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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 586 Session of  
2025

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INTRODUCED BY PISCIOTTANO, PENNYCUICK, KANE, KEARNEY, HUGHES,  
COSTA AND SAVAL, APRIL 9, 2025

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REFERRED TO LABOR AND INDUSTRY, APRIL 9, 2025

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AN ACT

1 Providing for criteria for independent contractors and for  
2 powers and duties of the Department of Labor and Industry and  
3 the Secretary of Labor and Industry; and imposing penalties.

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6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Workplace  
10 Misclassification Act.

11 Section 2. Definitions.

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

15 "Construction." As defined in section 2 of the act of  
16 October 13, 2010 (P.L.506, No.72), known as the Construction  
17 Workplace Misclassification Act.

18 "Debar." Action taken by the secretary that:

19 (1) Prohibits a contractor, subcontractor or person from  
20 contracting with or participating in contracts for public  
21 work or providing services to any State or local government  
22 entity for a period of at least three years.

23 (2) Includes all divisions or other organizational  
24 elements of the contractor or subcontractor unless limited by  
25 the terms of the action to specific divisions or  
26 organizational elements.

27 (3) May apply to affiliates or other persons associated  
28 with the contractor, subcontractor or person if they are  
29 specifically named and given written notice of the action and  
30 an opportunity to appeal.

1 (4) Applies to a successor entity of the contractor or  
2 subcontractor, if the successor entity:

3 (i) has one or more of the same principals or  
4 officers as the employer against whom the order was  
5 issued;

6 (ii) performs similar work within the same  
7 geographical area;

8 (iii) occupies the same premises;

9 (iv) shares the same telephone number or facsimile  
10 number;

11 (v) has the same email address or Internet website;

12 (vi) employs substantially the same workforce or  
13 administrative employees, or both;

14 (vii) utilizes the same tools, equipment or  
15 facilities;

16 (viii) employs or engages the services of any person  
17 or persons involved in the direction or control of the  
18 other; or

19 (ix) lists substantially the same work experience.

20 "Department." The Department of Labor and Industry of the  
21 Commonwealth.

22 "Employee." Either of the following:

23 (1) In relation to workers' compensation, the term shall  
24 have the meaning given to "employee" in section 104 of the  
25 Workers' Compensation Act.

26 (2) In relation to unemployment compensation, the term  
27 shall have the meaning given to "employee" in section 4(i) of  
28 the Unemployment Compensation Law.

29 "Employer." Either of the following:

30 (1) In relation to workers' compensation, the term shall

1 have the meaning given to it in section 103 of the Workers'  
2 Compensation Act.

3 (2) In relation to unemployment compensation, the term  
4 shall have the meaning given to it in section 4(j) of the  
5 Unemployment Compensation Law.

6 "Public work." As defined in section 2(5) of the act of  
7 August 15, 1961 (P.L.987, No.442), known as the Pennsylvania  
8 Prevailing Wage Act.

9 "Secretary." The Secretary of Labor and Industry of the  
10 Commonwealth or the secretary's authorized representative.

11 "Unemployment Compensation Law." The act of December 5, 1936  
12 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment  
13 Compensation Law.

14 "Workers' Compensation Act." The act of June 2, 1915  
15 (P.L.736, No.338), known as the Workers' Compensation Act.  
16 Section 3. Independent contractors.

17 (a) Requirements.--For purposes of workers' compensation,  
18 unemployment compensation and improper classification of  
19 employees, an individual who performs services in any industry  
20 other than construction for remuneration is an independent  
21 contractor only if:

22 (1) The individual has a written contract that is  
23 project-specific and contains a particular scope of work and  
24 definitive time period to perform the services.

25 (2) The individual is free from control or direction  
26 over performance of services both under the contract of  
27 service and in fact.

28 (3) As to services, the individual is customarily  
29 engaged in an independently established trade, occupation,  
30 profession or business.

1 (b) Criteria.--An individual is customarily engaged in an  
2 independently established trade, occupation, profession or  
3 business with respect to services the individual performs only  
4 if:

5 (1) The individual possesses the essential tools,  
6 equipment and other assets necessary to perform the services  
7 independent of the person for whom the services are  
8 performed.

9 (2) The individual's arrangement with the person for  
10 whom the services are performed is such that the individual  
11 shall realize a profit or suffer a loss as a result of  
12 performing the services.

13 (3) The individual performs the services through a  
14 business in which the individual has a proprietary interest.

15 (4) The individual maintains a business location that is  
16 separate from the location of the person for whom the  
17 services are being performed.

