

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, TURZAI AND HESS, JUNE 29, 2011

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 13, 2012

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, FOR RELIEF FROM CHARGES AND for ineligibility
17 for compensation; and providing for applicability.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 ~~Section 1. Section 402(b) and (c) 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~~

1 ~~(P.L.1397, No.396) and October 22, 1981 (P.L.301, No.106), are~~
2 ~~amended to read:~~

3 SECTION 1. SECTION 4 OF THE ACT OF DECEMBER 5, 1936 (2ND SP. ←
4 SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT
5 COMPENSATION LAW, IS AMENDED BY ADDING DEFINITIONS TO READ:

6 SECTION 4. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES, AS
7 USED IN THIS ACT, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE
8 CONTEXT CLEARLY REQUIRES OTHERWISE.

9 * * *

10 (Z.8) "ABUSE" MEANS ONE OR MORE OF THE FOLLOWING:

11 (1) ATTEMPTING TO CAUSE OR CAUSING PHYSICAL HARM.

12 (2) PLACING ANOTHER IN FEAR OF IMMINENT SERIOUS PHYSICAL
13 HARM.

14 (3) CAUSING ANOTHER TO ENGAGE INVOLUNTARILY IN SEXUAL
15 RELATIONS BY FORCE, THREAT OR DURESS OR ENGAGING OR THREATENING
16 TO ENGAGE IN SEXUAL ACTIVITY WITH A DEPENDENT CHILD.

17 (4) ENGAGING IN MENTAL ABUSE, WHICH INCLUDES THREATS,
18 INTIMIDATION OR ACTS DESIGNED TO INDUCE TERROR.

19 (5) DEPRIVING ANOTHER OF MEDICAL CARE, HOUSING, FOOD OR
20 OTHER NECESSITIES OF LIFE.

21 (6) RESTRAINING THE LIBERTY OF ANOTHER.

22 (Z.9) "DOMESTIC VIOLENCE" MEANS ABUSE COMMITTED AGAINST A
23 CLAIMANT BY:

24 (1) A CURRENT OR FORMER SPOUSE OF THE CLAIMANT;

25 (2) AN INDIVIDUAL WITH WHOM THE CLAIMANT SHARES A CHILD IN
26 COMMON;

27 (3) AN INDIVIDUAL WHO IS COHABITING WITH OR HAS COHABITED
28 WITH THE CLAIMANT;

29 (4) AN INDIVIDUAL WHO IS RELATED BY BLOOD OR MARRIAGE TO THE
30 CLAIMANT; OR

1 (5) AN INDIVIDUAL WITH WHOM THE CLAIMANT HAS OR HAD A DATING
2 OR ENGAGEMENT RELATIONSHIP.

3 SECTION 1.1. SECTION 302.1(A) (1) AND (C) (1) OF THE ACT,
4 ADDED JUNE 17, 2011 (P.L.16, NO.6), ARE AMENDED TO READ:

5 SECTION 302.1. RELIEF FROM CHARGES.--NOTWITHSTANDING ANY
6 OTHER PROVISIONS OF THIS ACT ASSIGNING CHARGES FOR COMPENSATION
7 PAID TO EMPLOYES, THE DEPARTMENT SHALL RELIEVE AN EMPLOYER OF
8 CHARGES FOR COMPENSATION IN ACCORDANCE WITH THIS SECTION AND
9 SECTION 213 OF THIS ACT.

10 (A) CIRCUMSTANCES ALLOWING RELIEF:

11 (1) IF AN INDIVIDUAL WAS SEPARATED FROM HIS MOST RECENT WORK
12 FOR AN EMPLOYER DUE TO BEING DISCHARGED FOR WILLFUL MISCONDUCT
13 CONNECTED WITH THAT WORK, OR DUE TO HIS LEAVING THAT WORK
14 WITHOUT GOOD CAUSE ATTRIBUTABLE TO HIS EMPLOYMENT, OR DUE TO HIS
15 BEING SEPARATED FROM SUCH WORK UNDER CONDITIONS WHICH WOULD
16 RESULT IN DISQUALIFICATION FOR BENEFITS UNDER THE PROVISIONS OF
17 SECTION 3 OR 402(E.1) AND (E.2) OF THIS ACT, THE EMPLOYER SHALL
18 BE RELIEVED OF CHARGES FOR COMPENSATION PAID TO THE INDIVIDUAL
19 WITH RESPECT TO ANY WEEK OF UNEMPLOYMENT OCCURRING SUBSEQUENT TO
20 SUCH SEPARATION. RELIEF FROM CHARGES UNDER THIS PARAGRAPH
21 TERMINATES IF THE EMPLOYEE RETURNS TO WORK FOR THE EMPLOYER.

