

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1223 Session of
1984

INTRODUCED BY WENGER, ROCKS, STAPLETON AND MOORE, JANUARY 30,
1984

REFERRED TO LABOR AND INDUSTRY, JANUARY 30, 1984

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 certain unemployment benefits for seasonal workers.

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

19 Section 1. The act of December 5, 1936 (2nd Sp.Sess., 1937
20 P.L.2897, No.1), known as the Unemployment Compensation Law, is
21 amended by adding a section to read:

22 Section 402.5. Eligibility of Seasonal Workers.--(a)
23 Notwithstanding any other provision of this act with respect to
24 service performed in a seasonal operation or industry, benefits

1 shall not be paid to a seasonal worker, based on such services,
2 for any week of unemployment occurring outside of the normal
3 seasonal period of operation, provided there is a contract or
4 reasonable assurance that such seasonal worker will perform
5 services in that seasonal industry in his next normal seasonal
6 period. However, if upon presenting himself for work in his next
7 normal seasonal period, the individual is not offered an
8 opportunity to perform such services, his claims for
9 unemployment compensation shall be accepted retroactively to the
10 time the individual's benefits (based on seasonal and non-
11 seasonal wages) would have commenced but for this subsection.

12 (b) Upon written application filed with the department by an
13 employer, the secretary shall determine, and may thereafter
14 redetermine, in accordance with the rules and regulations of the
15 department, the normal seasonal period during which workers are
16 ordinarily employed for the purpose of carrying on seasonal
17 operations in the seasonal industry in which such employer is
18 engaged. An application for such determination shall be made on
19 forms prescribed by the department. Such application must be
20 made at least twenty (20) days prior to the estimated beginning
21 date of the normal seasonal period for which the determination
22 is requested.

23 (c) An employer determined, in accordance with the
24 provisions of this section, to be a seasonal industry or a
25 seasonal operation shall be required to conspicuously display
26 notices of the seasonal determination on its premises in a
27 sufficient number of places as will fairly advise its employees
28 of the estimated beginning and estimated ending dates of its
29 normal seasonal period. Such notices shall be provided by the
30 department.

1 (d) Any successor of a seasonal employer shall be deemed to
2 be a seasonal industry or a seasonal operation unless such
3 successor shall, within 120 days after the acquisition, request
4 cancellation of such determination.

5 (e) Any determination issued under the provisions of this
6 section shall be subject to review in the same manner and to the
7 same extent as all other determinations issued under this act.

8 (f) Benefits payable to any otherwise eligible individual
9 who is determined to be a seasonal worker shall be calculated in
10 accordance with the provisions of this section for any benefit
11 year which is established on or after the beginning date of a
12 determination of a seasonal industry or a seasonal operation by
13 which such individual was employed during the base year
14 applicable to such benefit year, as if such determination had
15 been effective in such base period.

16 (g) In no case shall a seasonal worker be eligible to
17 receive a total amount of compensation in a benefit year in
18 excess of the maximum compensation payable for such benefit
19 year, as provided in section 404 of this act.

20 (h) For the purposes of this section, the following
21 definitions shall apply:

22 (1) "Normal seasonal period" means the normal seasonal
23 period during which workers are ordinarily employed for the
24 purpose of carrying on seasonal operations in each seasonal
25 industry.

26 (2) "Seasonal industry" means an industry, establishment or
27 process within an industry which, because of climatic conditions
28 making it impractical or impossible to do otherwise, customarily
29 carries on food processing operations and the production of
30 agricultural and horticultural products only during a regularly

1 recurring period of one hundred fifty (150) days of work or less
2 in a calendar year.

3 (3) "Seasonal operation" means an operation in which it is
4 customary for an employer engaged in a seasonal industry,
5 establishment or process to operate all or a portion of its
6 business during a regularly recurring period of one hundred
7 fifty (150) days of work or less for a normal seasonal period
8 during a calendar year. An employer may be determined to be
9 engaged in a seasonal industry, establishment or process with
10 respect to a portion of its business, only if that portion,
11 under the usual and customary practice in the industry, is
12 identifiable as a functionally distinct operation. An employer
13 may operate during more than one seasonal period during a
14 calendar year. However, each such period should be deemed to be
15 a separate seasonal operation.

16 (4) "Seasonal worker" means a worker who does not perform
17 services for a separate seasonal operation for more than one
18 hundred fifty (150) days of work.

19 Section 2. This act shall take effect immediately.