

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1187 Session of 2013

INTRODUCED BY F. KELLER, AUMENT, BAKER, BENNINGHOFF, BLOOM, BOBACK, CAUSER, CLYMER, COX, CUTLER, DELOZIER, DENLINGER, DUNBAR, ELLIS, EMRICK, EVANKOVICH, EVERETT, GABLER, GILLEN, GINGRICH, GRELL, GROVE, C. HARRIS, HESS, HICKERNELL, KAMPF, KAUFFMAN, KNOWLES, LAWRENCE, MAJOR, MASSER, MCGINNIS, METCALFE, MILLARD, MILLER, MILNE, MOUL, MUSTIO, O'NEILL, OBERLANDER, PICKETT, PYLE, REGAN, SACCONI, SAYLOR, SIMMONS, SONNEY, STERN, SWANGER, TALLMAN, TOBASH, TRUITT, TURZAI AND WATSON, APRIL 15, 2013

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 15, 2013

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 pay
 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 4 of the act of December 5, 1936 (2nd Sp.
 21 Sess., 1937 P.L.2897, No.1), known as the Unemployment
 22 Compensation Law, is amended by adding definitions to read:

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

4 * * *

5 (z.8) "Abuse" means one or more of the following:

6 (1) Attempting to cause or causing physical harm.

7 (2) Placing another in fear of imminent serious physical
8 harm.

9 (3) Causing another to engage involuntarily in sexual
10 relations by force, threat or duress or engaging or threatening
11 to engage in sexual activity with a dependent child.

12 (4) Engaging in mental abuse, which includes threats,
13 intimidation or acts designed to induce terror.

14 (5) Depriving another of medical care, housing, food or
15 other necessities of life.

16 (6) Restraining the liberty of another.

17 (z.9) "Domestic violence" means abuse committed against a
18 claimant by:

19 (1) a current or former spouse of the claimant;

20 (2) an individual with whom the claimant shares a child in
21 common;

22 (3) an individual who is cohabiting with or has cohabited
23 with the claimant;

24 (4) an individual who is related by blood or marriage to the
25 claimant; or

26 (5) an individual with whom the claimant has or had a dating
27 or engagement relationship.

28 Section 1.1. Section 302.1(a)(1) and (c)(1) of the act,
29 added June 17, 2011 (P.L.16, No.6), are amended to read:

30 Section 302.1. Relief from Charges.--Notwithstanding any

1 other provisions of this act assigning charges for compensation
2 paid to employes, the department shall relieve an employer of
3 charges for compensation in accordance with this section and
4 section 213 of this act.

5 (a) Circumstances allowing relief:

6 (1) If an individual was separated from his most recent work
7 for an employer due to being discharged for willful misconduct
8 connected with that work, or due to his leaving that work
9 without good cause attributable to his employment, or due to his
10 being separated from such work under conditions which would
11 result in disqualification for benefits under the provisions of
12 section 3 or 402(e.1) and (e.2) of this act, the employer shall
13 be relieved of charges for compensation paid to the individual
14 with respect to any week of unemployment occurring subsequent to
15 such separation. Relief from charges under this paragraph
16 terminates if the employe returns to work for the employer.

17 * * *

18 (c) Relief from charges without a request:

19 (1) If a claimant is determined ineligible for benefits
20 under section 3 or 402(b), (e) [or], (e.1) or (e.2) of this act
21 pursuant to a notice of determination that has become final, the
22 department shall grant relief from charges in accordance with
23 subsection (a)(1) to the employer from whom the claimant was
24 separated, beginning with the earliest week for which the
25 claimant is eligible for benefits following the week or weeks
26 governed by the notice of determination.