22 * * *

23 (C) RELIEF FROM CHARGES WITHOUT A REQUEST:

24 (1) IF A CLAIMANT IS DETERMINED INELIGIBLE FOR BENEFITS
25 UNDER SECTION 3 OR 402(B), (E) [OR], (E.1) OR (E.2) OF THIS ACT
26 PURSUANT TO A NOTICE OF DETERMINATION THAT HAS BECOME FINAL, THE
27 DEPARTMENT SHALL GRANT RELIEF FROM CHARGES IN ACCORDANCE WITH
28 SUBSECTION (A) (1) TO THE EMPLOYER FROM WHOM THE CLAIMANT WAS
29 SEPARATED, BEGINNING WITH THE EARLIEST WEEK FOR WHICH THE
30 CLAIMANT IS ELIGIBLE FOR BENEFITS FOLLOWING THE WEEK OR WEEKS

1 GOVERNED BY THE NOTICE OF DETERMINATION.

2 * * *

3 SECTION 2. SECTION 402(B) OF THE ACT, AMENDED AUGUST 24,
4 1953 (P.L.1397, NO.396) AND OCTOBER 22, 1981 (P.L.301, NO.106),
5 IS AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
6 READ:

7 Section 402. Ineligibility for Compensation.--An employe
8 shall be ineligible for compensation for any week--

9 * * *

10 (b) In which his unemployment is due to voluntarily leaving
11 work without cause of a necessitous and compelling nature
12 attributable to his employment, irrespective of whether or not
13 such work is in "employment" as defined in this act: Provided,
14 That a voluntary leaving work because of a work-related
15 disability if the employer is able to provide other suitable
16 work, shall be deemed not a cause of a necessitous and
17 compelling nature attributable to his employment: And provided
18 further, That no employe shall be deemed to be ineligible under
19 this subsection where the Federal Unemployment Tax Act requires
20 eligibility, and provided that no employe shall be deemed
21 ineligible under this subsection if the employe is a spouse of a
22 full-time member of the United States Armed Forces or a full-
23 time member of any of its reserve components, including the
24 Pennsylvania National Guard, and the employe is leaving
25 employment due to the reassignment of the military member to a
26 different geographical location: AND PROVIDED FURTHER, THAT NO
27 EMPLOYE SHALL BE DEEMED TO BE INELIGIBLE UNDER THIS SECTION FOR
28 VOLUNTARILY LEAVING WORK IF THE INDIVIDUAL REASONABLY BELIEVES
29 THAT DUE TO A DOMESTIC VIOLENCE SITUATION SUCH INDIVIDUAL'S
30 CONTINUED EMPLOYMENT WOULD JEOPARDIZE THE SAFETY OF THE



1 INDIVIDUAL. THE DOMESTIC VIOLENCE SITUATION SHALL BE VERIFIED BY
2 REASONABLE AND CONFIDENTIAL DOCUMENTATION AS THE DEPARTMENT MAY
3 REQUIRE, TO INCLUDE A STATEMENT SUPPORTING THE EXISTENCE OF
4 RECENT DOMESTIC VIOLENCE FROM A QUALIFIED PROFESSIONAL FROM WHOM
5 THE INDIVIDUAL HAS SOUGHT ASSISTANCE, SUCH AS A COUNSELOR,
6 SHELTER WORKER, MEMBER OF THE CLERGY, ATTORNEY OR HEALTH CARE
7 WORKER AND ANY TYPE OF EVIDENCE THAT REASONABLY PROVES DOMESTIC
8 VIOLENCE, BUT THE DEPARTMENT MAY NOT REQUIRE AN ACTIVE OR
9 RECENTLY ISSUED PROTECTIVE OR OTHER ORDER DOCUMENTING DOMESTIC
10 VIOLENCE, OR A POLICE RECORD DOCUMENTING RECENT DOMESTIC
11 VIOLENCE, ALTHOUGH A CLAIMANT MAY PRESENT SUCH DOCUMENTATION AS
12 EVIDENCE: And provided further, That no employe shall be deemed
13 to be ineligible under this subsection where as a condition of
14 continuing in employment such employe would be required to join
15 or remain a member of a company union or to resign from or
16 refrain from joining any bona fide labor organization, or to
17 accept wages, hours or conditions of employment not desired by a
18 majority of the employes in the establishment or the occupation,
19 or would be denied the right of collective bargaining under
20 generally prevailing conditions, and that in determining whether
21 or not an employe has left his work voluntarily without cause of
22 a necessitous and compelling nature attributable to his
23 employment, the department shall give consideration to the same
24 factors, insofar as they are applicable, provided, with respect
25 to the determination of suitable work under section four (t):
26 And provided further, That the provisions of this subsection
27 shall not apply in the event of a stoppage of work which exists
28 because of a labor dispute within the meaning of subsection (d).
29 Provided further, That no otherwise eligible claimant shall be
30 denied benefits for any week in which his unemployment is due to

