

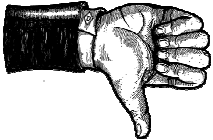


Pennsylvania Conference of Teamsters

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LEGISLATIVE ACTION ALERT



PA SENATE BILL 143

Workplace injuries must proceed under the Workers' Compensation Act and may not be brought as a civil tort action against employers

Senate of Pennsylvania

Session of 2019 - 2020 Regular Session

MEMORANDUM

Posted: January 2, 2019 08:47 AM
From: Senator Kim L. Ward
To: All Senate members
Subject: **Restoring Workers Compensation as the Exclusive Remedy for all Work Related Injuries**

In the near future, I will be reintroducing legislation to restore workers' compensation as the exclusive remedy for work related injuries and occupational diseases.

For more than 100 years, Pennsylvania has honored the "Grand Bargain" between employers and employees for all work related injuries. The Grand Bargain provides that all claims for workplace injuries must proceed under the Workers' Compensation Act and may not be brought as a civil tort action against employers. This is often referred to as the exclusive remedy provision. In return for giving up the right to sue employers for workplace injuries, injured workers receive an efficient and certain process to ensure they are properly compensated for work related injuries.

The Pennsylvania Supreme Court established an exception to the exclusive remedy provision, which has resulted in significant liability for businesses. In the case of *Tooev v. AK Steel Corp.*, the Supreme Court decided that employees with asbestos related diseases may file a civil action against their employers if symptoms of the disease did not manifest until more than 300 weeks after the last occupational exposure. These claims were historically declined by workers compensation insurers because of a statutory provision that prohibited such claims after 300 weeks.

As a result of *Tooev* there has been an increase in the number of civil asbestos actions filed against employers. These actions had typically been brought solely against asbestos manufacturers. These actions are unpredictable for employees and potentially devastating for employers. This legislation would restore the Grand Bargain by bringing occupational diseases with symptoms that may take years to manifest, such as asbestosis and mesothelioma, back into the Workers' Compensation system. The legislation will waive the 300 week limitation from last exposure for bringing a claim for occupational disease where the occupational disease has a latency period of longer than 300 weeks. In those cases, claims may be filed based on the date on which the claimant is diagnosed with the disease or the disease is detectable, offering an efficient and predictable process to resolve and pay those claims.

If enacted, this legislation will again protect both the injured worker and employer under the exclusive remedy provisions of the Workers' Compensation Act. This legislation was SB 1052 last session and co-sponsors included Senators Gordner, Mensch, Folmer and Regan.

Introduced as **SB143**

