

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 621 Session of 2019

INTRODUCED BY F. KELLER, BERNSTINE, COX, DUNBAR, GABLER, GROVE, IRVIN, JAMES, KAUFFMAN, KEEFER, MACKENZIE, MENTZER, MILLARD, OBERLANDER, PICKETT, ROTHMAN, RYAN, STAATS AND ZIMMERMAN, FEBRUARY 28, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 28, 2019

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 preliminary
 16 provisions, further providing for definitions; in
 17 contributions by employers and employees, further providing
 18 for relief from charges; in compensation, further providing
 19 for ineligibility for compensation; and providing for
 20 applicability.

21 The General Assembly of the Commonwealth of Pennsylvania
 22 hereby enacts as follows:

23 Section 1. Section 4 of the act of December 5, 1936 (2nd Sp.
 24 Sess., 1937 P.L.2897, No.1), known as the Unemployment
 25 Compensation Law, is amended by adding subsections to read:

26 Section 4. Definitions.--The following words and phrases, as

1 used in this act, shall have the following meanings, unless the
2 context clearly requires otherwise.

3 * * *

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

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

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

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

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

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

15 (6) Restraining the liberty of another.

16 (z.9) "Domestic Violence" means abuse committed against a
17 claimant by any of the following:

18 (1) A current or former spouse of the claimant.

19 (2) An individual with whom the claimant shares a child in
20 common.

21 (3) An individual who is cohabiting with or has cohabited
22 with the claimant.

23 (4) An individual who is related by blood or marriage to the
24 claimant.

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

27 Section 2. Section 302.1(a)(1) and (c)(1) of the act are
28 amended to read:

29 Section 302.1. Relief from Charges.--Notwithstanding any
30 other provisions of this act assigning charges for compensation

1 paid to employes, except for section 302(a)(2), the department
2 shall relieve an employer of charges for compensation in
3 accordance with this section and section 213 of this act.

4 (a) Circumstances allowing relief:

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

16 * * *

17 (c) Relief from charges without a request:

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

26 * * *

27 Section 3. Section 402(b) of the act is amended and the
28 section is amended by adding a subsection to read:

29 Section 402. Ineligibility for Compensation.--An employe
30 shall be ineligible for compensation for any week--

1 * * *

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

1 recently issued protective or other order documenting domestic
2 violence, or a police record documenting recent domestic
3 violence, although a claimant may present such documentation as
4 evidence: And provided further, That no employe shall be deemed
5 to be ineligible under this subsection where as a condition of
6 continuing in employment such employe would be required to join
7 or remain a member of a company union or to resign from or
8 refrain from joining any bona fide labor organization, or to
9 accept wages, hours or conditions of employment not desired by a
10 majority of the employes in the establishment or the occupation,
11 or would be denied the right of collective bargaining under
12 generally prevailing conditions, and that in determining whether
13 or not an employe has left his work voluntarily without cause of
14 a necessitous and compelling nature attributable to his
15 employment, the department shall give consideration to the same
16 factors, insofar as they are applicable, provided, with respect
17 to the determination of suitable work under section four (t):
18 And provided further, That the provisions of this subsection
19 shall not apply in the event of a stoppage of work which exists
20 because of a labor dispute within the meaning of subsection (d).
21 Provided further, That no otherwise eligible claimant shall be
22 denied benefits for any week in which his unemployment is due to
23 exercising the option of accepting a layoff, from an available
24 position pursuant to a labor-management contract agreement, or
25 pursuant to an established employer plan, program or policy:
26 Provided further, That a claimant shall not be disqualified for
27 voluntarily leaving work, which is not suitable employment to
28 enter training approved under section 236(a)(1) of the Trade Act
29 of 1974. For purposes of this subsection the term "suitable
30 employment" means with respect to a claimant, work of a

1 substantially equal or higher skill level than the claimant's
2 past "adversely affected employment" (as defined in section 247
3 of the Trade Act of 1974), and wages for such work at not less
4 than eighty per centum of the worker's "average weekly wage" (as
5 defined in section 247 of the Trade Act of 1974).

6 * * *

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

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

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

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

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 the
26 failure was for reasons beyond the control of the employe.

27 (7) Failure to provide good cause for being absent from work
28 on two or more occasions or failure to report in a proper manner
29 under the employer's policy for absences from work on two or
30 more occasions.

1 * * *

2 Section 4. The amendment of section 402(b) of the act shall
3 apply to initial claims filed on or after January 1, 2019.

4 Section 5. This act shall take effect immediately.