
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2377 Session of
2014

INTRODUCED BY JAMES, BARRAR, ROZZI, MILLARD, CLYMER, C. HARRIS,
MARSHALL, COHEN, MURT, GINGRICH, SWANGER, HARKINS, BIZZARRO,
RAPP, DONATUCCI, SANKEY, SAINATO, MULLERY, BOBACK, FARRY,
SACCONI, CUTLER AND KORTZ, JUNE 24, 2014

SENATOR MENSCH, VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, IN
SENATE, AS AMENDED, OCTOBER 7, 2014

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions and
3 for laws suspended during emergency assignments.

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

6 Section 1. Section 7102 of Title 35 of the Pennsylvania
7 Consolidated Statutes is amended by adding definitions to read:
8 § 7102. Definitions.

9 The following words and phrases when used in this part shall
10 have, unless the context clearly indicates otherwise, the
11 meanings given to them in this section:

12 * * *

13 "Disaster emergency-related work." The repair, renovation,
14 installation, construction or rendering of services or other
15 business activities that relate to infrastructure that has been
16 damaged, impaired or destroyed by a disaster.

1 * * *

2 "Infrastructure." Real and personal property and equipment
3 that is owned or used by any of the following that service
4 multiple customers or citizens:

5 (1) A communications network.

6 (2) An electric generation, transmission and
7 distribution system.

8 (3) A gas distribution system that provides the
9 facilities and equipment for producing, generating,
10 transmitting, distributing or the furnishing of gas directly
11 to the end customer.

12 (4) A public or private water pipeline.

13 * * *

14 "Out-of-State business." A business entity whose services
15 are requested by a registered business, the Commonwealth or a
16 political subdivision of the Commonwealth for purposes of
17 performing disaster emergency-related work in this Commonwealth.
18 The term includes a business entity that is affiliated with a
19 registered business in this Commonwealth solely through common
20 ownership. The out-of-State business may not have any of the
21 following:

22 (1) A presence in this Commonwealth, excluding prior
23 disaster emergency-related work performed under section
24 7308(b)(1) (relating to laws suspended during emergency
25 assignments).

26 (2) Any registration, tax filing or nexus in this
27 Commonwealth within the past three calendar years.

28 "Out-of-State employee." An employee who does not work in
29 this Commonwealth, unless the employee is performing disaster
30 emergency-related work during a period under section 7308(b)(1).

1 * * *

2 "Registered business." Any business entity that is
3 registered to do business in this Commonwealth prior to a
4 declared disaster or emergency.

5 * * *

6 Section 2. Section 7308 of Title 35 is amended to read:

7 § 7308. Laws suspended during emergency assignments.

8 (a) Commonwealth agencies.--In the case of a declaration of
9 a state of emergency by the Governor, Commonwealth agencies may
10 implement their emergency assignments without regard to
11 procedures required by other laws (except mandatory
12 constitutional requirements) pertaining to the performance of
13 public work, entering into contracts, incurring of obligations,
14 employment of temporary workers, rental of equipment, purchase
15 of supplies and materials and expenditures of public funds.

16 (b) Out-of-State business or employee.--Notwithstanding any
17 other law to the contrary, if the Governor has declared a
18 disaster emergency to exist under this part or the President has
19 declared a major disaster or emergency to exist in this
20 Commonwealth, the following shall apply:

21 (1) An out-of-State business that conducts operations
22 within this Commonwealth for purposes of performing disaster
23 emergency-related work for a period of not more than ten days
24 before or not more than 60 calendar days after the end of the
25 declared disaster emergency period may not be considered to
26 have established a level of presence that would require that
27 business to register, file and remit State or local taxes, or
28 that would require the out-of-State business or an out-of-
29 State employee to be subject to any licensing or registration
30 requirements of the Commonwealth, provided that the out-of-

1 State business is in substantial compliance with all
2 applicable regulatory and licensing requirements in its state
3 of domicile, including any of the following:

4 (i) State or local business licensing or
5 registration requirements.

