

No. 2005-3

AN ACT

SB 69

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for employer immunity from liability for disclosure of information regarding former or current employees.

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

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 8340.1. Employer immunity from liability for disclosure of information regarding former or current employees.

(a) General rule.—An employer who discloses information about a current or former employee’s job performance to a prospective employer of the current or former employee, upon request of the prospective employer or the current or former employee, is presumed to be acting in good faith and, unless lack of good faith is demonstrated by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences in any case brought against the employer by the current or former employee. The presumption of good faith may be rebutted only by clear and convincing evidence establishing that the employer disclosed information that:

(1) the employer knew was false or in the exercise of due diligence should have known was false;

(2) the employer knew was materially misleading;

(3) was false and rendered with reckless disregard as to the truth or falsity of the information; or

(4) was information the disclosure of which is prohibited by any contract, civil, common law or statutory right of the current or former employee.

(b) Effect upon immunity.—This section shall not be construed to affect immunities from civil liability or defenses established by law or available at common law to which an employer may be entitled.

(c) Definition.—As used in this section, the term “employer” means a business enterprise of whatever form, a public or nonprofit entity or any person acting on behalf of the business enterprise or public or nonprofit entity.

Section 2. This act shall take effect in 60 days.

APPROVED—The 15th day of June, A.D. 2005.

EDWARD G. RENDELL