

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1597 Session of  
2011

INTRODUCED BY D. COSTA, MATZIE, CARROLL, DeLUCA, FABRIZIO,  
HALUSKA, KULA, M. O'BRIEN, THOMAS, VULAKOVICH AND KOTIK,  
MAY 25, 2011

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MAY 25, 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," in penalty provisions,  
16 further providing for recovery and recoupment of  
17 compensation; and providing for an amnesty program for  
18 selected violations.

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

21 Section 1. Section 804(a) of the act of December 5, 1936  
22 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment  
23 Compensation Law, amended October 19, 1988 (P.L.818, No.109), is  
24 amended to read:

25 Section 804. Recovery and Recoupment of Compensation.--(a)

1 Any person who by reason of his fault has received any sum as  
2 compensation under this act to which he was not entitled, shall  
3 be liable to repay to the Unemployment Compensation Fund to the  
4 credit of the Compensation Account a sum equal to the amount so  
5 received by him and interest at the rate determined by the  
6 Secretary of Revenue as provided by section 806 of the act of  
7 April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," per  
8 month or fraction of a month from fifteen (15) days after the  
9 Notice of Overpayment was issued until paid. Such sum shall be  
10 collectible (1) in the manner provided in section 308.1 or  
11 section 309 of this act, for the collection of past due  
12 contributions, or (2) by deduction from any future compensation  
13 payable to the claimant under this act: Provided, That interest  
14 assessed under this section cannot be recouped by deduction from  
15 any future compensation payable to the claimant under this act:  
16 Provided further, That no administrative or legal proceedings  
17 for the collection of such sum shall be instituted after the  
18 expiration of [six] twenty (20) years following the end of the  
19 benefit year with respect to which such sum was paid.

20 \* \* \*

21 Section 2. The act is amended by adding an article to read:

22 ARTICLE VIII-A

23 OUTSTANDING OVERDRAFT CLAIMANT AND

24 DELINQUENT EMPLOYER AMNESTY PROGRAM

25 Section 801-A. Definitions.

26 The following words and phrases when used in this article  
27 shall have the meanings given to them in this section unless the  
28 context clearly indicates otherwise:

29 "Amnesty period." The period from April 23, 2012, through  
30 June 15, 2012, inclusive.

1 "Delinquent contribution or other payment." A monetary  
2 amount owed to the Department of Labor and Industry by a  
3 delinquent employer found to have violated section 802(a)(2).

4 "Delinquent employer." An employer or an officer or agent of  
5 such employer found to have violated section 802(a)(2).

6 "Outstanding overdraft claimant." A person who owes the  
7 Department of Labor and Industry funds, fees, fines, interest  
8 and penalties stemming from an overdraft in violation of section  
9 801 for a period in excess of six years.

10 "Overdrafted funds." A monetary amount overpaid by the  
11 Department of Labor and Industry to a claimant who made a false  
12 statement or representation knowing it to be false or who  
13 knowingly failed to disclose a material fact to obtain or  
14 increase compensation or other payment from the Department of  
15 Labor and Industry in violation of section 801.

16 "Program." The Outstanding Overdraft Claimant and Delinquent  
17 Employer Amnesty Program established under this article.

18 Section 802-A. Outstanding Overdraft Claimant and Delinquent  
19 Employer Amnesty Program.

20 (a) Establishment.--The Outstanding Overdraft Claimant and  
21 Delinquent Employer Amnesty Program is established and shall be  
22 administered by the department.

23 (b) Applicability.--The program shall apply to:

24 (1) A person who, having been found to have violated  
25 section 801, owes the department for overdrafted funds from  
26 the Unemployment Compensation Fund as well as any fines,  
27 fees, penalties and interest accrued under section 801.

28 (2) A delinquent employer who, having been found to have  
29 violated section 802(a)(2) between January 1, 2005, and  
30 January 1, 2010, owes the department for delinquent

contributions or other payments required by this act as well as any fines, fees, penalties and interest stemming from the violation.

(c) Future program participation.--A person who participates in the program shall not be eligible to participate in any future outstanding overdraft claimant and delinquent employer amnesty program.

Section 803-A. Required payment.

(a) Conditions.--All outstanding overdraft claimants and delinquent employers who participate in the program shall comply with the following:

(1) During the amnesty period, they shall file an amnesty form as provided by the department that contains such information as the department shall require. An amnesty form shall be considered timely filed if it is postmarked or electronically or otherwise submitted in a form acceptable to the department during the amnesty period.