1 exercising the option of accepting a layoff, from an available
2 position pursuant to a labor-management contract agreement, or
3 pursuant to an established employer plan, program or policy:
4 Provided further, That a claimant shall not be disqualified for
5 voluntarily leaving work, which is not suitable employment to
6 enter training approved under section 236(a)(1) of the Trade Act
7 of 1974. For purposes of this subsection the term "suitable
8 employment" means with respect to a claimant, work of a
9 substantially equal or higher skill level than the claimant's
10 past "adversely affected employment" (as defined in section 247
11 of the Trade Act of 1974), and wages for such work at not less
12 than eighty per centum of the worker's "average weekly wage" (as
13 defined in section 247 of the Trade Act of 1974).

14 * * *

15 ~~(e) In which his unemployment is due to his discharge or~~ ←
16 ~~temporary suspension from work for [willful] misconduct~~
17 ~~connected with his work, irrespective of whether or not such~~
18 ~~work is "employment" as defined in this act[; and]. For purposes~~
19 ~~of this subsection, the term "misconduct" shall include the~~
20 ~~violation of any reasonable workplace rule or work related~~
21 ~~government regulation or law of which the employe was aware;~~
22 ~~failure to maintain a valid license or certificate that has been~~
23 ~~issued by a Federal or Commonwealth agency or political~~
24 ~~subdivision and which is a requirement of employment; the~~
25 ~~deliberate damage to property of the employer or another employe~~
26 ~~or the theft of an employer's or another employe's property;~~
27 ~~reporting to work in possession of or under the influence of~~
28 ~~drugs or alcohol; threatening a coworker or supervisor with~~
29 ~~physical harm or threatening to harm the interests of the~~
30 ~~employer; disregard of supervisor's reasonable directives or~~

1 ~~orders or an act of negligence which indicates substantial~~
2 ~~disregard for employer's interests.~~

3 * * *

4 ~~Section 2. The amendment of section 402(b) and (e) of the~~
5 ~~act shall apply to initial claims filed on or after January 1,~~
6 ~~2012.~~

7 ~~Section 3. This act shall take effect in 60 days.~~

8 (E.2) IN WHICH HIS UNEMPLOYMENT IS DUE TO DISCHARGE OR
9 TEMPORARY SUSPENSION FROM WORK FOR ANY OF THE FOLLOWING REASONS:



10 (1) DISREGARD OF ANY REASONABLE WORKPLACE RULE OR WORK-
11 RELATED GOVERNMENT REGULATION OR LAW OF WHICH THE EMPLOYE WAS
12 AWARE.

13 (2) THE DELIBERATE DAMAGE TO PROPERTY OF THE EMPLOYER OR
14 ANOTHER EMPLOYE OR THE THEFT OF AN EMPLOYER'S OR ANOTHER
15 EMPLOYE'S PROPERTY.

16 (3) REPORTING TO WORK UNDER THE INFLUENCE OF ALCOHOL OR
17 ILLEGAL DRUGS.

18 (4) THREATENING A COWORKER OR SUPERVISOR WITH PHYSICAL HARM
19 OR THREATENING TO HARM THE INTERESTS OF THE EMPLOYER.

20 (5) DISREGARD OF A SUPERVISOR'S REASONABLE DIRECTIVES OR
21 ORDERS OR ACTS OF NEGLIGENCE WHICH INDICATE SUBSTANTIAL
22 DISREGARD FOR THE EMPLOYER'S INTERESTS.

23 (6) FAILURE TO MAINTAIN A VALID LICENSE OR CERTIFICATE THAT
24 HAS BEEN ISSUED BY A FEDERAL OR COMMONWEALTH AGENCY OR POLITICAL
25 SUBDIVISION AND WHICH IS A REQUIREMENT OF EMPLOYMENT, UNLESS
26 SUCH FAILURE WAS FOR REASONS BEYOND THE CONTROL OF THE EMPLOYE.

27 * * *

28 SECTION 3. THE AMENDMENT OF SECTION 402(B) OF THE ACT SHALL
29 APPLY TO INITIAL CLAIMS FILED ON OR AFTER JULY 1, 2012.

30 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.