

# Inside the Mind of the State Legislator\*



*prepared for*

**Greater Valley Forge  
Human Resource Association**

*presented by*

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5,861,120.1

**WolfBlock**

## A. 2008 Legislation

# 1. Senate Bill No. 246 – Clean Indoor Air Act

# Clean Indoor Air Act

## Section 2. Definitions.

“Public place.” An enclosed area which serves as a workplace, commercial establishment or an area where the public is invited or permitted.

“Workplace.” An indoor area serving as a place of employment, occupation, business, trade, craft, professional or volunteer activity.

# Clean Indoor Air Act

## Section 3. Prohibition.

- (a) General rule. – Except as set forth under subsection (b), an individual may not engage in smoking in a public place. Nothing in this act shall preclude the owner of a public or private property from prohibiting smoking on the property.

# Clean Indoor Air Act

## Section 3. Prohibition. (continued)

- (b) Exceptions. – Subsection (a) shall not apply to any of the following:
  - (1) A private home, private residence or private vehicle unless the private home, private residence or private vehicle is being used at the time for the provision of child-care services, adult day-care services or services related to the care of children and youth in State or county custody.

# Clean Indoor Air Act

## Section 3. Prohibition.

- (b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)
  - (2) Designated quarters:
    - (i) within a lodging establishment...
    - (ii) within a full service truck stop.

# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

(3) A tobacco shop.



# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

- (4) A workplace of a manufacturer, importer or wholesaler of tobacco products; a manufacturer of tobacco-related products, including lighters; a tobacco leaf dealer or processor; or a tobacco storage facility.

# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

(5) Any of the following residential facilities:

(i) A long-term care facility ....(relating to quality of life)...

(ii) A separate enclosed room or designated smoking room in a residential adult care facility, community mental health care facility, drug and alcohol facility or other residential health care facility.....

(iii) A designated smoking room in a facility which provides day treatment programs.

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# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

(6) ..... a private club, except where the club is:

- (i) open to the public through general advertisement for a club-sponsored event; or
- (ii) leased or used for a private event which is not club-sponsored.

# Clean Indoor Air Act

## Section 3. Prohibition.

- (b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)
  - (7) A place where a fundraiser is conducted by a nonprofit and charitable organization one time per year if all of the following apply: ....
    - (iv) Cigars are sold, auctioned or given as gifts.

# Clean Indoor Air Act

## Section 3. Prohibition.

- (b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)
  - (8) An exhibition hall, conference room, catering hall or similar facility used exclusively for an event to which the public is invited for the primary purpose of promoting or sampling tobacco products, subject to the following:...

# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

(9) A cigar bar.

# Clean Indoor Air Act

## Section 3. Prohibition.

- (b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)
- (10) A drinking establishment.

# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

(11) ... 25% of the gaming floor at a licensed facility...



# Clean Indoor Air Act

## Section 3. Prohibition.

(b) Exceptions. – Subsection (a) shall not apply to any of the following: (continued)

(12) A designated outdoor smoking area within the confines of a sports or recreational facility, theater or performance establishment.

# Clean Indoor Air Act

Section 6. Violations, affirmative defenses and penalties.

- (a) Violations. – It is a violation of this act to do any of the following:
  - (1) Fail to post a sign as required by section 4.
  - (2) Permit smoking in a public place where smoking is prohibited.
  - (3) Smoke in a public place where smoking is prohibited.

# Clean Indoor Air Act

## Section 6. Violations, affirmative defenses and penalties.

### (c) Commonwealth administrative penalties.

- (1) If the department or a State licensing agency or a county board of health determines that a person has violated subsection (a), the person shall be subject to a penalty not to exceed \$250.
- (2) If the department or State licensing agency or a county board of health determines that a person has violated subsection (a) within one year of receiving a penalty under paragraph (1), the person shall be subject to a penalty not to exceed \$500.
- (3) If the department or State licensing agency or a county board of health determines that a person has violated subsection (a) within one year of receiving a penalty under paragraph (2), the person shall be subject to a penalty not to exceed \$1,000.

# Clean Indoor Air Act

## Section 6. Violations, affirmative defenses and penalties.

### (e) Criminal penalties.

- (1) A person that violates this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$250.
- (2) A person that violates this act within one year of being sentenced under paragraph (1) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$500.
- (3) A person that violates this act within one year of being sentenced under paragraph (2) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000.

