

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1852 Session of 2011

INTRODUCED BY GROVE, AUMENT, BLOOM, BOYD, R. BROWN, CLYMER, COX, CREIGHTON, CUTLER, DUNBAR, GEIST, GINGRICH, HARRIS, HESS, KAUFFMAN, F. KELLER, KNOWLES, LAWRENCE, MAJOR, MILLARD, MOUL, MURT, PERRY, PICKETT, ROCK, SACCONI, SWANGER, VULAKOVICH AND DENLINGER, SEPTEMBER 19, 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 CONTRIBUTIONS TO BE LIENS AND ENTRY AND
17 ENFORCEMENT THEREOF, FOR QUALIFICATIONS REQUIRED TO SECURE
18 COMPENSATION, for false statements and representations to ←
19 obtain or increase compensation, FOR FALSE STATEMENTS AND
20 REPRESENTATIONS TO PREVENT OR REDUCE COMPENSATION AND OTHER
21 OFFENSES, FOR VIOLATION OF ACT AND RULES AND REGULATIONS AND
22 FOR RECOVERY AND RECOUPMENT OF COMPENSATION.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 ~~Section 1. Section 801 of the act of December 5, 1936 (2nd ←~~
26 ~~Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment~~

1 ~~Compensation Law, amended December 9, 2002 (P.L.1336, No.158),~~  
2 ~~is amended to read:~~

3 SECTION 1. SECTION 4(W) OF THE ACT OF DECEMBER 5, 1936 (2ND ←  
4 SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT  
5 COMPENSATION LAW, AMENDED SEPTEMBER 27, 1971 (P.L.460, NO.108)  
6 AND DECEMBER 5, 1974 (P.L.771, NO.262), IS AMENDED TO READ:

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

10 \* \* \*

11 (W) (1) A "VALID APPLICATION FOR BENEFITS" MEANS AN  
12 APPLICATION FOR BENEFITS ON A FORM PRESCRIBED BY THE DEPARTMENT,  
13 WHICH IS FILED BY AN INDIVIDUAL, AS OF A DAY NOT INCLUDED IN THE  
14 BENEFIT YEAR PREVIOUSLY ESTABLISHED BY SUCH INDIVIDUAL, WHO (1)  
15 HAS BEEN SEPARATED FROM HIS WORK OR WHO DURING THE WEEK  
16 COMMENCING ON THE SUNDAY PREVIOUS TO SUCH DAY HAS WORKED LESS  
17 THAN HIS FULL TIME DUE TO LACK OF WORK AND (2) IS QUALIFIED  
18 UNDER THE PROVISIONS OF SECTION FOUR HUNDRED AND ONE (A), (B)  
19 AND (D).

20 (2) AN APPLICATION FOR BENEFITS FILED AFTER THE TERMINATION  
21 OF A PRECEDING BENEFIT YEAR BY AN INDIVIDUAL SHALL NOT BE  
22 CONSIDERED A VALID APPLICATION FOR BENEFITS WITHIN THE MEANING  
23 OF THIS SUBSECTION, UNLESS SUCH INDIVIDUAL HAS, SUBSEQUENT TO  
24 THE BEGINNING OF SUCH PRECEDING BENEFIT YEAR AND PRIOR TO THE  
25 FILING OF SUCH APPLICATION, WORKED AND EARNED WAGES[, WHETHER OR  
26 NOT SUCH WORK IS] IN "EMPLOYMENT" AS DEFINED IN THIS ACT IN AN  
27 AMOUNT EQUAL TO OR IN EXCESS OF SIX (6) TIMES HIS WEEKLY BENEFIT  
28 RATE IN EFFECT DURING SUCH PRECEDING BENEFIT YEAR.

29 \* \* \*

30 SECTION 2. SECTION 308.1(C) OF THE ACT, AMENDED JUNE 22,

1 1964 (SP.SESS., P.L.112, NO.7), IS AMENDED TO READ:

2 SECTION 308.1. CONTRIBUTIONS TO BE LIENS; ENTRY AND  
3 ENFORCEMENT THEREOF.--\* \* \*

4 (C) THE LIENS SHALL CONTINUE [FOR FIVE YEARS FROM THE DATE  
5 OF ENTRY AND MAY BE REVIVED AND CONTINUED IN THE MANNER NOW OR  
6 HEREAFTER PROVIDED FOR THE RENEWAL OF JUDGMENTS OR AS MAY BE  
7 PROVIDED IN THE FISCAL CODE, AS AMENDED] AND SHALL RETAIN THEIR  
8 PRIORITY WITHOUT THE NECESSITY OF REILING OF REVIVAL.

