

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2400 Session of 2010

INTRODUCED BY GERGELY, BELFANTI, BARBIN, BOYLE, BRENNAN, BRIGGS, BURNS, BUXTON, CALTAGIRONE, DALEY, DePASQUALE, DERMODY, EACHUS, FABRIZIO, GALLOWAY, GIBBONS, GOODMAN, HARHAI, HARKINS, W. KELLER, MANN, MATZIE, McCALL, McGEEHAN, MELIO, MUNDY, MURPHY, PARKER, PASHINSKI, READSHAW, SANTONI, SEIP, SIPTROTH, K. SMITH, SOLOBAY, STABACK, STURLA, WANSACZ, WHEATLEY, WHITE, YUDICHAK AND KOTIK, APRIL 12, 2010

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 12, 2010

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937  
2 P.L.2897, No.1), entitled "An act establishing a system of  
3 unemployment compensation to be administered by the  
4 Department of Labor and Industry and its existing and newly  
5 created agencies with personnel (with certain exceptions)  
6 selected on a civil service basis; requiring employers to  
7 keep records and make reports, and certain employers to pay  
8 contributions based on payrolls to provide moneys for the  
9 payment of compensation to certain unemployed persons;  
10 providing procedure and administrative details for the  
11 determination, payment and collection of such contributions  
12 and the payment of such compensation; providing for  
13 cooperation with the Federal Government and its agencies;  
14 creating certain special funds in the custody of the State  
15 Treasurer; and prescribing penalties," further providing for  
16 definitions and for ineligibility for compensation.

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

19 Section 1. Section 4(a) of the act of December 5, 1936 (2nd  
20 Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment  
21 Compensation Law, amended July 10, 1980 (P.L.521, No.108), is  
22 amended and the section is amended by adding subsections to

1 read:

2 Section 4. Definitions.--The following words and phrases, as  
3 used in this act, shall have the following meanings, unless the  
4 context clearly requires otherwise.

5 (a) "Base year" means:

6 (1) Except as provided under paragraph (2), the first four  
7 of the last five completed calendar quarters immediately  
8 preceding the first day of an individual's benefit year.

9 (2) If an individual's base year determined in accordance  
10 with paragraph (1) contains insufficient wages to qualify the  
11 individual for a weekly benefit rate or contains fewer than  
12 sixteen (16) credit weeks, the individual's base year shall  
13 consist of the most recent four completed calendar quarters  
14 preceding the first day of the individual's benefit year. The  
15 calendar quarters included in a base year under this paragraph  
16 may not be used at any time after their inclusion for the  
17 purposes of this paragraph in the calculation of benefits for a  
18 subsequent benefit year.

19 (a.1) "Abuse" means:

20 (1) attempting to cause or causing physical harm;

21 (2) placing another in fear of imminent serious physical  
22 harm;

23 (3) causing another to engage involuntarily in sexual  
24 relations by force, threat or duress or engaging or threatening  
25 to engage in sexual activity with a dependent child;

26 (4) engaging in mental abuse, which includes threats,  
27 intimidation or acts designed to induce terror;

28 (5) depriving another of medical care, housing, food or  
29 other necessities of life; and

30 (6) restraining the liberty of another.

\* \* \*

(h.2) "Disability" means:

(1) mental and physical disability;

(2) permanent and temporary disability; and

(3) partial and total disability.

(h.3) "Domestic Violence" means abuse committed against a claimant or member of the claimant's immediate family by:

(1) a current or former spouse of the claimant;

(2) a person with whom the claimant shares a child in common;

(3) a person who is cohabiting with or has cohabited with the claimant;

(4) a person who is related by blood or marriage to the claimant; or

(5) a person with whom the claimant has or had a dating or engagement relationship.

\* \* \*

(m.4) "Immediate Family" means the claimant's spouse, parents, grandparents, siblings and children.

\* \* \*

(o.1) "Sexual Assault" means sexual assault as described in 18 Pa.C.S. § 3124.1 (relating to sexual assault) against a claimant or a member of the claimant's immediate family.

\* \* \*

Section 2. Section 402(a), (a.1) and (b) of the act, amended or added July 10, 1980 (P.L.521, No.108) and October 22, 1981 (P.L.301, No.106), are amended to read:

Section 402. Ineligibility for Compensation.--An employee shall be ineligible for compensation for any week--

(a) In which his unemployment is due to failure, without

1 good cause, either to apply for suitable work at such time and  
2 in such manner as the department may prescribe, or to accept  
3 suitable work when offered to him by the employment office or by  
4 any employer, irrespective of whether or not such work is in  
5 "employment" as defined in this act: Provided, That such  
6 employer notifies the employment office of such offer within  
7 seven (7) days after the making thereof[; however this]. This  
8 subsection shall not cause a disqualification of a waiting week  
9 or benefits under any of the following circumstances: [when work  
10 is offered by his employer and he is not required to accept the  
11 offer pursuant to the terms of the labor-management contract or  
12 agreement, or pursuant to an established employer plan, program  
13 or policy: Provided further, That a claimant shall not be  
14 disqualified for refusing suitable work when he is in training  
15 approved under section 236(a) (1) of the Trade Act of 1974.]

