed from
7 office or employment upon conviction under this section.

8 Section 18. Discrimination against employees.

9 (a) General rule.--An employer or any other person may not
10 discriminate against an employee because the employee has filed
11 a complaint or instituted or caused to be instituted a
12 proceeding under or related to this act or has testified or is
13 about to testify in a proceeding or because of the exercise by
14 an employee on the employee's own behalf or on behalf of others
15 of any right afforded by this act.

16 (b) Remedy.--

17 (1) An employee who believes that the employee has been
18 discharged, disciplined or otherwise discriminated against by
19 a person in violation of this section may, within 30 days
20 after a violation occurs, file a complaint with the secretary
21 alleging discrimination.

22 (2) Upon receipt of the complaint, the secretary shall
23 investigate as deemed appropriate and shall, if requested,
24 withhold the name of the complainant from the employer.

25 (3) If, upon investigation, the secretary determines
26 that the provisions of this section have been violated, the
27 secretary shall request the Attorney General to bring an
28 action in Commonwealth Court against the person or persons
29 alleged to have violated this act. Commonwealth Court shall
30 have jurisdiction, for cause shown, to restrain violations of

1 this act and to order all appropriate relief, including
2 reinstatement of the employee to the employee's former
3 position with back pay and benefits.

4 (c) Notice of determination of complaint.--Within 90 days of
5 receipt of a complaint filed under this section, the secretary
6 shall notify the complainant and the complainant's
7 representative by registered mail and email, if email is
8 available, of the secretary's determination of the complaint.

9 (d) Other rights preserved.--Nothing in this act shall be
10 construed to diminish the rights of an employee under any law,
11 rule or regulation or under any collective bargaining agreement.
12 Section 19. Research and demonstration projects.

13 (a) Secretary to conduct.--

14 (1) The secretary shall conduct research and undertake
15 demonstration projects relating to occupational safety and
16 health issues and problems either within the Department of
17 Labor and Industry or by grants or contracts. The secretary
18 may prescribe regulations requiring employers to measure,
19 record and make reports on exposure of employees to toxic
20 substances which the secretary believes may endanger the
21 health or safety of employees.

22 (2) The secretary shall cooperate with the Director of
23 the National Institute for Occupational Safety and Health of
24 the United States Department of Health and Human Services in
25 establishing the programs of medical examinations and tests
26 as may be necessary to determine the incidence of
27 occupational illnesses and employee susceptibility to the
28 illnesses.

29 (3) The programs, on the request of the employer, may be
30 paid for by the secretary, and the secretary shall provide

1 other assistance as may be required.

2 (b) Confidentiality.--Information obtained under this act
3 shall be made public without revealing the names of individual
4 workers covered by physical examination or special studies and
5 shall be made available to employers, employees and the
6 respective organizations.

7 Section 20. Education programs.

8 (a) Programs to train personnel.--The secretary shall
9 conduct directly or by grants or contracts education programs to
10 provide an adequate supply of qualified personnel to carry out
11 this act and informational programs on the importance and proper
12 use of adequate safety and health equipment.

13 (b) Short-term training.--The secretary may conduct directly
14 or by grants or contracts short-term training of personnel
15 engaged in work related to the secretary's responsibilities
16 under this act.

17 (c) Additional programs.--The secretary shall provide for
18 the establishment and supervision of programs for the education
19 and training of employers, owners and employees in the
20 recognition, avoidance and prevention of unsafe or unhealthful
21 working conditions in employment covered by this act. The
22 secretary shall consult with and advise owners and employers,
23 employees and organizations representing owners, employers and
24 employees as to effective means of preventing occupational
25 injuries and illnesses.

26 Section 21. Reports to United States Secretary of Labor.

27 The secretary shall make reports to the United States
28 Secretary of Labor as required by the Secretary of Labor
29 regarding the administration and enforcement of this act.

30 Section 22. Confidentiality of information maintained.

1 All information reported to or otherwise obtained by the
2 secretary or an authorized representative or a member of the
3 review board in connection with any inspection or proceeding
4 under this act which contains or might reveal a trade secret
5 shall be considered confidential. The information may be
6 disclosed to other officers or employees concerned with carrying
7 out this act or when relevant in a proceeding under this act. In
8 a proceeding, the secretary, the review board or the court shall
9 issue orders as may be appropriate to protect the
10 confidentiality of trade secrets.

11 Section 23. Effective date.

12 This act shall take effect in 60 days.