

No. 1998-4

AN ACT

SB 307

Prohibiting termination and discipline of an employee for failing to report to work during a state of emergency; and providing penalties.

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

Section 1. Definitions.

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

“Discipline.” The taking of any action against an employee which adversely affects his regular pay, his job status or opportunity for promotion or his right to any benefit granted by the employer to other similarly situated employees.

Section 2. Termination or discipline of employees.

An employer may not terminate or discipline an employee for failing to report to work due to a closure of the roads in the county of the employer's place of business or the county of the employee's residence resulting from a state of emergency declared by the Governor under 35 Pa.C.S. § 7301 (relating to general authority of Governor) or 75 Pa.C.S. § 6108 (relating to power of Governor during emergency).

Section 3. Payment not required.

An employer shall not be required to pay an employee for a workday on which the employee fails to report to work due to road closures.

Section 4. Remedies.

(a) Civil action.—An employee may bring an action against an employer for a violation of section 2.

(b) Limitation.—Notwithstanding 42 Pa.C.S. § 5524(7) (relating to two year limitation), an action under this section must be commenced within 90 days of the date the cause of action arises.

(c) Elements.—To recover under this section, an employee must prove by a preponderance of the evidence that the employer intentionally and knowingly violated section 2.

(d) Relief.—If an employee is successful in an action under this section, the court may order any of the following:

- (1) An injunction ordering the employer to:
 - (i) revoke the disciplinary action or penalty; and
 - (ii) if necessary, reinstate the employee.

(2) Damages in the amount of wages and benefits lost from the time of the violation to the time of compliance with the injunction under paragraph (1).

(e) Costs and fees.—If an employee is successful in an action under this section, the court may award the employee court costs and reasonable attorney fees.

Section 5. Applicability.

This act shall not affect drivers of emergency vehicles, essential corrections personnel, police, emergency service personnel, hospital and nursing home staffs, pharmacists, essential health care professionals, public utility personnel, employees of radio or television stations engaged in the gathering and dissemination of news, road crews and oil and milk truck delivery personnel.

Section 6. Effective date.

This act shall take effect in 60 days.

APPROVED—The 29th day of January, A.D. 1998.

THOMAS J. RIDGE