16 (1) The work is offered by his employer and he is not  
17 required to accept the offer pursuant to the terms of the labor-  
18 management contract or agreement, or pursuant to an established  
19 employer plan, program or policy.

20 (2) The claimant is in training approved under section  
21 236(a) (1) of the Trade Act of 1974.

22 (3) The average number of hours of work per week offered to  
23 the claimant exceeds twenty hours, if the claimant worked less  
24 than his full-time work for a majority of the weeks in the base  
25 year in which the claimant worked.

26 [(a.1) In which his unemployment is due to failure to accept  
27 an offer of suitable full-time work in order to pursue seasonal  
28 or part-time employment.]

29 (b) In which his unemployment is due to voluntarily leaving  
30 work [without cause of a necessitous and compelling nature],

1 irrespective of whether or not such work is in "employment" as  
2 defined in this act, except as follows: [Provided, That]

3 (1) A claimant shall not be disqualified for voluntarily  
4 leaving work for cause of a necessitous and compelling nature.  
5 For purposes of this paragraph, a voluntary leaving work because  
6 of a disability if the employer is able to provide other  
7 suitable work, shall be deemed not a cause of a necessitous and  
8 compelling nature[: And provided further, That no].

9 (2) No employe shall be deemed to be ineligible under this  
10 subsection where as a condition of continuing in employment such  
11 employe would be required to join or remain a member of a  
12 company union or to resign from or refrain from joining any bona  
13 fide labor organization, or to accept wages, hours or conditions  
14 of employment not desired by a majority of the employes in the  
15 establishment or the occupation, or would be denied the right of  
16 collective bargaining under generally prevailing conditions, and  
17 that in determining whether or not an employe has left his work  
18 voluntarily without cause of a necessitous and compelling  
19 nature, the department shall give consideration to the same  
20 factors, insofar as they are applicable, provided, with respect  
21 to the determination of suitable work under section four (t)[:  
22 And provided further, That the].

23 (3) The provisions of this subsection shall not apply in the  
24 event of a stoppage of work which exists because of a labor  
25 dispute within the meaning of subsection (d). [Provided further,  
26 That no]

27 (4) No otherwise eligible claimant shall be denied benefits  
28 for any week in which his unemployment is due to exercising the  
29 option of accepting a layoff, from an available position  
30 pursuant to a labor-management contract agreement, or pursuant

1 to an established employer plan, program or policy[: Provided  
2 further, That a)].

3 (5) A claimant shall not be disqualified for voluntarily  
4 leaving work, which is not suitable employment to enter training  
5 approved under section 236(a)(1) of the Trade Act of 1974. For  
6 purposes of this [subsection] paragraph the term "suitable  
7 employment" means with respect to a claimant, work of a  
8 substantially equal or higher skill level than the claimant's  
9 past "adversely affected employment" (as defined in section 247  
10 of the Trade Act of 1974), and wages for such work at not less  
11 than eighty per centum of the worker's "average weekly wage" (as  
12 defined in section 247 of the Trade Act of 1974).

13 (6) A claimant shall not be disqualified for voluntarily  
14 leaving work due to the need to address the physical,  
15 psychological or legal effects of domestic violence or sexual  
16 assault. For the purposes of this paragraph, the claimant shall  
17 not be required to provide a protective order or police record  
18 to verify domestic violence or sexual assault.

19 (7) A claimant shall not be disqualified for voluntarily  
20 leaving work to care for a member of the claimant's immediate  
21 family who requires care by another individual due to an illness  
22 or disability.

23 (i) For purposes of this paragraph, the department may not  
24 require verification of the illness or disability by a medical  
25 doctor if other sources of verification are available.

26 (ii) If the claimant terminates his employment, this  
27 paragraph shall apply to the claimant only if the claimant made  
28 a reasonable effort to maintain the employment relationship  
29 prior to terminating employment.

30 (8) A claimant shall not be disqualified for voluntarily

1 leaving work due to the need to accompany the claimant's spouse  
2 to a place from which it is impractical for the claimant to  
3 commute and due to a change in location of the spouse's  
4 employment.

5 \* \* \*

6 Section 3. The following shall apply:

7 (1) The amendment of section 4(a) of the act shall apply  
8 to claimants whose benefit years begin on or after July 1,  
9 2010.

10 (2) The following provisions shall apply to  
11 determinations of eligibility for weeks of unemployment  
12 beginning on or after July 1, 2010:

13 (i) The addition of section 4(a.1), (h.2), (h.3),  
14 (m.4) and (o.1) of the act.

15 (ii) The amendment of section 402(a), (a.1) and (b)  
16 of the act.

17 Section 4. This act shall take effect immediately.