# Clean Indoor Air Act

## Section 7. Retaliation prohibited.

A person may not discharge an employee, refuse to hire an applicant for employment or retaliate against an employee because the individual exercises a right to a smoke-free environment required under this act.

# Clean Indoor Air Act

## Section 11. Preemption of local ordinances.

- (a) General rule. – Except as set forth in subsection (b), the following apply:
  - (1) This act shall supersede any ordinance, resolution or regulation adopted by a political subdivision concerning smoking in a public place.
- (b) Exception. – Subsection (a) shall not apply to a city of the first class. A city of the first class may not change or amend its ordinance to conflict with any provision of this act.

## B. Proposed Bills – 2007 & 2008

1. House Bill No. 1400 – Amend  
Pennsylvania Human Relations Act



# Pennsylvania Human Relations Act

## Section 4. Definitions.

- (bb) The term “sexual orientation” means actual or perceived heterosexuality, homosexuality or bisexuality.
- (cc) The term “gender identity or expression” means actual or perceived gender identity, appearance, behavior, expression or physical characteristics whether or not associated with an individual’s assigned sex at birth.

# Pennsylvania Human Relations Act

Section 5. Unlawful Discriminatory.

It shall be an unlawful discriminatory practice...

- (a) For any employer because of the race, color, religious creed, ancestry, sexual orientation, gender identity or expression, age, sex, national origin or non-job related handicap or disability...

## 2. House Bill No. 834 – Prohibition of Excessive Overtime in Health Care Act

# Prohibition of Excessive Overtime in Health Care Act

## Section 2. Definitions.

“Health care facility.” A facility which provides clinically related health services, regardless of whether the operation is for profit or nonprofit and regardless of whether the operation is by the private sector or by State or local government.

# Prohibition of Excessive Overtime in Health Care Act

Section 3. Prohibition of mandatory overtime.

- (a) General rule. – Except as set forth in subsection (c), all of the following apply:
  - (1) A health care facility may not require an employee to work in excess of an agreed to, predetermined and regularly scheduled daily work shift.
  - (2) This subsection shall not be construed to prevent an employee from voluntarily accepting work in excess of these limitations.

# Prohibition of Excessive Overtime in Health Care Act

Section 3. Prohibition of mandatory overtime.

- (c) Exception. – The provisions of subsection (a) shall not apply to any of the following:
  - (1) On-call time. Nothing in this paragraph shall be construed to permit a health care facility or employer to use on-call time as a substitute for mandatory overtime or a means of circumventing the intent of this act.

# Prohibition of Excessive Overtime in Health Care Act

## Section 3. Prohibition of mandatory overtime.

- (c) Exception. – The provisions of subsection (a) shall not apply to any of the following: (continued)
- (2) If an unforeseeable emergent circumstance occurs and:
    - (i) the assignment of additional hours is used as a last resort;
    - (ii) the health care facility or employer has exhausted reasonable efforts to obtain other staffing; and
    - (iii) the health care facility or employer provides the employee up to one hour to arrange for the care of the employee's minor child or elderly or disabled family member.

# Prohibition of Excessive Overtime in Health Care Act

Section 3. Prohibition of mandatory overtime.

(c) Exception. – The provisions of subsection (a) shall not apply to any of the following: (continued)

(3) When an employee is required to work overtime to complete a patient care procedure already in progress if the absence of the employee could have an adverse effect on the patient.



### 3. House Bill No. 1756 – Employee Rest Period Act

# Employee Rest Period Act

## Section 3. Rest period.

The following shall apply:

- (a) An employer shall provide a 15-minute uninterrupted rest period for employees for each four consecutive hours of work.
- (b) An employer shall not be required to pay the employee for the time used as a rest period, except that nothing in this act shall supersede any agreement or arrangement in place on the effective date of this section in which an employer pays the employee for rest periods.
- (c) No employee shall be required to remain in a workroom or at the employee's work station during the rest period.

# Employee Rest Period Act

Section 7. Remedies and penalties.

The following shall apply:

- (4) In the event it is determined, after notice and hearing as required by this section, that an employer has violated this act and that such failure was intentional, the department shall levy an administrative fine on the employer. The fine shall not be less than \$1,000 nor more than \$2,500 for each violation.

