

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 12, 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 RECORDS OF AND REPORTS BY EMPLOYERS, for
17 contributions to be liens and entry and enforcement thereof,
18 for qualifications required to secure compensation, FOR
19 CERTAIN AGREEMENTS VOID AND PENALTIES, for false statements
20 and representations to obtain or increase compensation, for
21 false statements and representations to prevent or reduce
22 compensation and other offenses, for violation of act and
23 rules and regulations and for recovery and recoupment of
24 compensation.



25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Section 4(w) of the act of December 5, 1936 (2nd

1 Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
2 Compensation Law, amended September 27, 1971 (P.L.460, No.108)
3 and December 5, 1974 (P.L.771, No.262), is amended to read:

4 Section 4. Definitions.--The following words and phrases, as
5 used in this act, shall have the following meanings, unless the
6 context clearly requires otherwise.

7 * * *

8 (w) (1) A "Valid Application for Benefits" means an
9 application for benefits on a form prescribed by the department,
10 which is filed by an individual, as of a day not included in the
11 benefit year previously established by such individual, who (1)
12 has been separated from his work or who during the week
13 commencing on the Sunday previous to such day has worked less
14 than his full time due to lack of work and (2) is qualified
15 under the provisions of section four hundred and one (a), (b)
16 and (d).

17 (2) An application for benefits filed after the termination
18 of a preceding benefit year by an individual shall not be
19 considered a Valid Application for Benefits within the meaning
20 of this subsection, unless such individual has, subsequent to
21 the beginning of such preceding benefit year and prior to the
22 filing of such application, worked and earned wages[, whether or
23 not such work is] in "employment" as defined in this act in an
24 amount equal to or in excess of six (6) times his weekly benefit
25 rate in effect during such preceding benefit year.

26 * * *

27 SECTION 1.1. SECTION 206 OF THE ACT, AMENDED JULY 21, 1983
28 (P.L.68, NO.30) AND NOVEMBER 17, 1995 (P.L.615, NO.64), IS
29 AMENDED TO READ:

30 SECTION 206. RECORDS OF AND REPORTS BY EMPLOYERS.--(A) EACH



1 EMPLOYER (WHETHER OR NOT LIABLE FOR THE PAYMENT OF CONTRIBUTIONS
2 UNDER THIS ACT) SHALL KEEP ACCURATE EMPLOYMENT RECORDS
3 CONTAINING SUCH INFORMATION, AS MAY BE PRESCRIBED BY THE RULES
4 AND REGULATIONS ADOPTED BY THE DEPARTMENT. SUCH RECORDS SHALL BE
5 OPEN TO INSPECTION BY THE DEPARTMENT AND ITS AGENTS AT ANY
6 REASONABLE TIME, AND AS OFTEN AS MAY BE DEEMED NECESSARY, BUT
7 EMPLOYERS NEED NOT RETAIN SUCH RECORDS MORE THAN FOUR (4) YEARS
8 AFTER CONTRIBUTIONS RELATING TO SUCH RECORDS HAVE BEEN PAID. THE
9 DEPARTMENT MAY REQUIRE FROM SUCH EMPLOYERS SUCH REPORTS AS IT
10 DEEMS NECESSARY, WHICH SHALL BE SWORN TO, IF REQUIRED BY THE
11 DEPARTMENT.

12 (B) INFORMATION THUS OBTAINED SHALL NOT BE MADE PUBLIC OR BE
13 OPEN TO PUBLIC INSPECTION, OTHER THAN TO THE MEMBERS OF THE
14 BOARD, THE OFFICERS AND EMPLOYEES OF THE DEPARTMENT AND OTHER
15 PUBLIC EMPLOYEES IN THE PERFORMANCE OF THEIR PUBLIC DUTIES, BUT
16 ANY EMPLOYEE OR EMPLOYER AT A HEARING ON AN APPEAL SHALL, UPON
17 REQUEST, BE SUPPLIED WITH INFORMATION FROM SUCH RECORDS TO THE
18 EXTENT NECESSARY FOR THE PROPER PRESENTATION AND CONSIDERATION
19 OF THE APPEAL.

