No. 693

AN ACT

Amending the act of December 5, 1936 (1937, P. L. 2897), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons, providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties," to define certain terms, to modify eligibility and disqualification provisions, payments and rates of compensation, to revise and increase rates of contribution, to limit scope of contribution appeals, and to repeal certain provisions concerning employes under Shipping Articles.

Unemployment Compensation Law.

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

Subsection (b), section 4, act of December 5, 1936-1937, P. L. 2897, last amended May 23, 1949, P. L. 1738; subsection (u), section 4 of the act, last amended March 30, 1955, P. L. 6; subsection (w), section 4 of the act, last amended March 30, 1955, P. L. 6; subsection (z.5), section 4 of the act, last amended August 24, 1953, P. L. 1397, further amended, and subsections (m.1), (z.6) and (z.7) added.

Section 1. Subsection (b) of section 4 of the act of December 5, 1936 (1937, P. L. 2897), known as the "Unemployment Compensation Law," as last amended by the act of May 23, 1949 (P. L. 1738), subsection (u) of section 4 of said act, as last amended by the act of March 30, 1955 (P. L. 6), subsection (w) of section 4 of said act, as last amended by the act of March 30, 1955 (P. L. 6), subsection (z.5), as amended by the act of August 24, 1953 (P. L. 1397), are further amended, and a new subsection (m.1), following subsection (m), and new subsections (z.6) and (z.7), following subsection (z.5), are added to read as follows:

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

* * * * *

Definitions.

(b) "Benefit Year" with respect to an individual who files or has filed a "Valid Application for Benefits" means the one-year period beginning with the day as of which such "Valid Application for Benefits" is filed, and thereafter the one-year period beginning with the day as of which such individual next files a "Valid Application for Benefits" after the termination of his last benefit year: *Provided, however, That when the last day of such one-year period falls within a week with respect to which an employe has met the eligibility requirements of this act, the ending date of the benefit year may be extended for a period not to exceed six days: And provided further, That for the purpose of filing any subsequent application for benefits, the extension of the*

Benefit year.

Proviso.

Proviso.

benefit year as hereinbefore provided shall not change the benefit year ending date as established prior to such extension.

* * * * *

Partial Benefit Credit.

(m.1) "Partial Benefit Credit" means that part of the remuneration, if any paid or payable to an individual with respect to a week for which benefits are claimed under the provisions of this act, which is not in excess of thirty per centum (30%) of the individual's weekly benefit rate, or six dollars, whichever is the greater. Such partial benefit credit, if not a multiple of one dollar ($1), shall be computed to the next higher multiple of one dollar ($1).

* * * * *

Unemployed.

(u) "Unemployed."—An individual shall be deemed unemployed (I) with respect to any week (i) during which he performs no services for which remuneration is paid or payable to him and (ii) with respect to which no remuneration is paid or payable to him, or (II) with respect to any week of less than his full-time work if the remuneration paid or payable to him with respect to such week is less than his weekly benefit rate plus

Proviso.

[six dollars ($6)] *his partial benefit credit:* Provided, That for the purposes of this subsection, (i) vacation pay and similar payments, whether or not legally required to be paid, and (ii) wages in lieu of notice, separation allowances, dismissal wages and similar payments, which are legally required to be paid, shall be deemed remuneration paid or payable with respect to such period as shall be determined by rules and regulations of the department.

Eligibility during plant shut down for vacation.

Notwithstanding any other provisions of this act, an employe who is unemployed during a plant shutdown for vacation purposes shall not be deemed ineligible for compensation merely by reason of the fact that he or his collective bargaining agents agreed to the vacation.

Ineligibility.

No employe shall be deemed eligible for compensation during a plant shutdown for vacation who receives directly or indirectly any funds from the employer as vacation allowance.

* * * * *

Valid Application for Benefits.