## 4. House Bill No. 1757 – Employee Meal Period Act

# Employee Meal Period Act

## Section 3. Meal Period.

The following shall apply:

- (1) No employee shall be required to work for seven and one-half or more consecutive hours without a period of at least 30 consecutive uninterrupted minutes for a meal period. Such meal period shall be given after the first two hours of work and before the last two hours of work.

# Employee Meal Period Act

## Section 3. Meal Period.

The following shall apply: (continued)

- (2) An employer shall not be required to pay the employee for the time used as a meal period, except that nothing in this act shall supersede any agreement or arrangement in place on the effective date of this section in which an employer pays the employee for meal periods.

# Employee Meal Period Act

## Section 3. Meal Period.

The following shall apply: (continued)

- (3) No employee shall be required to remain in a workroom or at the employee's work station during the meal period.

# Employee Meal Period Act

Section 7. Remedies and penalties.

The following shall apply:

- (4) In the event it is determined, after notice and hearing as required by this section, that an employer has violated this act and that such failure was intentional, the department shall levy an administrative fine on the employer. The fine shall not be less than \$1,000 nor more than \$2,500 for each violation.



5. House Bill No. 1155 – Healthy Families, Healthy Workplaces Act

# Healthy Families, Healthy Workplaces Act

## Section 4. Accrual of paid sick leave.

- (a) General rule. — Except as provided for in subsection (b), employers shall provide a minimum of one hour of paid sick leave for every 40 hours worked by an employee. Employers are not required to provide more than 52 hours of sick leave for an employee in a calendar year.

# Healthy Families, Healthy Workplaces Act

## Section 4. Accrual of paid sick leave.

- (b) Exception. — Employers that employ fewer than ten individuals shall provide a minimum of one hour of paid sick leave for every 80 hours worked by an employee. Employers under this subsection are not required to provide more than 26 hours of paid sick leave in a calendar year.

# Healthy Families, Healthy Workplaces Act

## Section 5. Use of paid sick leave.

- (a) General rule. – Paid sick leave shall be provided to an employee by an employer or small employer for:
  - (1) An employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care.

# Healthy Families, Healthy Workplaces Act

## Section 5. Use of paid sick leave.

(a) General rule. – Paid sick leave shall be provided to an employee by an employer or small employer for:  
(continued)

(2) Care of a spouse, child, parent, grandparent or extended family member, or any other individual related by blood or affinity whose close relationship with the employee is the equivalent of a family relationship, with a mental or physical illness....

# Healthy Families, Healthy Workplaces Act

## Section 5. Use of paid sick leave.

- (a) General rule. – Paid sick leave shall be provided to an employee by an employer or small employer for: (continued)
- (3) Absence necessary due to domestic violence, provided the leave is to:
- (i) Seek medical attention for the employee or employee's child, spouse, parent, grandparent or extended family member ....
  - (ii) Obtain services from a victims' services organization.
  - (iii) Obtain psychological or other counseling.
  - (iv) Seek relocation due to the domestic or sexual violence or stalking.
  - (v) Take legal action....related to or resulting from the domestic or sexual violence.

# Healthy Families, Healthy Workplaces Act

## Section 9. Enforcement.

- (e) Class action. – Actions brought under this section may be brought as a class action pursuant to the laws of this Commonwealth.

# Healthy Families, Healthy Workplaces Act

Section 10. Confidentiality and nondisclosure.

If an employer possesses health information or information pertaining to domestic violence about an employee or employee's child, parent, spouse, extended family member or other individual described in section 5, the information shall be treated as confidential and not disclosed except pursuant to the Health Insurance Portability and Accountability Act of 1996.



6. House Bill No. 1779 – Employee  
Rehabilitation and Drug Testing Act

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (a) Random tests. – It shall be unlawful for an employer to impose drug testing of employees or job applicants in a random, arbitrary, selective, or systematic, comprehensive nature.

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (b) Testing without reasonable cause. — It shall be unlawful for an employer to require or request an employee or job applicant to submit to drug screens or confirmation tests without having a reasonably articulable suspicion of intoxication causing impairment of the ability of an employee being asked for a specimen to perform normal duties.

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (c) Screen as sole basis of disqualification. – It shall be unlawful for an employer to discipline or discharge an employee or to refuse to hire a job applicant solely on the basis of results of a drug screen.