20 (C) ANY OFFICER OR EMPLOYEE OF THE DEPARTMENT OR THE BOARD,
21 OR ANY OTHER PUBLIC EMPLOYEE, WHO SHALL VIOLATE ANY OF THE
22 PROVISIONS OF THIS SECTION SHALL, UPON CONVICTION THEREOF IN A
23 SUMMARY PROCEEDING, BE SENTENCED TO PAY A FINE OF NOT LESS THAN
24 [TWENTY DOLLARS (\$20)] ONE HUNDRED DOLLARS (\$100) NOR MORE THAN
25 [TWO HUNDRED DOLLARS (\$200)] THREE HUNDRED DOLLARS (\$300) AND IN
26 DEFAULT OF THE PAYMENT OF SUCH FINE AND COST OF PROSECUTION
27 SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LONGER THAN THIRTY
28 (30) DAYS.

29 (D) ANY EMPLOYER WHO HAS BEEN DETERMINED BY THE DEPARTMENT
30 TO BE SUBJECT TO THE REPORTING PROVISIONS OF THIS ACT AND HAS

1 BEEN SO NOTIFIED, AND WHO NEGLECTS OR REFUSES TO FILE OR TO
2 COMPLETE IN SUCH MANNER AS THE DEPARTMENT MAY PRESCRIBE EITHER
3 THE PERIODIC REPORT REQUIRED BY THE DEPARTMENT TO ESTABLISH THE
4 AMOUNT OF SUCH CONTRIBUTIONS OR THE PERIODIC REPORT REQUIRED BY
5 THE DEPARTMENT SHOWING THE AMOUNT OF WAGES PAID TO EACH EMPLOYEE,
6 OR BOTH, ON OR BEFORE THE DATE SUCH REPORTS ARE REQUIRED TO BE
7 FILED, SHALL PAY A PENALTY OF [TEN PER CENTUM (10%)] FIFTEEN PER
8 CENTUM (15%) OF THE TOTAL AMOUNT OF CONTRIBUTIONS PAID OR
9 PAYABLE BY THE EMPLOYER OR EMPLOYEE AS THE CASE MAY BE FOR THE
10 PERIOD: PROVIDED, THAT SUCH PENALTY SHALL BE NOT LESS THAN
11 [TWENTY-FIVE DOLLARS (\$25)] ONE HUNDRED TWENTY-FIVE DOLLARS
12 (\$125) OR MORE THAN [TWO HUNDRED AND FIFTY DOLLARS (\$250)] FOUR
13 HUNDRED FIFTY DOLLARS (\$450). SUCH PENALTY SHALL APPLY TO THE
14 REPORTS FOR EACH PERIOD WITH RESPECT TO WHICH SUCH REPORTS ARE
15 REQUIRED TO BE FILED: PROVIDED, THAT SUCH PENALTY SHALL NOT
16 APPLY TO REPORTS FOR ANY PERIOD WITH RESPECT TO WHICH THE LAST
17 DAY FOR FILING SUCH REPORTS IS PRIOR TO A DATE ON WHICH THE
18 DEPARTMENT HAS NOTIFIED THE EMPLOYER THAT HE HAS BEEN DETERMINED
19 AN EMPLOYER SUBJECT TO THE REPORTING PROVISIONS OF THIS ACT,
20 UNLESS THE REPORTS FOR SUCH PRIOR PERIODS ARE NOT FILED WITHIN
21 THIRTY (30) DAYS AFTER THE EMPLOYER HAS BEEN SO NOTIFIED. THE
22 PENALTIES PROVIDED BY THIS SECTION SHALL BE IN ADDITION TO ALL
23 OTHER PENALTIES PROVIDED FOR IN THIS ACT.