18 (5) The individual:

19 (i) previously performed the same or similar  
20 services for another person in accordance with paragraphs  
21 (1), (2), (3) and (4) while free from direction or  
22 control over performance of the services both under the  
23 contract of service and in fact; or

24 (ii) holds themselves out to other persons as  
25 available and able and is available and able to perform  
26 the same or similar services in accordance with  
27 paragraphs (1), (2), (3) and (4) while free from  
28 direction or control over performance of the services.

29 (c) Factors not to be considered.--The failure to withhold  
30 Federal or State income taxes or pay unemployment compensation

1 contributions or workers' compensation premiums with respect to  
2 an individual's remuneration shall not be considered in  
3 determining whether the individual is an independent contractor  
4 for purposes of the Workers' Compensation Act or the  
5 Unemployment Compensation Law.

6 (d) Workers' compensation.--

7 (1) An individual who is an independent contractor as  
8 determined under this section is not an employee for purposes  
9 of the Workers' Compensation Act. For purposes of this  
10 section, each employment relationship shall be considered  
11 separately.

12 (2) Nothing in this act shall be construed to affect  
13 section 321(2) of the Workers' Compensation Act.

14 (e) Unemployment compensation.--

15 (1) For purposes of section 4(1)(2)(B) of the  
16 Unemployment Compensation Law, an individual is customarily  
17 engaged in an independently established trade, occupation,  
18 profession or business only if the criteria in subsection (b)  
19 are satisfied.

20 (2) Except as provided in paragraph (1), nothing in this  
21 act shall be construed to affect any exclusion from  
22 employment as defined in the Unemployment Compensation Law.

23 Section 4. Improper classification of employees.

24 (a) Violation.--An employer or officer or agent of an  
25 employer shall be in violation of this act and shall be subject  
26 to the penalties, remedies and actions contained in this act if  
27 the employer, officer or agent:

28 (1) fails to properly classify an individual as an  
29 employee for purposes of the Workers' Compensation Act and  
30 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.

7 (b) Separate offenses.--Each individual who is not properly  
8 classified as an employee shall be the basis of a separate  
9 violation of this section.

10 (c) Order to show cause.--

11 (1) If the secretary receives information indicating  
12 that a person has violated this act, the secretary may  
13 investigate the matter and issue an order to show cause why  
14 the person should not be found in violation of this act.

15 (2) A person served with an order to show cause has 20  
16 days from the date the order is served to file an answer in  
17 writing.

18 (3) If the person fails to file a timely and adequate  
19 answer to the order to show cause, the secretary may,  
20 following notice and hearing:

21 (i) petition a court of competent jurisdiction to  
22 issue a stop-work order as provided in section 8; or

23 (ii) immediately assess penalties as provided in  
24 section 7.

25 (d) Enforcement.--

26 (1) If, subsequent to issuing an order to show cause  
27 under subsection (c), the secretary finds that an employer  
28 has failed to properly classify an individual as an employee  
29 for the purposes of this act, the secretary shall impose  
30 administrative penalties under section 7.

1           (2) In addition to imposing penalties under paragraph  
2           (1), the secretary may refer the matter to the Attorney  
3           General for criminal investigation. The secretary shall make  
4           a referral if the employer has previously been found in  
5           violation of this act in another matter. The Attorney General  
6           has jurisdiction under section 5 to initiate an investigation  
7           or prosecution of criminal violations of this act regardless  
8           of whether a referral has been made.

9           (e) Acting in concert with other parties.--A party that does  
10          not meet the definition of "employer" in section 2, but which  
11          intentionally contracts or renews a contract with an employer to  
12          supply labor to an employer knowing the employer will  
13          misclassify the supplied employees in violation of this act,  
14          shall be subject to the same penalties, remedies or other  
15          actions as the employer found to be in violation of this act.

16          (f) Defense.--It shall be a defense to an alleged violation  
17          of this section that the person for whom the services are  
18          performed in good faith believed the individual who performed  
19          the services qualified as an independent contractor at the time  
20          the services were performed.

21 Section 5. Criminal penalties.

22          (a) Grading.--An employer or officer or agent of an employer  
23          that intentionally violates section 4(a) commits:

24               (1) A misdemeanor of the first degree, if the employer  
25               has no prior offense under section 4(a).

26               (2) A felony of the third degree, if the employer has  
27               one or more prior offenses under section 4(a).

28          (b) Summary offense.--

29               (1) An employer or officer or agent of an employer that  
30               negligently fails to properly classify an individual as an



1 employee under section 4(a) commits a summary offense and  
2 shall, upon conviction, be sentenced to pay a fine of not  
3 more than \$1,000.

4 (2) Evidence of a prior conviction under this subsection  
5 shall be admissible as evidence of intent under subsection  
6 (a).