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (e) Testing without written notice. – It shall be unlawful for an employer to require a drug screen of an employee or job applicant without providing that employee or job applicant with written notice, under sections 5(b) and 7(b)(3).

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (f) Observation. — It shall be unlawful for a person to observe or directly supervise the employee or job applicant while in the act of providing a sample for drug testing unless the person is a neutral observer as defined by this act.

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (g) Testing without assistance program. – It shall be unlawful for an employer to impose drug screening on employees unless the employer has established a functioning employee assistance program or comparable program which is in place and available for employees.

# Employee Rehabilitation and Drug Testing Standards Act

## Section 4. Prohibitions.

- (h) Testing only one employee classification. – It shall be unlawful for an employer to impose drug screening on employees unless the employer imposes drug screens upon management.



# Employee Rehabilitation and Drug Testing Standards Act

## Section 7. Use of test results.

### (d) Positive test results. —

(2) An employer who intends to use the results of a drug test as the basis for disciplinary action must first follow the following minimum standards of progressive discipline and rehabilitation:

- (i) Absent contract provisions to the contrary, upon the first confirmed positive result, an employer:
  - (A) May offer a temporary reassignment of the employee's duties.
  - (B) May offer counseling and rehabilitative measures in accordance with employee assistance program policies.
  - (C) Shall schedule the employee for a follow-up test.

# Employee Rehabilitation and Drug Testing Standards Act

## Section 7. Use of test results.

### (d) Positive test results. —

(2) An employer who intends to use the results of a drug test as the basis for disciplinary action must first follow the following minimum standards of progressive discipline and rehabilitation: (continued)

(ii) Absent contract provisions to the contrary, upon confirmed positive results of a separate, subsequent, unrelated second test, the employer shall require rehabilitative measures under the employer's employee assistance program. The employer shall schedule the employee for a follow-up test after the completion of such rehabilitation.

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# Employee Rehabilitation and Drug Testing Standards Act

## Section 7. Use of test results.

### (d) Positive test results. —

(2) An employer who intends to use the results of a drug test as the basis for disciplinary action must first follow the following minimum standards of progressive discipline and rehabilitation: (continued)

(iii) Absent contract provisions to the contrary, upon confirmed positive results of a separate, subsequent, unrelated third test, the employer may permanently reassign or dismiss the employee.

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## 7. Senate Bill No. 979 – Fair Employment Act

# Fair Employment Act

## Section 2. Definitions.

"Basic Pilot Program." The electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208, 110 Stat. 3009-546) which is operated by the Department of Homeland Security.

# Fair Employment Act

Section 2. Definitions.

"Registration." Any license, permit, registration or certificate granted or provided by a government entity.

# Fair Employment Act

## Section 3. Prohibitions.

- (b) Affirmation for initial registration. – As a condition for initial registration, a business entity shall provide to the government entity:
- (1) an affidavit that the business entity is not an employer; or
  - (2) an affidavit affirming that the business entity does not knowingly employ any person who is an unauthorized alien as well as an affidavit and supporting documentation that the business entity has enrolled and is an active participant in the Basic Pilot Program.

# Fair Employment Act

## Section 3. Prohibitions.

- (c) Affirmation for continued registration. – As a condition of the periodic renewal of a registration, a business entity shall comply with subsection (b) as if applying for initial registration.



# Fair Employment Act

## Section 3. Prohibitions.

- (e) Awards. – As a condition for the award of any Commonwealth contract or grant to an employer for which the value of employment, labor or personal service shall exceed \$10,000, the employer shall provide documentation affirming its enrollment and participation in the Basic Pilot Program.

# Fair Employment Act

## Section 3. Prohibitions.

- (i) Violations. – Any business entity operating within this Commonwealth in violation of this act shall have all registrations suspended under subsection (j).

## 8. House Bill No. 150 – Freedom of Employment Act

# Freedom of Employment Act

Section 3. Prohibited conditions of employment.

- (a) Membership. – No person may be required to become or remain a member of a labor organization as a condition of employment or continuation of employment.

# Freedom of Employment Act

Section 3. Prohibited conditions of employment.

- (b) Abstention from membership. – No person may be required to abstain or refrain from membership in a labor organization as a condition of employment or continuation of employment.