24 Section 2. Section 308.1(c) of the act, amended June 22,
25 1964 (Sp.Sess., P.L.112, No.7), is amended to read:

26 Section 308.1. Contributions to be Liens; Entry and
27 Enforcement Thereof.--* * *

28 (c) The liens shall continue [for five years from the date
29 of entry and may be revived and continued in the manner now or
30 hereafter provided for the renewal of judgments or as may be

1 provided in The Fiscal Code, as amended] and shall retain their
2 priority without the necessity of refiling or revival.

3 * * *


4 Section 3. Section 401(f) of the act, amended December 9,
5 2002 (P.L.1330, No.156), is amended to read:

6 Section 401. Qualifications Required to Secure
7 Compensation.--Compensation shall be payable to any employe who
8 is or becomes unemployed, and who--

9 * * *

10 (f) Has earned, subsequent to his separation from work under
11 circumstances which are disqualifying under the provisions of
12 subsections 402(b), 402(e), 402(e.1) and 402(h) of this act,
13 remuneration for services in an amount equal to or in excess of
14 six (6) times his weekly benefit rate [irrespective of whether
15 or not such services were] in "employment" as defined in this
16 act. The provisions of this subsection shall not apply to a
17 suspension of work by an individual pursuant to a leave of
18 absence granted by his last employer, provided such individual
19 has made a reasonable effort to return to work with such
20 employer upon the expiration of his leave of absence.

21 * * *

22 SECTION 3.1. SECTION 701 OF THE ACT IS AMENDED TO READ: 

23 SECTION 701. CERTAIN AGREEMENTS VOID; PENALTY.--NO AGREEMENT
24 BY AN EMPLOYE TO WAIVE, RELEASE, OR COMMUTE HIS RIGHTS TO
25 COMPENSATION, OR ANY OTHER RIGHTS UNDER THIS ACT, SHALL BE
26 VALID. NO AGREEMENT BY AN EMPLOYE OR BY EMPLOYES TO PAY ALL OR
27 ANY PORTION OF AN EMPLOYER'S CONTRIBUTIONS, REQUIRED UNDER THIS
28 ACT FROM SUCH EMPLOYER, SHALL BE VALID. NO EMPLOYER SHALL,
29 DIRECTLY OR INDIRECTLY, MAKE OR REQUIRE OR ACCEPT ANY DEDUCTION
30 FROM THE REMUNERATION OF INDIVIDUALS IN HIS EMPLOY TO FINANCE

1 CONTRIBUTIONS REQUIRED FROM HIM UNDER THIS ACT, OR REQUIRE OR
2 ACCEPT ANY WAIVER BY AN EMPLOYEE OF ANY RIGHT HEREUNDER. ANY
3 EMPLOYER OR OFFICER OR AGENT OF AN EMPLOYER WHO VIOLATES ANY
4 PROVISION OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR, AND,
5 UPON CONVICTION THEREOF, SHALL BE SENTENCED FOR EACH OFFENSE TO
6 PAY A FINE OF NOT LESS THAN [ONE HUNDRED DOLLARS] FIVE HUNDRED
7 DOLLARS NOR MORE THAN [ONE THOUSAND DOLLARS] ONE THOUSAND FIVE
8 HUNDRED DOLLARS, OR BE IMPRISONED FOR NOT MORE THAN SIX MONTHS,
9 OR BOTH.

10 Section 4. Section 801 of the act, amended December 9, 2002
11 (P.L.1336, No.158), is amended to read:

12 Section 801. False Statements and Representations to Obtain
13 or Increase Compensation.--(a) Whoever makes a false statement
14 or representation knowing it to be false, or knowingly fails to
15 disclose a material fact to obtain or increase any compensation
16 or other payment under this act or under an employment security
17 law of any other state or of the Federal Government or of a
18 foreign government, either for himself or for any other person,
19 shall upon conviction thereof in a summary proceeding, be
20 sentenced to pay a fine of not less than [one] five hundred
21 dollars nor more than [one thousand] fifteen hundred dollars, or
22 shall be sentenced to imprisonment for not longer than thirty
23 days, or both, and each such false statement or representation
24 or failure to disclose a material fact shall constitute a
25 separate offense. In addition to any other sanction, an
26 individual convicted under this subsection shall be ordered to
27 make restitution of the compensation to which the individual was
28 not entitled and of interest on that compensation in accordance
29 with section 804(a).

