

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 482 Session of 2015

INTRODUCED BY F. KELLER, BLOOM, D. COSTA, DIAMOND, DUNBAR, GABLER, GRELL, GROVE, A. HARRIS, HELM, JAMES, M. K. KELLER, LAWRENCE, MASSER, PICKETT, SACCONI, TALLMAN AND WATSON, FEBRUARY 17, 2015

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 17, 2015

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 definitions 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:

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; or

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

27 Section 1.1. Section 302.1(a)(1) and (c)(1) of the act,  
28 added June 17, 2011 (P.L.16, No.6), are 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 2. Section 402(b) of the act, amended October 22,  
28 1981 (P.L.301, No.106), is amended and the section is amended by  
29 adding a subsection to read:

30 Section 402. Ineligibility for Compensation.--An employe

1 shall be ineligible for compensation for any week--

2 \* \* \*

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

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

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

7 \* \* \*

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) Failure to obey 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 or consuming alcohol or using illegal drugs while  
18 at work.

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

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

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

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

1 more occasions.

2 \* \* \*

3 Section 3. The amendment of section 402(b) of the act shall  
4 apply to initial claims filed on or after January 1, 2015.

5 Section 4. This act shall take effect immediately.