

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1754 Session of 2011

INTRODUCED BY MILLER, PERRY, AUMENT, BEAR, BLOOM, BOBACK, BOYD, CAUSER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, EVANKOVICH, EVERETT, GABLER, GILLEN, GILLESPIE, GINGRICH, GRELL, GROVE, HARRIS, HICKERNELL, KAMPF, KAUFFMAN, F. KELLER, M. K. KELLER, KNOWLES, LAWRENCE, MAJOR, MARSICO, METCALFE, METZGAR, MOUL, OBERLANDER, PICKETT, PYLE, RAPP, ROCK, SAYLOR, CULVER, SONNEY, SWANGER, TALLMAN AND TURZAI, JUNE 29, 2011

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 29, 2011

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 ineligibility for compensation; and providing for
 17 applicability.

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

20 Section 1. Section 402(b) and (e) of the act of December 5,
 21 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
 22 Unemployment Compensation Law, amended August 24, 1953
 23 (P.L.1397, No.396) and October 22, 1981 (P.L.301, No.106), are

1 amended to read:

2 Section 402. Ineligibility for Compensation.--An employe
3 shall be ineligible for compensation for any week--

4 * * *

5 (b) In which his unemployment is due to voluntarily leaving
6 work without cause of a necessitous and compelling nature
7 attributable to his employment, irrespective of whether or not
8 such work is in "employment" as defined in this act: Provided,
9 That a voluntary leaving work because of a work-related
10 disability if the employer is able to provide other suitable
11 work, shall be deemed not a cause of a necessitous and
12 compelling nature attributable to his employment: And provided
13 further, That no employe shall be deemed to be ineligible under
14 this subsection where the Federal Unemployment Tax Act requires
15 eligibility, and provided that no employe shall be deemed
16 ineligible under this subsection if the employe is a spouse of a
17 full-time member of the United States Armed Forces or a full-
18 time member of any of its reserve components, including the
19 Pennsylvania National Guard, and the employe is leaving
20 employment due to the reassignment of the military member to a
21 different geographical location: And provided further, That no
22 employe shall be deemed to be ineligible under this subsection
23 where as a condition of continuing in employment such employe
24 would be required to join or remain a member of a company union
25 or to resign from or refrain from joining any bona fide labor
26 organization, or to accept wages, hours or conditions of
27 employment not desired by a majority of the employes in the
28 establishment or the occupation, or would be denied the right of
29 collective bargaining under generally prevailing conditions, and
30 that in determining whether or not an employe has left his work

1 voluntarily without cause of a necessitous and compelling nature
2 attributable to his employment, the department shall give
3 consideration to the same factors, insofar as they are
4 applicable, provided, with respect to the determination of
5 suitable work under section four (t): And provided further, That
6 the provisions of this subsection shall not apply in the event
7 of a stoppage of work which exists because of a labor dispute
8 within the meaning of subsection (d). Provided further, That no
9 otherwise eligible claimant shall be denied benefits for any
10 week in which his unemployment is due to exercising the option
11 of accepting a layoff, from an available position pursuant to a
12 labor-management contract agreement, or pursuant to an
13 established employer plan, program or policy: Provided further,
14 That a claimant shall not be disqualified for voluntarily
15 leaving work, which is not suitable employment to enter training
16 approved under section 236(a) (1) of the Trade Act of 1974. For
17 purposes of this subsection the term "suitable employment" means
18 with respect to a claimant, work of a substantially equal or
19 higher skill level than the claimant's past "adversely affected
20 employment" (as defined in section 247 of the Trade Act of
21 1974), and wages for such work at not less than eighty per
22 centum of the worker's "average weekly wage" (as defined in
23 section 247 of the Trade Act of 1974).

24 * * *

25 (e) In which his unemployment is due to his discharge or
26 temporary suspension from work for [willful] misconduct
27 connected with his work, irrespective of whether or not such
28 work is "employment" as defined in this act[; and]. For purposes
29 of this subsection, the term "misconduct" shall include the
30 violation of any reasonable workplace rule or work-related

1 government regulation or law of which the employe was aware;
2 failure to maintain a valid license or certificate that has been
3 issued by a Federal or Commonwealth agency or political
4 subdivision and which is a requirement of employment; the
5 deliberate damage to property of the employer or another employe
6 or the theft of an employer's or another employe's property;
7 reporting to work in possession of or under the influence of
8 drugs or alcohol; threatening a coworker or supervisor with
9 physical harm or threatening to harm the interests of the
10 employer; disregard of supervisor's reasonable directives or
11 orders or an act of negligence which indicates substantial
12 disregard for employer's interests.

13 * * *

14 Section 2. The amendment of section 402(b) and (e) of the
15 act shall apply to initial claims filed on or after January 1,
16 2012.

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