(w) *(1)* A "Valid Application for Benefits" means an application for benefits on a form prescribed by the department, which is filed by an individual, as of a day not included in the benefit year previously established by such individual, who (1) has been separated from his work or who during the week commencing on such day has worked less than his full time due to lack of work and has earned less than the maximum weekly benefit amount plus [six *($6) dollars] *the maximum partial*

* "(6)" in original.

benefit credit and (2) is qualified under the provisions of section four hundred and one (a), (b) and (d).

(2) An application for benefits filed within ninety (90) days after the termination of a preceding benefit year by an individual who has had no work, whether or not such work is in "employment" as defined in this act, during the last fifty-one weeks of such preceding benefit year shall not be considered a Valid Application for Benefits within the meaning of this subsection, unless such individual has, subsequent to the exhaustion of benefits during such preceding benefit year, maintained an active registration for work in a public employment office by personal visits thereto at intervals of not more than sixty (60) days, or if such individual has refused to accept suitable work, whether or not such work is in "employment" as defined in this act, subsequent to such exhaustion.

* * * * *

(z.5) "Average Annual Payroll" means the average of the last [five] *three* consecutive "annual payrolls" of any employer: *Provided, That for any employer in Groups 1 and 2 as defined in section 301.1 (b) who has not paid wages for three "annual payrolls," the "average annual payroll" means the average of such fewer "annual payrolls."*

Average Annual Payroll.

(z.6) "Annual Benefits" means the total amount of benefits charged to an employer's account during the twelve consecutive calendar month period ending on June thirty of any year.

Annual Benefits.

*(z.7) "Average Annual Benefits" means the average of the last three *consecutive "annual benefits" of any employer: Provided, That for any employer in Groups 1 and 2 as defined in section 301.1 (b) who has not paid wages for three "annual payrolls," the "average annual benefits" means the average of such fewer "annual benefits."*

Average Annual Benefits.

Section 2. Subsections (a), (b) and (c) of section 301 of said act, as last amended by the act of March 30, 1955 (P. L. 6), subsection (a.1) of section 301 of said act, as last amended May 26, 1949 (P. L. 1854), subsection (d) and subsection (e) of section 301 of said act, as last amended by the act of August 24, 1953 (P. L. 1397), are further amended to read as follows:

Subsections (a), (b) and (c), section 301 of the act, last amended March 30, 1955, P. L. 6; subsection (a.1), section 301 of the act, last amended May 26, 1949, P. L. 1854; subsections (d) and (e), section 301 of the act, last amended August 24, 1953, P. L. 1397, further amended.

Section 301. Contributions by Employers; [Experience Rating] *Successors-in-Interest; Appeals.*—

(a) *(1)* Each employer shall pay contributions with respect to the calendar year one thousand nine hundred [fifty-five] *sixty,* and each calendar year thereafter, at a rate equal to [two and seven-tenths] *four* per centum

* "consectutive" in original.

of wages paid by him for employment: Provided, however, That such rate shall be adjusted between a minimum rate of [five-tenths] *one-tenth* of one per centum and a maximum rate of [two and seven-tenths] *four* per centum in accordance with the [following] provisions of [this section, as hereby amended, if the employer has paid contributions under this act for one or more quarters in each of three twelve-month periods ending on the computation date for the year for which the rate is applicable, and has also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such three twelve-month periods.] *section three hundred one point one of this act.*

[And provided further, effective with respect to contribution rates for calendar years beginning January one, one thousand nine hundred fifty-six, employers shall for the purpose of being considered for reduced contribution rates be grouped as follows:

Group 1 shall consist of those employers who have paid contributions under this act for one or more quarters in the twelve-month period ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such twelve-month period.

Group 2 shall consist of employers who have paid contributions under this act for one or more quarters in each of the two twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the first * four of the last five calendar quarters immediately preceding such two twelve-month periods.

Group 3 shall consist of employers who have paid contributions under this act for one or more quarters in each of the three twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such three twelve-month periods.