7 (c) Concurrent jurisdiction.--

8 (1) The Attorney General has concurrent prosecutorial  
9 jurisdiction with the district attorney of the appropriate  
10 county for violations under this section and any offense  
11 arising out of activity prohibited by this section.

12 (2) No person charged with a violation of this section  
13 by the Attorney General has standing to challenge the  
14 authority of the Attorney General to prosecute the case, and  
15 if a challenge is made, the challenge shall be dismissed and  
16 no relief shall be available in the courts of this  
17 Commonwealth to the person making the challenge.

18 (d) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection unless the context clearly indicates otherwise:

21 "Prior offense." A conviction of a violation of section 4 if  
22 the judgment of sentence was imposed before the defendant was  
23 sentenced for a separate violation of section 4.

24 Section 6. Private right of action.

25 (a) Employees.--An employee who has been misclassified in  
26 violation of this act, or has been discharged, been threatened  
27 or has otherwise suffered retaliation, discrimination or other  
28 adverse action as a result of participating in an investigation  
29 or reporting a violation of this act, may bring a private right  
30 of action in a court of common pleas in accordance with

1 established civil procedures of this Commonwealth.

2 (b) Time.--An action under this section must be brought  
3 within three years from the date that the employee knew of the  
4 violation, retaliation or discrimination.

5 (c) Relief.--If an employee prevails in an action commenced  
6 under this section, the employee shall be entitled to the  
7 following relief:

8 (1) Reinstatement of the employee without a loss in  
9 seniority status, if applicable.

10 (2) Restitution equal to three times the amount of the  
11 employee's wages and fringe benefits calculated from the date  
12 of the violation, retaliation or discrimination.

13 (3) Reasonable attorney fees and costs of the action.

14 (4) Other legal and equitable relief the court deems  
15 appropriate to make the employee whole.

16 Section 7. Administrative penalties.

17 (a) Power of secretary.--If the secretary finds that a  
18 person has violated this act, the secretary:

19 (1) Shall assess and collect civil penalties of not more  
20 than \$1,000 for the first violation and not more than \$2,500  
21 for each subsequent violation.

22 (2) May order a financial audit or tax audit of any  
23 relevant prospective records of the person.

24 (b) Factors to be considered.--When determining the amount  
25 of the penalty to be imposed, the secretary shall consider  
26 factors, including:

27 (1) The history of previous violations by the employer.

28 (2) The seriousness of the violation.

29 (3) The good faith of the employer.

30 (4) The size of the employer's business.

1 (c) Intentional violation.--

2 (1) If the secretary determines that a person has  
3 intentionally violated this act, the secretary shall debar,  
4 for a period of at least three years, the person from bidding  
5 on or participating in a public work project or providing  
6 services to any State or local government entity or any  
7 private entity that performs work on behalf of a State or  
8 local contract.

9 (2) A debarment under paragraph (1) shall apply to the  
10 following:

11 (i) Future projects and contracts not begun or  
12 entered into on or before the date of the debarment.

13 (ii) Current projects and contracts already entered  
14 into but on which the debarred contractor, subcontractor  
15 or person has not begun work as of the date of the  
16 debarment.

17 Section 8. Stop-work orders.

18 (a) Issuance of order.--

19 (1) If the secretary determines, subsequent to the  
20 issuance of an order to show cause under section 4(c), that  
21 an employer or officer or agent of an employer has  
22 intentionally failed to properly classify an individual as an  
23 employee under section 4(a), the secretary may petition a  
24 court of competent jurisdiction to issue a stop-work order  
25 requiring:

26 (i) the cessation of work by individuals who are  
27 improperly classified within 24 hours of the effective  
28 date of the order; or

29 (ii) in the event that a majority of individuals  
30 working at a site are improperly classified, requiring

1 the cessation of all business operations of that employer  
2 at each site at which a violation occurred within 24  
3 hours of the effective date of the order.

4 (2) The order shall take effect when served upon the  
5 employer, or for a particular employer worksite, when served  
6 at the worksite. The order shall remain in effect until the  
7 court issues an order releasing the stop-work order or upon  
8 finding that the employer or officer or agent of the employer  
9 is no longer in violation of this act.

10 (3) An order releasing a stop-work order may include a  
11 requirement that the employer file with the department  
12 periodic reports for a probationary period that may not  
13 exceed two years demonstrating the employer's continued  
14 compliance with this act.

15 (b) Applicability of orders and penalties.--A stop-work  
16 order under subsection (a) and penalty under subsection (c)  
17 shall be in effect against any successor corporation or business  
18 entity that has one or more of the same principals or officers  
19 as the employer against whom the stop-work order was issued or  
20 penalty imposed and which is engaged in the same or equivalent  
21 trade or activity.

