

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 756 Session of 2023

INTRODUCED BY KEEFER, JAMES, HAMM, ROAE, IRVIN, MOUL, KAUFFMAN, STAATS, PICKETT, FLICK, CIRESI, M. JONES, ROWE, ZIMMERMAN, GLEIM, B. MILLER AND LEADBETER, MARCH 30, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 30, 2023

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; and, in compensation, further
 19 providing for ineligibility for compensation.

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

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

25 Section 4. Definitions.--The following words and phrases, as
 26 used in this act, shall have the following meanings, unless the

1 context clearly requires otherwise.

2 * * *

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

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

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

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

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

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

14 (6) Restraining the liberty of another.

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

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

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

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

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

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

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

28 Section 302.1. Relief from Charges.--Notwithstanding any
29 other provisions of this act assigning charges for compensation
30 paid to employes, except for section 302(a)(2), the department

1 shall relieve an employer of charges for compensation in
2 accordance with this section and section 213 of this act.

3 (a) Circumstances allowing relief:

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

15 * * *

16 (c) Relief from charges without a request:

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

25 * * *

26 Section 3. Section 402(b) of the act, amended November 3,
27 2022 (P.L.2153, No.156), is amended and the section is amended
28 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 further, That no employe shall be
13 deemed to be ineligible under this section for voluntarily
14 leaving work if the individual reasonably believes that due to a
15 domestic violence situation the individual's continued
16 employment would jeopardize the safety of the individual: And
17 provided further, That the domestic violence situation shall be
18 verified by reasonable and confidential documentation as the
19 department may require, to include a statement supporting the
20 existence of recent domestic violence from a qualified
21 professional from whom the individual has sought assistance,
22 such as a counselor, shelter worker, member of the clergy,
23 attorney or health care worker and any type of evidence that
24 reasonably proves domestic violence, but the department may not
25 require an active or recently issued protective or other order
26 documenting domestic violence, or a police record documenting
27 recent domestic violence, although a claimant may present such
28 documentation as evidence: And provided further, That no employe
29 shall be deemed to be ineligible under this subsection where as
30 a condition of continuing in employment such employe would be

1 required to join or remain a member of a company union or to
2 resign from or refrain from joining any bona fide labor
3 organization, or to accept wages, hours or conditions of
4 employment not desired by a majority of the employees in the
5 establishment or the occupation, or would be denied the right of
6 collective bargaining under generally prevailing conditions, and
7 that in determining whether or not an employe has left his work
8 voluntarily without cause of a necessitous and compelling nature
9 attributable to his employment, the department shall give
10 consideration to the same factors, insofar as they are
11 applicable, provided, with respect to the determination of
12 suitable work under section four (t): And provided further, That
13 the provisions of this subsection shall not apply in the event
14 of a stoppage of work which exists because of a labor dispute
15 within the meaning of subsection (d). Provided further, That no
16 otherwise eligible claimant shall be denied benefits for any
17 week in which his unemployment is due to exercising the option
18 of accepting a layoff, from an available position pursuant to a
19 labor-management contract agreement, or pursuant to an
20 established employer plan, program or policy: Provided further,
21 That a claimant shall not be disqualified for voluntarily
22 leaving work, which is not suitable employment to enter training
23 approved under section 236(a) (1) of the Trade Act of 1974:
24 Provided further, That a claimant shall not be disqualified for
25 voluntarily leaving work if the claimant left such work to
26 accompany a spouse who is on active duty with the United States
27 Armed Forces and is required to relocate due to permanent change
28 of station orders, activation orders or unit deployment orders
29 and such relocation would make it impractical or unreasonably
30 difficult, as determined by the department, for the claimant to

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

9 * * *

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

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

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

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

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

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

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

30 (7) Failure to provide good cause for being absent from work

1 on two or more occasions or failure to report in a proper manner
2 under the employer's policy for absences from work on two or
3 more occasions.

4 * * *

5 Section 4. The amendment of section 402(b) of the act shall
6 apply to initial claims filed on or after January 1, 2023.

7 Section 5. This act shall take effect immediately.