## 9. House Bill No. 1680 – Amend Minimum Wage Act

# Minimum Wage Act

## Section 5.2. Referendum Authorized.

- (a) A Statewide referendum shall be held to authorize an annual cost-of-living increase for employees who are paid the minimum wage.

## 10. House Bill No. 2400 – Construction Industry Independent Contractor Act



# Construction Industry Independent Contractor Act

Section 2. Legislative intent.

The General Assembly finds that increasingly employers in the construction industry are improperly classifying employees as independent contractors or paying unreported compensation in order to evade compliance with Federal and State laws.

# Construction Industry Independent Contractor Act

## Section 3. Definitions.

“Construction.” Construction, reconstruction, demolition, alteration, modification, erection, custom fabrication, repair work or maintenance work done on any real property or premises under contract, whether or not the work is for a public body and paid for from public funds.

# Construction Industry Independent Contractor Act

## Section 4. Certain services deemed employment and exceptions.

- (a) General rule. – For purposes of the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law and the Workers' Compensation Act, an individual engaging in or performing services in the commercial or residential building construction industry for remuneration is presumed to be an employee unless:
- (1) the individual has been and will continue to be free from control or direction over performance of such services both under the contract of service and in fact; and
  - (2) as to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business.

# Construction Industry Independent Contractor Act

## Section 4. Certain services deemed employment and exceptions.

(b) Independent contractor criteria. –An individual engaging in or performing services in the commercial or residential building construction industry for remuneration shall be deemed an independent contractor if the individual can demonstrate, by credible evidence, that the individual meets all of the following criteria:

- (1) Maintains a separate business location that is separate from the location of the person or entity for whom services are being performed, with the individual's own office, and operates with owned or leased equipment and other facilities. For purposes of this paragraph, an office may be maintained in the individual's residence if the individual is licensed to perform the specific kind and quality of work required by the contracts specified in this subsection by all State and local licensing authorities.

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# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

(b) Independent contractor criteria...: (continued)

- (2) Operates under contracts which are in writing and which contracts articulate plainly the precise terms of payment for work performed, the scope of work to be performed and a specific prohibition on the retention by the independent contractor of any other independent contractor to perform any part of the work described in the contract.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (b) Independent contractor criteria...: (continued)
  - (3) Includes income and losses from services rendered on a Federal income tax schedule as an independent business or profession.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (b) Independent contractor criteria....: (continued)
  - (4) Incurs the main expenses related to the work.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

(b) Independent contractor criteria.....: (continued)

(5) Is responsible for the satisfactory completion of the work and is liable for a failure to complete the work.



# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (b) Independent contractor criteria.....: (continued)
  - (6) Realizes a profit or loss under contracts to perform work.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

(b) Independent contractor criteria.....: (continued)

(7) The success or failure of the individual's business depends on the relationship of business receipts to expenditures.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (b) Independent contractor criteria.....: (continued)
  - (8) Has through ownership, or a written and executed leasing agreement with a person other than the employer, the tools, equipment and other assets necessary to perform the services.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

(b) Independent contractor criteria.....: (continued)

- (9) Makes services available to other businesses, governmental agencies in this Commonwealth or to the general public through business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

(b) Independent contractor criteria.....: (continued)

(10) Has continuing or recurring business liabilities or obligations.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (b) Independent contractor criteria.....: (continued)
  - (11) Performs the services through a business in which the individual has a principal proprietary interest.

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (b) Independent contractor criteria.....: (continued)
  - (12) Is a United States citizen or is authorized under Federal law to work in the United States...

# Construction Industry Independent Contractor Act

Section 4. Certain services deemed employment and exceptions.

- (c) Factor not to be considered. – The failure to withhold Federal or State income taxes or pay unemployment compensation taxes with respect to an individual's remuneration shall not be considered in determining whether the individual is an independent contractor for purposes of the Unemployment Compensation Law or the Workers' Compensation Act.



