

No. 1990-164

AN ACT

SB 278

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for procedures relating to the discharge of certain employees holding commercial driver licenses, for suspension of registration and operating privileges relating to failure to maintain financial responsibility and for pedestrian-control signals.

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

Section 1. Sections 1619(c), (d) and (e) and 1786(d) of Title 75 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1619. Prohibition against discharging, disciplining or discriminating against employees.

* * *

(c) Procedure.—

(1) Any employee who believes he has been discharged, disciplined or otherwise discriminated against by any person in violation of subsection (a) or (b) may, within 180 days after such alleged violation occurs, file or have filed by any person on the employee's behalf a complaint with **[the Pennsylvania Public Utility Commission]** *a district justice* alleging such discharge, discipline or discrimination. **[Upon receipt of such a complaint, the Pennsylvania Public Utility Commission shall notify the person named in the complaint of the filing of the complaint.**

(2) (i) Within 60 days of receipt of a complaint filed under paragraph (1), **the Pennsylvania Public Utility Commission shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of its findings. Where the Pennsylvania Public Utility Commission has concluded that there is reasonable cause to believe that a violation has occurred, its finding shall be accompanied by a preliminary order providing the relief prescribed by subparagraph (ii). Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Pennsylvania Public Utility Commission shall issue a final order within 120 days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Pennsylvania Public Utility Commission, the complainant and the person alleged to have committed the violation.**

(ii) If, in response to a complaint filed under paragraph (1), the Pennsylvania Public Utility Commission] *Actions brought under this section shall be brought in the court of common pleas if the complaint states a claim for damages in excess of the jurisdictional limits provided by 42 Pa.C.S. § 1515 (relating to jurisdiction and venue) and the plaintiff declines to waive the portion of his claim exceeding the jurisdictional amount.*

(2) *Upon request of the employee, the employer or any representative of the employee or employer, the Pennsylvania Public Utility Commission shall assign and direct an investigator with qualifications in motor vehicle safety inspections to examine the vehicle or vehicles in question and render a signed report. Such report shall be prima facie evidence of the facts and the conclusions contained therein, and may be introduced in a legal proceeding brought under this section. Any party may call the investigator as if on cross examination in a legal proceeding brought under this section.*

(3) *If the district justice or the court of common pleas, after notice and hearing, determines that a violation of subsection (a) or (b) has occurred, the [Pennsylvania Public Utility Commission] district justice or court of common pleas has the power to and shall order:*

[(A)] (i) the person who committed such violation to take affirmative action to abate the violation;

[(B)] (ii) such person to reinstate the complainant to the complainant's former position together with the compensation, including back pay, terms, conditions and privileges of the complainant's employment; and

[(C)] (iii) compensatory damages.

[(3)] (4) *If an order is issued under paragraph [(2), the Pennsylvania Public Utility Commission] (3), the district justice or court of common pleas issuing the order, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses, including attorney fees, reasonably incurred[, as determined by the Pennsylvania Public Utility Commission,] by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.*

(d) *Review of order.—*

[(1)] *Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) may obtain review of the order [in the Commonwealth Court. The petition for review must be filed within 60 days from the issuance of the Pennsylvania Public Utility Commission's order. Such review shall be] in accordance with the provisions of 42 Pa.C.S. (relating to judiciary and judicial procedure). [and shall be heard and decided expeditiously.]*

(2) *An order of the Pennsylvania Public Utility Commission, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.]*

(e) *Enforcement of order.—Whenever a person has failed to comply with an order issued under subsection [(c)(2), the Pennsylvania Public Utility*

Commission shall file a civil action] (c)(3), an aggrieved party may file a civil action or seek an enforcement order in the court of common pleas for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the court of common pleas shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement and compensatory damages.

§ 1786. Required financial responsibility.

* * *

(d) Suspension of registration and operating privilege.—The Department of Transportation shall suspend the registration of a vehicle if it determines the required financial responsibility **[has] was not [been]** secured as required by this chapter and shall suspend the operating privilege of the *owner or registrant* for a period of three months *if the department determines that the owner or registrant has operated or permitted the operation of the vehicle without the required financial responsibility*. The operating privilege shall not be restored until the restoration fee for operating privilege provided by section 1960 (relating to reinstatement of operating privilege or vehicle registration) is paid. Whenever the department revokes or suspends the registration of any vehicle under this chapter, the department shall not restore the registration until the vehicle owner furnishes proof of financial responsibility in a manner determined by the department and submits an application for registration to the department, accompanied by the fee for restoration of registration provided by section 1960. *This subsection shall not apply in the following circumstances:*

(1) *The owner or registrant proves to the satisfaction of the department that the lapse in financial responsibility coverage was for a period of less than 21 days and that the owner or registrant did not operate or permit the operation of the vehicle during the period of lapse in financial responsibility.*

(2) *The owner or registrant is a member of the armed services of the United States, the owner or registrant has previously had the financial responsibility required by this chapter, financial responsibility had lapsed while the owner or registrant was on temporary, emergency duty and the vehicle was not operated during the period of lapse in financial responsibility. The exemption granted by this paragraph shall continue for 30 days after the owner or registrant returns from duty as long as the vehicle is not operated until the required financial responsibility has been established.*

* * *

Section 2. Section 3113 of Title 75 is amended to read:

§ 3113. Pedestrian-control signals.

(a) General rule.—Whenever special pedestrian-control signals exhibiting **[the words “Walk” or “Don’t Walk”]** *words or symbols* are in place, the signals shall indicate as follows:

(1) *Word “Walk” or walking person symbol.*—Pedestrians facing the signal should proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) *Phrase “Don’t Walk” or upraised hand symbol.*—Pedestrians should not start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his crossing on the “Walk” signal should proceed to a sidewalk or safety zone while the “Don’t Walk” signal is showing.

(3) *Flashing “Walk”.*—[Whenever the “Walk” indication is flashing, pedestrians] *Pedestrians* facing the signal are cautioned that there is possible hazard from turning vehicles, but pedestrians may proceed across the roadway in the direction of the signal [indication] and shall be given the right-of-way by the drivers of all vehicles.

(4) *Flashing “Don’t Walk” Signal.*—[Whenever the “Don’t Walk” indication is flashing, pedestrians] *Pedestrians* should not start to cross the roadway in the direction of the [indication] *signal*, but any pedestrian who has partly completed crossing during the “Walk” [indication] *signal* should proceed to a sidewalk or safety zone, and all drivers of vehicles shall yield to the pedestrian.

(b) *Local regulation.*—This section does not prohibit a municipality from establishing a summary offense for violation of subsection (a)(2) or (4).

Section 3. The amendments affecting 75 Pa.C.S. § 1786(d) shall be retroactive to July 1, 1990.

Section 4. This act shall take effect immediately.

APPROVED—The 7th day of December, A. D. 1990.

ROBERT P. CASEY