In no event shall those employers who have sufficient employer experience to be classified in Group 3 be classified in either Group 1 or Group 2; nor shall those employers who have sufficient employer experience to be classified in Group 2 be classified in Group 1.]

[And] *(2)* No employer's rate of contribution for any calendar year shall be less than [two and seven-tenths per centum] *four per centum,* unless all his contributions

* "first" in original.

due on wages paid to the end of the second calendar quarter of the preceding calendar year, together with interest and penalties due thereon, have been paid by the fifteenth day of September of such preceding calendar year, except that an employer who has timely filed an appeal as provided in subsection (e) of this section and who has been determined ineligible to receive a reduced rate solely on the basis that he has not paid all contributions, interest and penalties within the time limits as required in this subsection, shall have his rate redetermined and shall not be considered ineligible under this subsection if payment of such delinquent contributions, interest and penalties is made within thirty days after the department has notified the employer of the reason for his ineligibility for rate reduction in response to the appeal filed by the employer under subsection (e).

(3) An employer whose reserve account balance is adjusted to zero in accordance with the provisions of section 302 (h) of this act shall not be eligible for a reduced rate of contributions under the provisions of this act for the three consecutive calendar years following the computation date with respect to which the application for adjustment was made, and shall pay contributions at the rate of four per centum for each of such three calendar years. In the event an employer shall file one or more subsequent applications for adjustment, the provisions of this subsection shall apply to each such application.

[(a.1)] *(b)* Except as specifically provided under section four hundred four, wages paid with respect to employment performed under shipping articles shall, for the purposes of this act, be considered as having been paid as of a date determined under rules and regulations of the department irrespective of when actual payment was made to the employe.

[(b)] *(c)* Each employer with respect to any period prior to the first day of January, one thousand nine hundred [fifty-five] *sixty*, shall be liable for contributions in accordance with the provisions of this act applicable to each period in effect prior to such date, and for these purposes such provisions shall remain in force and effect.

[(c) The rate of contribution payable by an employer entitled to an adjustment as herein provided shall be as follows:

(A) When, as of the computation date, there is a credit balance in such employer's reserve account, which balance shall include (1) contributions with respect to the period ending on the computation date and paid on or before September fifteenth immediately following such computation date, (2) benefits paid on or before computation date, and shall also include any voluntary pay-

ments made in accordance with subsection (g) of section 302 of this act, his contribution rate for the calendar year one thousand nine hundred fifty-five subject to the provisions of paragraph (B) of this subsection, shall be as set forth in table number one; and for the calendar years thereafter shall be as set forth in table number two.

Each Employer Percentage Shown Includes the Fractional Percentage Between Such Percentage and the Immediately Higher Percentage

Table No. 1

Fund Balance	12.5 or More	12.0	11.5	11.0	10.5	10.0	9.5	9.0	8.5
(A)	.5	.5	.5	.5	.5	.5	.6	.7	.8
(B)	.8	.8	.8	.8	.9	1.0	1.1	1.2	1.3
(C)	.8	1.1	1.3	1.5	1.7	1.8	1.9	2.0	2.1

Table No. 1 (Continued)

Fund Balance	8.0	7.5	7.0	6.5	6.0	5.5	5.0	4.5	4.0	Less Than 4.0
(A)	.9	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.7
(B)	1.4	1.5	1.6	1.7	1.8	1.9	2.1	2.3	2.5	2.7
(C)	2.2	2.3	2.4	2.5	2.7	2.7	2.7	2.7	2.7	2.7

Table No. 2

	6.25 or More	6.00	5.75	5.50	5.25	5.00	4.75	4.50	4.25
Group 1									
	9.37 or More	9.00	8.62	8.25	7.87	7.50	7.12	6.75	6.37
Group 2									
	12.50 or More	12.00	11.50	11.00	10.50	10.00	9.50	9.00	8.50
Group 3									

