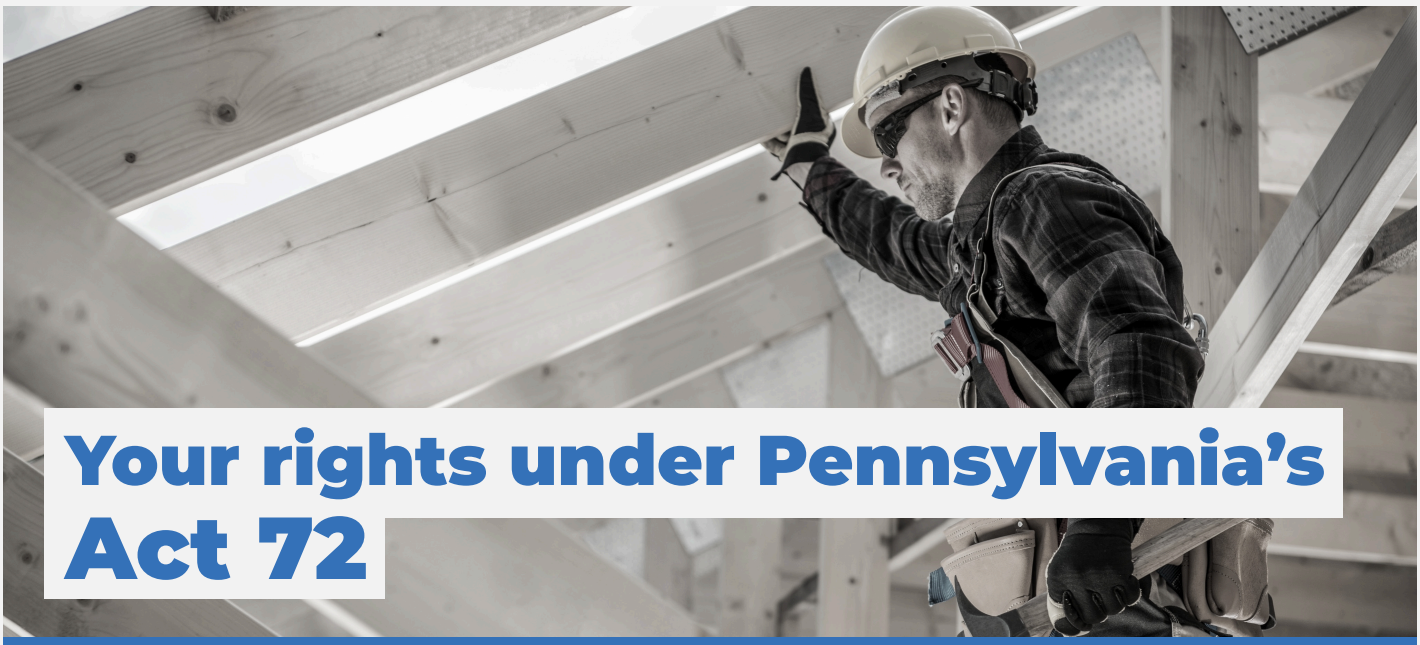
Pennsylvania
Department of Labor & Industry



Your rights under Pennsylvania's Act 72

Construction Employees Must Be Classified Appropriately

Independent Contractor Definition

A construction worker can only be classified as an independent contractor if the individual:

- Has a written contract;
- Directs and controls their own work; and
- Is customarily engaged in an independently established trade, occupation, profession, or business.

An individual is not customarily engaged in an independently established trade, occupation, profession, or business unless that person possesses essential tools of the trade, realizes a profit/loss from the work, has a proprietary interest in the business, has a separate business location, can independently perform construction services, and maintains liability insurance of at least $50,000 during the work.

Learn more about Act 72 at L&I's BLLC page, including how to submit a complaint and FAQs.

Retaliation Prohibited
An employer cannot take any action to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under Act 72.

Effects of Misclassification
Employers who misclassify their employees may owe fines under Act 72. They may also owe additional penalties related to failure to obtain workers' compensation coverage for employees, failure to pay unemployment taxes, and failure to pay overtime when workers have worked in excess of 40 hours per week.

Penalties
The Department may fine violations of Act 72 at up to $1,000 per violation for first offenses and up to $2,500 per violation for each subsequent offense.

Questions/Complaints

If you feel that your employer has violated Pennsylvania's Act 72, you should file a complaint with the Bureau of Labor Law Compliance.

You can contact the Bureau of Labor Law Compliance at LaborLaw@pa.gov or by phone at 1-800-932-0665.
Free interpretation services are available.