9 \* \* \*

10 SECTION 3. SECTION 401(F) OF THE ACT, AMENDED DECEMBER 9,  
11 2002 (P.L.1330, NO.156), IS AMENDED TO READ:

12 SECTION 401. QUALIFICATIONS REQUIRED TO SECURE  
13 COMPENSATION.--COMPENSATION SHALL BE PAYABLE TO ANY EMPLOYE WHO  
14 IS OR BECOMES UNEMPLOYED, AND WHO--

15 \* \* \*

16 (F) HAS EARNED, SUBSEQUENT TO HIS SEPARATION FROM WORK UNDER  
17 CIRCUMSTANCES WHICH ARE DISQUALIFYING UNDER THE PROVISIONS OF  
18 SUBSECTIONS 402(B), 402(E), 402(E.1) AND 402(H) OF THIS ACT,  
19 REMUNERATION FOR SERVICES IN AN AMOUNT EQUAL TO OR IN EXCESS OF  
20 SIX (6) TIMES HIS WEEKLY BENEFIT RATE [IRRESPECTIVE OF WHETHER  
21 OR NOT SUCH SERVICES WERE] IN "EMPLOYMENT" AS DEFINED IN THIS  
22 ACT. THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO A  
23 SUSPENSION OF WORK BY AN INDIVIDUAL PURSUANT TO A LEAVE OF  
24 ABSENCE GRANTED BY HIS LAST EMPLOYER, PROVIDED SUCH INDIVIDUAL  
25 HAS MADE A REASONABLE EFFORT TO RETURN TO WORK WITH SUCH  
26 EMPLOYER UPON THE EXPIRATION OF HIS LEAVE OF ABSENCE.

27 \* \* \*

28 SECTION 4. SECTION 801 OF THE ACT, AMENDED DECEMBER 9, 2002  
29 (P.L.1336, NO.158), IS AMENDED TO READ:

30 Section 801. False Statements and Representations to Obtain

1 or Increase Compensation.--(a) Whoever makes a false statement  
2 or representation knowing it to be false, or knowingly fails to  
3 disclose a material fact to obtain or increase any compensation  
4 or other payment under this act or under an employment security  
5 law of any other state or of the Federal Government or of a  
6 foreign government, either for himself or for any other person,  
7 shall upon conviction thereof in a summary proceeding, be  
8 sentenced to pay a fine of not less than [one] FIVE hundred ←  
9 dollars nor more than [one thousand] FIFTEEN HUNDRED dollars, or ←  
10 shall be sentenced to imprisonment for not longer than thirty  
11 days, or both, and each such false statement or representation  
12 or failure to disclose a material fact shall constitute a  
13 separate offense. In addition to any other sanction, an  
14 individual convicted under this subsection shall be ordered to  
15 make restitution of the compensation to which the individual was  
16 not entitled and of interest on that compensation in accordance  
17 with section 804(a).

18 (b) Whoever makes a false statement knowing it to be false,  
19 or knowingly fails to disclose a material fact to obtain or  
20 increase any compensation or other payment under this act or  
21 under an employment security law of any other state or of the  
22 Federal Government or of a foreign government, may be  
23 disqualified in addition to such week or weeks of improper  
24 payments for a penalty period of [two] ten weeks and for not  
25 more than one additional week for each such week of improper  
26 payment†: Provided, That no additional weeks of disqualification ←  
27 shall be imposed under this section if prosecution proceedings  
28 have been instituted against the claimant because of such  
29 misrepresentation or non-disclosure†. The departmental ←  
30 determination imposing penalty weeks under the provisions of

1 this subsection shall be subject to appeal in the manner  
2 provided in this act for appeals from determinations of  
3 compensation. The penalty weeks herein provided for shall be  
4 imposed against any weeks with respect to which the claimant  
5 would otherwise be eligible for compensation[, under the  
6 provisions of this act†, which begin within the four year period  
7 following the end of the benefit year with respect to which the  
8 improper payment or payments occurred].