27 * * *

28 Section 2. Section 402(b) of the act, amended October 22,
29 1981 (P.L.301, No.106), is amended and the section is amended by
30 adding a subsection to read:

1 Section 402. Ineligibility for Compensation.--An employe
2 shall be ineligible for compensation for any week--

3 * * *

4 (b) In which his unemployment is due to voluntarily leaving
5 work without cause of a necessitous and compelling nature
6 attributable to his employment, irrespective of whether or not
7 such work is in "employment" as defined in this act: Provided,
8 That a voluntary leaving work because of a work-related
9 disability if the employer is able to provide other suitable
10 work, shall be deemed not a cause of a necessitous and
11 compelling nature attributable to his employment: And provided
12 further, That no employe shall be deemed to be ineligible under
13 this subsection where the Federal Unemployment Tax Act requires
14 eligibility, and provided that no employe shall be deemed
15 ineligible under this subsection if the employe is a spouse of a
16 full-time member of the United States Armed Forces or a full-
17 time member of any of its reserve components, including the
18 Pennsylvania National Guard, and the employe is leaving
19 employment due to the reassignment of the military member to a
20 different geographical location: And provided further, That no
21 employe shall be deemed to be ineligible under this section for
22 voluntarily leaving work if the individual reasonably believes
23 that due to a domestic violence situation such individual's
24 continued employment would jeopardize the safety of the
25 individual. The domestic violence situation shall be verified by
26 reasonable and confidential documentation as the department may
27 require, to include a statement supporting the existence of
28 recent domestic violence from a qualified professional from whom
29 the individual has sought assistance, such as a counselor,
30 shelter worker, member of the clergy, attorney or health care

1 worker and any type of evidence that reasonably proves domestic
2 violence, but the department may not require an active or
3 recently issued protective or other order documenting domestic
4 violence, or a police record documenting recent domestic
5 violence, although a claimant may present such documentation as
6 evidence: And provided further, That no employe shall be deemed
7 to be ineligible under this subsection where as a condition of
8 continuing in employment such employe would be required to join
9 or remain a member of a company union or to resign from or
10 refrain from joining any bona fide labor organization, or to
11 accept wages, hours or conditions of employment not desired by a
12 majority of the employes in the establishment or the occupation,
13 or would be denied the right of collective bargaining under
14 generally prevailing conditions, and that in determining whether
15 or not an employe has left his work voluntarily without cause of
16 a necessitous and compelling nature attributable to his
17 employment, the department shall give consideration to the same
18 factors, insofar as they are applicable, provided, with respect
19 to the determination of suitable work under section four (t):
20 And provided further, That the provisions of this subsection
21 shall not apply in the event of a stoppage of work which exists
22 because of a labor dispute within the meaning of subsection (d).
23 Provided further, That no otherwise eligible claimant shall be
24 denied benefits for any week in which his unemployment is due to
25 exercising the option of accepting a layoff, from an available
26 position pursuant to a labor-management contract agreement, or
27 pursuant to an established employer plan, program or policy:
28 Provided further, That a claimant shall not be disqualified for
29 voluntarily leaving work, which is not suitable employment to
30 enter training approved under section 236(a) (1) of the Trade Act

1 of 1974. For purposes of this subsection the term "suitable
2 employment" means with respect to a claimant, work of a
3 substantially equal or higher skill level than the claimant's
4 past "adversely affected employment" (as defined in section 247
5 of the Trade Act of 1974), and wages for such work at not less
6 than eighty per centum of the worker's "average weekly wage" (as
7 defined in section 247 of the Trade Act of 1974).

8 * * *

9 (e.2) In which his unemployment is due to discharge or
10 temporary suspension from work for any of the following reasons:

11 (1) Failure to obey any reasonable workplace rule or work-
12 related government regulation or law of which the employe was
13 aware.

14 (2) The deliberate damage to property of the employer or
15 another employe or the theft of an employer's or another
16 employe's property.

17 (3) Reporting to work under the influence of alcohol or
18 illegal drugs or consuming alcohol or using illegal drugs while
19 at work.

20 (4) Threatening a coworker or supervisor with physical harm
21 or threatening to harm the interests of the employer.

22 (5) Disregard of a supervisor's reasonable directives or
23 orders or acts of negligence which indicate substantial
24 disregard for the employer's interests.

25 (6) Failure to maintain a valid license or certificate that
26 has been issued by a Federal or Commonwealth agency or political
27 subdivision and which is a requirement of employment, unless
28 such failure was for reasons beyond the control of the employe.

29 (7) Failure to provide good cause for being absent from work
30 on two or more occasions or failure to report in a proper manner

1 under the employer's policy for absences from work on two or
2 more occasions.

3 * * *

4 Section 3. The amendment of section 402(b) of the act shall
5 apply to initial claims filed on or after January 1, 2014.

6 Section 4. This act shall take effect immediately.