# Construction Industry Independent Contractor Act

## Section 5. Improper classification of employees.

- (a) Offense defined. – An employer, or officer or agent of an employer, commits a violation of this act if the employer, officer or agent fails to properly classify the individual as an employee with the intent of evading the requirements of the Minimum Wage Act, the Wage Payment and Collection Law, the Unemployment Compensation Law or the Workers' Compensation Act and shall be subject to the penalties, remedies or actions contained in this act.
- (b) Enforcement. – When the secretary finds that an employer has violated a provision of this act, the secretary may refer the matter to the Office of Attorney General for investigation and prosecution... <sup>89</sup>

# Construction Industry Independent Contractor Act

## Section 6. Criminal penalties.

### (a) Knowing violation. –

(1) An employer, or officer or agent of the employer, that knowingly violates section 5(a) commits a felony of the third degree and shall, upon conviction:

(i) be sentenced to pay a fine of not more than \$15,000 or imprisonment for not more than three and one-half years, or both, for a first offense; and

(ii) be sentenced to pay a fine of not more than \$30,000 or imprisonment for not more than seven years, or both, for a subsequent offense.

# Construction Industry Independent Contractor Act

Section 6. Criminal penalties.

- (b) Summary offense. – An employer, or officer or agent of the employer, that negligently fails to properly classify an individual as an employee under section 5(1) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000.

# Construction Industry Independent Contractor Act

Section 7. Civil actions and remedies.

- (b) Administrative penalties. – As an alternative to or in addition to any other sanctions provided by law for a violation of this act, when the secretary finds that an employer has violated this act, the secretary is authorized to assess and collect administrative penalties up to a maximum of \$2,500 for the first violation and up to a maximum of \$5,000 for each subsequent violation.

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# 11. House Resolution No. 281 – Workplace Pay Disparity Study

# Workplace Pay Disparity Study

WHEREAS, Legislative efforts are currently under way at the Federal level which call for enhanced enforcement of equal pay laws as well as additional policy initiatives and improved training for government agencies charged with enforcing equal pay requirements under the law; and

# Workplace Pay Disparity Study

WHEREAS, There is a need for a comprehensive reexamination of the role of Federal and State laws in deterring workplace wage discrimination; therefore be it

# Workplace Pay Disparity Study

RESOLVED (the Senate concurring), That the General Assembly direct the Joint State Government Commission to study workplace pay disparity in this Commonwealth; and be it further



# Workplace Pay Disparity Study

RESOLVED, That the area of review include a study of the Equal Pay Law, the Pennsylvania Human Relations Act, the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964 to determine their effectiveness in deterring wage disparity in the workplace, a review of current Federal and State law to determine if additional policy initiatives, outreach programs or legislation is needed to ensure equal pay in this Commonwealth....; and be it further

# Workplace Pay Disparity Study

RESOLVED, That the Joint State Government Commission report its findings, recommendations and proposed legislation to the General Assembly by November 30, 2008.

## C. What to do?

# What to do?

1. Follow legislation
  - a. Track individual bills
  - b. Look for trends in PA
  - c. Be mindful of developments in other jurisdictions

# What to do?

2. Evaluate bills--think critically
  - a. Short-term and long-term impact
  - b. Focus on the interests of employers and employees
  - c. Focus on general public interest too

# What to do?

3. Know your representatives
  - a. Visit them on the Hill
  - b. Invite them to meet with you and others
  - c. Develop relationship with their staff too

# What to do?

4. Build relationships
  - a. Don't make assumptions based on partisan affiliation
  - b. Don't burn bridges – coalitions change frequently in the legislative arena

# What to do?

5. Get others involved
  - a. Internal (e.g., CEO)
  - b. External (e.g., trade association)



# What to do?

6. Communicate your position
  - a. Don't assume that the representative knows the bill or the issues
  - b. Explain the bill succinctly
  - c. Be direct with your position
  - d. Give real life examples, if possible

# What to do?

6. Communicate your position (continued)
  - e. Know the arguments on the other side and be prepared to respond to them
  - f. Do not attack motives of bill's proponents
  - g. Be honest — credibility is critical
  - h. Do not lose your temper

# What to do?

## 7. Follow-up

- a. Monitor results
- b. Thank those who support you
- c. Communicate respectfully with those who don't
- d. Vote

# What to do?

8. Keep in mind the importance of timing
  - a. Developing relationships
  - b. Communicating position
  - c. Reaching out to others
  - d. Following-up
  - e. START NOW

Thank you!

The logo consists of a horizontal bar divided into five segments of varying shades of blue and green. The text 'WolfBlock' is written in white serif font across the bottom of the bar.

WolfBlock