30 (b) Whoever makes a false statement knowing it to be false,

1 or knowingly fails to disclose a material fact to obtain or
2 increase any compensation or other payment under this act or
3 under an employment security law of any other state or of the
4 Federal Government or of a foreign government, may be
5 disqualified in addition to such week or weeks of improper
6 payments for a penalty period of [two] ten weeks and for not
7 more than one additional week for each such week of improper
8 payment: Provided, That no additional weeks of disqualification
9 shall be imposed under this section if prosecution proceedings
10 have been instituted against the claimant because of such
11 misrepresentation or non-disclosure. The departmental
12 determination imposing penalty weeks under the provisions of
13 this subsection shall be subject to appeal in the manner
14 provided in this act for appeals from determinations of
15 compensation. The penalty weeks herein provided for shall be
16 imposed against any weeks with respect to which the claimant
17 would otherwise be eligible for compensation[, under the
18 provisions of this act, which begin within the four year period
19 following the end of the benefit year with respect to which the
20 improper payment or payments occurred].

21 (c) Whoever makes a false statement knowing it to be false,
22 or knowingly fails to disclose a material fact to obtain or
23 increase any compensation or other payment under this act or
24 under an employment security law of the Federal Government, and
25 as a result receives compensation to which he is not entitled,
26 shall be liable to pay to the Unemployment Compensation Fund a
27 sum equal to fifteen percentum (15%) of the amount of such
28 compensation. The sum shall be collectible in the manner
29 provided in section 308.1 or 309 for the collection of past due
30 contributions and by any other means available under Federal or

1 State law. No administrative or legal proceeding for the
2 collection of such sum shall be instituted after the expiration
3 of twelve years following the end of the benefit year with
4 respect to which such sum was paid.

5 (d) Subsection (b) shall be applied by substituting
6 fifty-two weeks for ten weeks and the prohibition in subsection
7 (b) on the imposition of penalty weeks if prosecution
8 proceedings have been instituted shall not apply in any of the
9 following circumstances:

10 (1) An incarcerated individual makes a false statement
11 knowing it to be false, or knowingly fails to disclose a
12 material fact to obtain or increase any compensation or other
13 payment under this act, or under an employment security law of
14 the Federal Government for which he is ineligible under section
15 401(b) or 402.6.

16 (2) An incarcerated individual knowingly provides
17 information or other means to another person whereby the other
18 person claims compensation in the name of the incarcerated
19 individual for which the incarcerated individual is ineligible
20 under section 401(d) or 402.6.

21 Section 5. Section 802(a) of the act, amended June 15, 2005
22 (P.L.8, No.5), is amended to read:

23 Section 802. False Statements and Representations to Prevent
24 or Reduce Compensation; Other Offenses.--(a) Any employer
25 (whether or not liable for the payment of contributions under
26 this act) or any officer or agent of such employer or any other
27 person who does any of the following commits a summary offense
28 and shall, upon conviction, be sentenced to pay a fine of not
29 less than [one] five hundred dollars nor more than fifteen
30 hundred dollars or to imprisonment for not longer than thirty

1 days, or both:

2 (1) makes a false statement or representation knowing it to
3 be false, or who knowingly fails to disclose a material fact to
4 prevent or reduce the payment of compensation to any employe
5 entitled thereto, or to avoid becoming or remaining subject
6 hereto, or to avoid or reduce any contribution or other payment
7 required from an employer under this act;