9 ~~Section 2. This act shall take effect in 60 days.~~

10 (C) WHOEVER MAKES A FALSE STATEMENT KNOWING IT TO BE FALSE,  
11 OR KNOWINGLY FAILS TO DISCLOSE A MATERIAL FACT TO OBTAIN OR  
12 INCREASE ANY COMPENSATION OR OTHER PAYMENT UNDER THIS ACT OR  
13 UNDER AN EMPLOYMENT SECURITY LAW OF THE FEDERAL GOVERNMENT, AND  
14 AS A RESULT RECEIVES COMPENSATION TO WHICH HE IS NOT ENTITLED,  
15 SHALL BE LIABLE TO PAY TO THE UNEMPLOYMENT COMPENSATION FUND A  
16 SUM EQUAL TO FIFTEEN PERCENTUM (15%) OF THE AMOUNT OF SUCH  
17 COMPENSATION. THE SUM SHALL BE COLLECTIBLE IN THE MANNER  
18 PROVIDED IN SECTION 308.1 OR 309 FOR THE COLLECTION OF PAST DUE  
19 CONTRIBUTIONS AND BY ANY OTHER MEANS AVAILABLE UNDER FEDERAL OR  
20 STATE LAW. NO ADMINISTRATIVE OR LEGAL PROCEEDING FOR THE  
21 COLLECTION OF SUCH SUM SHALL BE INSTITUTED AFTER THE EXPIRATION  
22 OF TWELVE YEARS FOLLOWING THE END OF THE BENEFIT YEAR WITH  
23 RESPECT TO WHICH SUCH SUM WAS PAID.

24 (D) SUBSECTION (B) SHALL BE APPLIED BY SUBSTITUTING  
25 FIFTY-TWO WEEKS FOR TEN WEEKS AND THE PROHIBITION IN SUBSECTION  
26 (B) ON THE IMPOSITION OF PENALTY WEEKS IF PROSECUTION  
27 PROCEEDINGS HAVE BEEN INSTITUTED SHALL NOT APPLY IN ANY OF THE  
28 FOLLOWING CIRCUMSTANCES:

29 (1) AN INCARCERATED INDIVIDUAL MAKES A FALSE STATEMENT  
30 KNOWING IT TO BE FALSE, OR KNOWINGLY FAILS TO DISCLOSE A

1 MATERIAL FACT TO OBTAIN OR INCREASE ANY COMPENSATION OR OTHER  
2 PAYMENT UNDER THIS ACT, OR UNDER AN EMPLOYMENT SECURITY LAW OF  
3 THE FEDERAL GOVERNMENT FOR WHICH HE IS INELIGIBLE UNDER SECTION  
4 401(B) OR 402.6.

5 (2) AN INCARCERATED INDIVIDUAL KNOWINGLY PROVIDES  
6 INFORMATION OR OTHER MEANS TO ANOTHER PERSON WHEREBY THE OTHER  
7 PERSON CLAIMS COMPENSATION IN THE NAME OF THE INCARCERATED  
8 INDIVIDUAL FOR WHICH THE INCARCERATED INDIVIDUAL IS INELIGIBLE  
9 UNDER SECTION 401(D) OR 402.6.

10 SECTION 5. SECTION 802(A) OF THE ACT, AMENDED JUNE 15, 2005  
11 (P.L.8, NO.5), IS AMENDED TO READ:

12 SECTION 802. FALSE STATEMENTS AND REPRESENTATIONS TO PREVENT  
13 OR REDUCE COMPENSATION; OTHER OFFENSES.-- (A) ANY EMPLOYER  
14 (WHETHER OR NOT LIABLE FOR THE PAYMENT OF CONTRIBUTIONS UNDER  
15 THIS ACT) OR ANY OFFICER OR AGENT OF SUCH EMPLOYER OR ANY OTHER  
16 PERSON WHO DOES ANY OF THE FOLLOWING COMMITS A SUMMARY OFFENSE  
17 AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT  
18 LESS THAN [ONE] FIVE HUNDRED DOLLARS NOR MORE THAN FIFTEEN  
19 HUNDRED DOLLARS OR TO IMPRISONMENT FOR NOT LONGER THAN THIRTY  
20 DAYS, OR BOTH:

21 (1) MAKES A FALSE STATEMENT OR REPRESENTATION KNOWING IT TO  
22 BE FALSE, OR WHO KNOWINGLY FAILS TO DISCLOSE A MATERIAL FACT TO  
23 PREVENT OR REDUCE THE PAYMENT OF COMPENSATION TO ANY EMPLOYEE  
24 ENTITLED THERETO, OR TO AVOID BECOMING OR REMAINING SUBJECT  
25 HERETO, OR TO AVOID OR REDUCE ANY CONTRIBUTION OR OTHER PAYMENT  
26 REQUIRED FROM AN EMPLOYER UNDER THIS ACT;

27 (2) WILFULLY FAILS OR REFUSES TO MAKE ANY SUCH CONTRIBUTION  
28 OR OTHER PAYMENT REQUIRED HEREUNDER;

29 (3) WILFULLY FAILS OR REFUSES TO PRODUCE OR PERMIT THE  
30 INSPECTION OR COPYING OF RECORDS AS REQUIRED HEREUNDER;

1 (4) WILFULLY FAILS OR REFUSES TO FURNISH ANY REPORT REQUIRED  
2 BY SECTION 304 OR 315 OF THIS ACT OR ANY OTHER PROVISION OF THIS  
3 ACT OR THE RULES OR REGULATIONS OF THE DEPARTMENT; OR

4 (5) WILFULLY REPORTS OR ATTEMPTS TO REPORT THE WAGES OF ONE  
5 OR MORE EMPLOYES TO THE DEPARTMENT ON AN UNEMPLOYMENT  
6 COMPENSATION ACCOUNT OTHER THAN THE ACCOUNT OF THE EMPLOYER  
7 UNDER THIS ACT; OR

8 (6) WILFULLY ADVISES, SOLICITS, ENCOURAGES OR COMMANDS AN  
9 EMPLOYER OR AN OFFICER OR AGENT OF AN EMPLOYER OR ANY OTHER  
10 PERSON TO ENGAGE IN AN ACT OR OMISSION THAT IS AN OFFENSE UNDER  
11 THIS SECTION.

12 \* \* \*

13 SECTION 6. SECTION 803 OF THE ACT, AMENDED DECEMBER 9, 2002  
14 (P.L.1336, NO.158), IS AMENDED TO READ:

15 SECTION 803. VIOLATION OF ACT AND RULES AND REGULATIONS.--  
16 ANY PERSON WHO SHALL WILFULLY VIOLATE ANY PROVISION OF THIS ACT  
17 OR ANY RULE OR REGULATION THEREUNDER, THE VIOLATION OF WHICH IS  
18 MADE UNLAWFUL, OR THE OBSERVANCE OF WHICH IS REQUIRED UNDER THE  
19 TERMS OF THIS ACT, AND FOR WHICH A PENALTY IS NEITHER PRESCRIBED  
20 HEREIN NOR PROVIDED BY ANY OTHER APPLICABLE STATUTE, SHALL, UPON  
21 CONVICTION THEREOF IN A SUMMARY PROCEEDING, BE SENTENCED TO PAY  
22 A FINE OF NOT LESS THAN [ONE] FIVE HUNDRED DOLLARS NOR MORE THAN  
23 [ONE THOUSAND] FIFTEEN HUNDRED DOLLARS OR TO IMPRISONMENT FOR  
24 NOT LONGER THAN THIRTY DAYS, OR BOTH. EACH DAY SUCH VIOLATION  
25 CONTINUES SHALL BE DEEMED TO BE A SEPARATE OFFENSE.