22 (c) Penalty.--The court shall assess a penalty of \$1,000 per  
23 day against an employer for each day that the employer conducts  
24 business operations in violation of a stop-work order issued  
25 under this section.

26 Section 9. Procedure.

27 (a) Hearings.--Actions taken under sections 4(c) and 6 shall  
28 be subject to the provisions of 2 Pa.C.S. (relating to  
29 administrative law and procedure).

30 (b) Subpoenas.--The department may subpoena witnesses,

1 administer oaths, examine witnesses and take testimony or compel  
2 the production of documents. The secretary may petition  
3 Commonwealth Court to enforce any order or subpoena issued under  
4 this act.

5 Section 10. Certain agreements prohibited.

6 (a) Violation.--No person may require or demand that an  
7 individual enter into an agreement or sign a document that  
8 results in the improper classification of the individual as an  
9 independent contractor.

10 (b) Penalty.--A violation of subsection (a) shall be  
11 punishable by an administrative fine of not less than \$1,000 and  
12 not more than \$2,500. Each violation shall be considered a  
13 separate offense under this section.

14 Section 11. Adverse action prohibited.

15 (a) Retaliation or discrimination.--It shall be unlawful for  
16 an employer or officer or agent of an employer to discharge,  
17 threaten or otherwise retaliate or discriminate against an  
18 employee regarding compensation or other terms or conditions of  
19 employment because the employee:

20 (1) participates in an investigation, hearing or inquiry  
21 by the secretary or any governmental authority; or

22 (2) reports or makes a complaint regarding the violation  
23 of this act to an employer or any governmental authority.

24 (b) Action.--An employee who suffers adverse action in  
25 violation of this section may bring a private right of action  
26 under section 6.

27 (c) Good faith allegations of noncompliance.--A person who  
28 in good faith alleges noncompliance with this act shall be  
29 afforded the rights provided by this act, notwithstanding the  
30 person's failure to prevail on the merits.

1 (d) Rebuttable presumptions.--Taking adverse action against  
2 a person within 90 days of the person's exercise of a right  
3 protected under this act shall raise a rebuttable presumption of  
4 having done so in retaliation for the exercise of the right.

5 Section 12. Availability of information.

6 (a) Duty of department.--The department shall develop a  
7 poster for job sites that outlines the requirements and  
8 penalties under this act and shall make the poster available on  
9 the department's publicly accessible Internet website. At the  
10 discretion of the secretary, the department may establish and  
11 answer a toll-free telephone number to receive alleged  
12 violations of this act.

13 (b) Duty of employers.--An employer shall keep a summary of  
14 this act and any regulations issued under this act applicable to  
15 the employer, posted in a conspicuous place where employees  
16 normally pass and can read it, both on job sites and in all  
17 places of business.

18 Section 13. Use of penalty funds and recovered fees and costs.

19 Any money collected as a penalty, recovered attorney fee or  
20 cost associated with any investigation or enforcement action  
21 under this act shall be deposited into a restricted revenue  
22 account in the General Fund. Money deposited into the restricted  
23 revenue account is appropriated on a continuing basis to the  
24 department for the purpose of enforcing this act.

25 Section 14. Rules and regulations.

26 The department may promulgate rules and regulations necessary  
27 to implement this act.

28 Section 15. Annual report required.

29 The department shall submit an annual report to the General  
30 Assembly by March 1 of the year following the first full year in

1 which this act is in effect, and each year thereafter,  
2 detailing, to the maximum extent possible, data on the previous  
3 calendar year's administration and enforcement of this act. The  
4 department may include any relevant facts and statistics that it  
5 believes necessary in the content of the report.

6 Section 16. Severability.

7 The provisions of this act are severable. If any provision of  
8 this act or its application to any individual or circumstance is  
9 held invalid, the invalidity shall not affect other provisions  
10 or applications of this act which can be given effect without  
11 the invalid provision or application.

12 Section 17. Construction of law.

13 Nothing contained in this act shall be construed to impair or  
14 affect in any manner the ability of the department and secretary  
15 to carry out the powers and duties prescribed by the laws of  
16 this Commonwealth.

17 Section 18. Funding.

18 (a) Enforcement.--The department shall not be required to  
19 enforce this act until adequate funding is appropriated or  
20 transferred into the restricted account identified in section  
21 13.

22 (b) Recovery of fees and costs.--The department, Office of  
23 Attorney General or a district attorney's office shall be  
24 entitled to recover attorney fees and costs associated with the  
25 investigation of employee misclassification, along with any  
26 resulting enforcement action, from employers that violate this  
27 act.

28 Section 19. Effective date.

29 This act shall take effect in four months.