8 (2) wilfully fails or refuses to make any such contribution
9 or other payment required hereunder;

10 (3) wilfully fails or refuses to produce or permit the
11 inspection or copying of records as required hereunder;

12 (4) wilfully fails or refuses to furnish any report required
13 by section 304 or 315 of this act or any other provision of this
14 act or the rules or regulations of the department; or

15 (5) wilfully reports or attempts to report the wages of one
16 or more employes to the department on an unemployment
17 compensation account other than the account of the employer
18 under this act; or

19 (6) wilfully advises, solicits, encourages or commands an
20 employer or an officer or agent of an employer or any other
21 person to engage in an act or omission that is an offense under
22 this section.

23 * * *

24 Section 6. Section 803 of the act, amended December 9, 2002
25 (P.L.1336, No.158), is amended to read:

26 Section 803. Violation of Act and Rules and Regulations.--
27 Any person who shall wilfully violate any provision of this act
28 or any rule or regulation thereunder, the violation of which is
29 made unlawful, or the observance of which is required under the
30 terms of this act, and for which a penalty is neither prescribed

1 herein nor provided by any other applicable statute, shall, upon
2 conviction thereof in a summary proceeding, be sentenced to pay
3 a fine of not less than [one] five hundred dollars nor more than
4 [one thousand] fifteen hundred dollars or to imprisonment for
5 not longer than thirty days, or both. Each day such violation
6 continues shall be deemed to be a separate offense.

7 Section 7. Section 804(a) of the act, amended October 19,
8 1988 (P.L.818, No.109), is amended to read:

9 Section 804. Recovery and Recoupment of Compensation.--(a)
10 Any person who by reason of his fault has received any sum as
11 compensation under this act to which he was not entitled, shall
12 be liable to repay to the Unemployment Compensation Fund to the
13 credit of the Compensation Account a sum equal to the amount so
14 received by him and interest at the rate determined by the
15 Secretary of Revenue as provided by section 806 of the act of
16 April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," per
17 month or fraction of a month from fifteen (15) days after the
18 Notice of Overpayment was issued until paid. Such sum shall be
19 collectible (1) in the manner provided in section 308.1 or
20 section 309 of this act, for the collection of past due
21 contributions, or (2) by deduction from any future compensation
22 payable to the claimant under this act: Provided, That interest
23 assessed under this section cannot be recouped by deduction from
24 any future compensation payable to the claimant under this act:
25 Provided further, That no administrative or legal proceedings
26 for the collection of such sum, other than deduction from future
27 compensation, shall be instituted after the expiration of [six]
28 twelve years following the end of the benefit year with respect
29 to which such sum was paid.

30 * * *

1 Section 8. This act shall apply as follows:

2 (1) The amendment of section 4(w) of the act shall apply
3 to applications for benefits filed as of a date that occurs
4 on or after the effective date of this section.

5 (2) The amendment of section 308.1(c) of the act shall
6 apply to all liens filed or revived within the five-year
7 period immediately preceding the effective date of this
8 section and all liens filed on or after the effective date of
9 this section.

10 (3) The amendment of section 401(f) of the act shall
11 apply to disqualifying separations that occur on or after the
12 effective date of this section.

13 (4) The amendment of section 801(a) of the act shall
14 apply to offenses committed on or after the effective date of
15 this section.

16 (5) The amendment or addition of section 801(b), (c) and
17 (d)(1) of the act shall apply to false statements and
18 failures to disclose that occur on or after the effective
19 date of this section.

20 (6) The addition of section 801(d)(2) of the act shall
21 apply to information or other means provided on or after the
22 effective date of this section.

23 (7) The amendment of sections 802(a) and 803 of the act
24 shall apply to offenses committed on or after the effective
25 date of this section.

26 (8) The amendment of section 804(a) of the act shall
27 apply to benefit years that begin on or after the effective
28 date of this section.

29 Section 9. This act shall take effect immediately.