26 SECTION 7. SECTION 804(A) OF THE ACT, AMENDED OCTOBER 19,  
27 1988 (P.L.818, NO.109), IS AMENDED TO READ:

28 SECTION 804. RECOVERY AND RECOUPMENT OF COMPENSATION.--(A)  
29 ANY PERSON WHO BY REASON OF HIS FAULT HAS RECEIVED ANY SUM AS  
30 COMPENSATION UNDER THIS ACT TO WHICH HE WAS NOT ENTITLED, SHALL

1 BE LIABLE TO REPAY TO THE UNEMPLOYMENT COMPENSATION FUND TO THE  
2 CREDIT OF THE COMPENSATION ACCOUNT A SUM EQUAL TO THE AMOUNT SO  
3 RECEIVED BY HIM AND INTEREST AT THE RATE DETERMINED BY THE  
4 SECRETARY OF REVENUE AS PROVIDED BY SECTION 806 OF THE ACT OF  
5 APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE," PER  
6 MONTH OR FRACTION OF A MONTH FROM FIFTEEN (15) DAYS AFTER THE  
7 NOTICE OF OVERPAYMENT WAS ISSUED UNTIL PAID. SUCH SUM SHALL BE  
8 COLLECTIBLE (1) IN THE MANNER PROVIDED IN SECTION 308.1 OR  
9 SECTION 309 OF THIS ACT, FOR THE COLLECTION OF PAST DUE  
10 CONTRIBUTIONS, OR (2) BY DEDUCTION FROM ANY FUTURE COMPENSATION  
11 PAYABLE TO THE CLAIMANT UNDER THIS ACT: PROVIDED, THAT INTEREST  
12 ASSESSED UNDER THIS SECTION CANNOT BE RECOUPED BY DEDUCTION FROM  
13 ANY FUTURE COMPENSATION PAYABLE TO THE CLAIMANT UNDER THIS ACT:  
14 PROVIDED FURTHER, THAT NO ADMINISTRATIVE OR LEGAL PROCEEDINGS  
15 FOR THE COLLECTION OF SUCH SUM, OTHER THAN DEDUCTION FROM FUTURE  
16 COMPENSATION, SHALL BE INSTITUTED AFTER THE EXPIRATION OF [SIX]  
17 TWELVE YEARS FOLLOWING THE END OF THE BENEFIT YEAR WITH RESPECT  
18 TO WHICH SUCH SUM WAS PAID.

19 \* \* \*

20 SECTION 8. THIS ACT SHALL APPLY AS FOLLOWS:

21 (1) THE AMENDMENT OF SECTION 4(W) OF THE ACT SHALL APPLY  
22 TO APPLICATIONS FOR BENEFITS FILED AS OF A DATE THAT OCCURS  
23 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

24 (2) THE AMENDMENT OF SECTION 308.1(C) OF THE ACT SHALL  
25 APPLY TO ALL LIENS FILED OR REVIVED WITHIN THE FIVE-YEAR  
26 PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS  
27 SECTION AND ALL LIENS FILED ON OR AFTER THE EFFECTIVE DATE OF  
28 THIS SECTION.

29 (3) THE AMENDMENT OF SECTION 401(F) OF THE ACT SHALL  
30 APPLY TO DISQUALIFYING SEPARATIONS THAT OCCUR ON OR AFTER THE

1 EFFECTIVE DATE OF THIS SECTION.

2 (4) THE AMENDMENT OF SECTION 801(A) OF THE ACT SHALL  
3 APPLY TO OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE DATE OF  
4 THIS SECTION.

5 (5) THE AMENDMENT OR ADDITION OF SECTION 801(B), (C) AND  
6 (D) (1) OF THE ACT SHALL APPLY TO FALSE STATEMENTS AND  
7 FAILURES TO DISCLOSE THAT OCCUR ON OR AFTER THE EFFECTIVE  
8 DATE OF THIS SECTION.

9 (6) THE ADDITION OF SECTION 801(D) (2) OF THE ACT SHALL  
10 APPLY TO INFORMATION OR OTHER MEANS PROVIDED ON OR AFTER THE  
11 EFFECTIVE DATE OF THIS SECTION.

12 (7) THE AMENDMENT OF SECTIONS 802(A) AND 803 OF THE ACT  
13 SHALL APPLY TO OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE  
14 DATE OF THIS SECTION.

15 (8) THE AMENDMENT OF SECTION 804(A) OF THE ACT SHALL  
16 APPLY TO BENEFIT YEARS THAT BEGIN ON OR AFTER THE EFFECTIVE  
17 DATE OF THIS SECTION.

18 SECTION 9. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.