6 (ii) Pennsylvania Public Utility Commission or
7 regulatory requirements.

8 (iii) State and local taxes and fees, such as
9 unemployment insurance, sales and use tax or property tax
10 on equipment brought into this Commonwealth on a
11 temporary basis used ~~or consumed in~~ DURING THE DISASTER <--
12 EMERGENCY AND SUBSEQUENTLY REMOVED FROM this
13 Commonwealth, State or local occupational licensing fees
14 or local services taxes.

15 (iv) A State or local tax on or measured by, in
16 whole or in part, net or gross income or receipts. THE <--
17 ACTIVITY OF THE OUT-OF-STATE BUSINESS THAT IS NOT
18 CONDUCTED IN THIS COMMONWEALTH UNDER THIS TITLE SHALL BE
19 DISREGARDED WITH RESPECT TO A FILING REQUIREMENT FOR THE
20 TAX, INCLUDING THE FILING REQUIRED, IF ANY, FOR A UNITARY
21 OR COMBINED GROUP OF WHICH THE OUT-OF-STATE BUSINESS MAY
22 BE A PART. FOR THE PURPOSE OF APPORTIONING INCOME,
23 REVENUE OR RECEIPTS, THE PERFORMANCE OF WORK IN
24 ACCORDANCE WITH THIS SECTION BY AN OUT-OF-STATE BUSINESS
25 MAY NOT BE SOURCED TO OR OTHERWISE IMPACT OR INCREASE THE
26 AMOUNT OF INCOME, REVENUE OR RECEIPTS APPORTIONED TO THE
27 COMMONWEALTH.

28 (2) The period under paragraph (1) may be extended by
29 the Governor for a period of not more than 30 days for each
30 declared disaster emergency.

1 (3) An out-of-State employee shall not be considered to
2 have established residency or presence in this Commonwealth
3 that would require the individual or the individual's
4 employer to file and pay income taxes, to be subjected to
5 income tax withholding or to file and pay any other State or
6 local tax or fee for disaster emergency-related work
7 performed during the disaster period designated under
8 paragraphs (1) and (2), including any related State or local
9 employer withholding or remittance obligations.

10 (c) Liability exemption.--Nothing in this section shall be
11 construed to relieve an entity or individual from a liability
12 not explicitly exempted under this section, including, but not
13 limited to, damages associated with an act of negligence.

14 (D) TRANSACTION TAXES AND FEES.--AN OUT-OF-STATE BUSINESS <--
15 AND OUT-OF-STATE EMPLOYEE SHALL BE REQUIRED TO PAY TRANSACTION
16 TAXES AND FEES, INCLUDING BUT NOT LIMITED TO, FUEL TAXES OR
17 SALES AND USE TAX ON MATERIALS OR SERVICES CONSUMED OR USED IN
18 THIS COMMONWEALTH SUBJECT TO SALES AND USE TAX, HOTEL TAXES OR
19 CAR RENTAL TAXES OR FEES THAT THE OUT-OF-STATE BUSINESS OR OUT-
20 OF-STATE EMPLOYEE PURCHASES FOR USE OR CONSUMPTION IN THIS
21 COMMONWEALTH DURING THE PERIOD NOT MORE THAN TEN DAYS BEFORE OR
22 NOT MORE THAN 60 CALENDAR DAYS AFTER THE END OF THE DECLARED
23 DISASTER EMERGENCY UNLESS THE TAXES OR FEES ARE OTHERWISE
24 EXEMPTED.

25 Section 3. The following provisions shall apply to a
26 disaster or emergency that is declared on or after the effective
27 date of this section:

28 (1) The addition of the definitions of "disaster
29 emergency-related work," "infrastructure," "out-of-State
30 business," "out-of-State employee" and "registered business"

1 in 35 Pa.C.S. § 7102.

2 (2) The amendment of 35 Pa.C.S. § 7308.

3 Section 4. This act shall take effect in 60 days.