(2) During the amnesty period, they shall make payment of all owed overdrafted funds or delinquent contributions or other payments and one-half of the interest due to the department. The outstanding overdraft claimant or delinquent employer shall not be required to pay any fine, fee or penalty applicable to the overdraft or delinquency in violation of section 801 or 802(a)(2), respectively.

(b) Prohibitions.--The department may not:

(1) Collect the penalties or interest waived under subsection (a)(2).

(2) Except as otherwise provided in this article, pursue any administrative or judicial proceeding relating to the overdrafted funds or delinquent contribution or other payment

1 against an outstanding overdraft claimant or delinquent  
2 employer who has satisfied completely the requirements  
3 outlined in subsection (a) as to the overdrafted funds or  
4 delinquent contribution or other payment.

5 (c) Financial hardship.--An outstanding overdraft claimant  
6 otherwise eligible for amnesty, who certifies on an amnesty form  
7 that making payment of the full amount for which amnesty is  
8 sought at the time of submission of the form is made would  
9 create severe financial hardship for the claimant, shall retain  
10 eligibility for amnesty if:

11 (1) Fifty percent or more of the amount due as computed  
12 is paid with the amnesty return or within the amnesty period.

13 (2) The balance due, including interest under subsection  
14 (a) (2), is paid, in no more than two installments on or  
15 before the end of the amnesty period.

16 Section 804-A. Amnesty contingent on continued compliance.

17 Notwithstanding any other provision of this article, the  
18 department may assess and collect from an outstanding overdraft  
19 claimant or delinquent employer all penalties and interest  
20 waived through the program if the claimant or employer is found  
21 to have violated section 801 or 802(a) (2) at any point after  
22 June 15, 2012.

23 Section 805-A. Previously paid fees, fines, penalties and  
24 interest.

25 No refund or credit shall be allowed for any fees, fines,  
26 penalties or interest stemming from a violation of section 801  
27 or 802(a) (2) paid to the department prior to the amnesty period.

28 Section 806-A. Undisclosed outstanding overdrafts.

29 Nothing in this article shall be construed to prohibit the  
30 department from instituting administrative or legal proceedings

against any outstanding overdraft claimant or delinquent  
employer with respect to any overdrafts or delinquent  
contributions or other payments occurring before the amnesty  
period but not yet disclosed. Amnesty shall only be granted for  
outstanding overdrafts that have been disclosed by the  
department prior to the amnesty period.

Section 807-A. Duties of department.

(a) Guidelines.--The department shall develop guidelines to  
implement the provisions of this article. The guidelines shall  
be published in the Pennsylvania Bulletin within 60 days of the  
effective date of this section and shall contain, but not be  
limited to, the following information:

(1) An explanation of the program and the requirements  
for eligibility for the program.

(2) The dates during which an amnesty form may be filed.

(3) A specimen copy of the amnesty form.

(b) Notification.--

(1) The department shall notify in writing all known  
outstanding overdraft claimants and delinquent employers at  
the claimants' or employers' last known addresses of the  
existence of and their eligibility for the program. The sole  
purpose of the letter sent by the department to the claimants  
and employers shall be notification of the program and the  
claimants' and employers' eligibility.

(2) The notification shall include an up-to-date total  
of all overdrafted funds, fees, fines, penalties and interest  
or delinquent contribution or other payment and related  
fines, fees, penalties and interest and the total expected to  
be collected under the program.

(c) Reports.--The department shall issue reports to the

1 General Assembly detailing program implementation. The reports  
2 shall contain the following information:

3 (1) Within 30 days after the end of the amnesty period:

4 (i) A detailed breakdown of the department's  
5 administrative costs in implementing the program.

6 (ii) The total dollar amount of revenue collected by  
7 the program.

8 (2) Within 180 days after the end of the amnesty period:

9 (i) The number of amnesty forms filed and a  
10 breakdown of the number and dollar amount of revenue  
11 raised by calendar year during which the overdraft  
12 occurred.

13 (ii) The total dollar amount of penalties and  
14 interest waived under the program.

15 (iii) The demographic characteristics of  
16 participants in the program.

17 Section 808-A. Method of payment.

18 All payments under the program shall be made by certified  
19 check, money order, electronic transfer, credit card, cash or  
20 its equivalent.

21 Section 809-A. Use of revenue.

22 All revenue collected under this article shall be deposited  
23 in the Unemployment Compensation Fund.

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