Fund Balance									
(A)	.5	.5	.5	.5	.5	.5	.6	.7	.8
(B)	.8	.8	.8	.8	.9	1.0	1.1	1.2	1.3
(C)	.8	1.1	1.3	1.5	1.7	1.8	1.9	2.0	2.1

Table No. 2 (Continued)

	4.00	3.75	3.50	3.25	3.00	2.75	2.50	2.25	2.00	Less than 2.00
Group 1										
Group 2	6.00	5.62	5.25	4.87	4.50	4.12	3.75	3.37	3.00	Less than 3.00
Group 3	8.00	7.50	7.00	6.50	6.00	5.50	5.00	4.50	4.00	Less than 4.00

Table No. 2 (Continued)

Fund Balance										
(A)	.9	1.0	1.2	1.4	1.6	1.8	2.0	2.2	2.4	2.7
(B)	1.4	1.5	1.6	1.7	1.8	1.9	2.1	2.3	2.5	2.7
(C)	2.2	2.3	2.4	2.5	2.7	2.7	2.7	2.7	2.7	2.7

As used in the foregoing tables, the term "Employer Percentage" means the ratio of the balance in an employer's reserve account to his average annual payroll, and the term "Fund Balance" means the balance in the Pennsylvania Unemployment Compensation Fund at the end of any calendar year as recorded on the records of the department.

(B) An employer's rate of contribution on wages paid during each calendar year shall be the rate specified in the column beneath his "Employer Percentage" which is on the horizontal line opposite—

(1) Fund Balance (A), if the balance at the end of the immediately preceding calendar year was not less than four hundred fifty million dollars ($450,000,000); or,

(2) Fund Balance (B), if the balance at the end of the *immediately preceding calendar year was not less than three hundred fifty million dollars ($350,000,000); or,

(3) Fund Balance (C), if the balance at the end of the immediately preceding calendar year was not less than three hundred million dollars ($300,000,000):

Provided, That if the balance at the end of the immediately preceding calendar year was less than three hundred million dollars ($300,000,000), all employers' rates of contribution on wages paid during the next calendar year shall be two and seven-tenths per centum.]

(d) [Successor-in-interest] *(1)* Where an employer, subsequent to the thirtieth day of June, one thousand nine hundred and forty-nine, transfers his or its organization, trade or business, in whole or in part, to a successor-in-interest who continues essentially the same business activity of the whole or part transferred, such successor-in-interest may, prior to the end of the calendar year subsequent to the calendar year in which the transfer occurred, make application for transfer of the whole, or appropriate part, of the experience record *and reserve account balance* of the preceding employer to the successor-in-interest, including credit for the years during which contributions were paid by the preceding employer. The department shall transfer the whole or appropriate part of such experience record *and reserve account balance* of the preceding employer only if such

* "immediate" in original.

preceding employer has joined in such application and has filed with the department such supporting schedules or other information with respect to such experience record *and reserve account balance* as the department may require. If the application for such transfer is filed in accordance with the rules and regulations of the department, the department may *allow such transfer only if all contributions, interest and penalties owing by the predecessor have been or are paid at the time such application is filed with the department. In the event of a part transfer of an employer's organization, trade or business, only such portion of the experience record *and reserve account balance* of the preceding employer as such employer's average annual wages for the last three calendar years of the organization, trade or business transferred bears to his total average annual payroll for such last three calendar years, shall be transferred: Provided, That if the part transferred has been in existence for a period of less than three calendar years but more than one calendar year, then only such portion of the experience record *and reserve account balance* of the preceding employer as the average annual wages for such period of the part transferred bears to the total average annual payroll for such period shall be transferred, and credit shall be given to the successor-in-interest only for the years during which contributions were paid by the preceding employer with respect to that part of the organization, trade or business transferred. A transfer of **[a] *an experience record and* reserve account balance, in whole or in part, having been applied for and approved by the department, the preceding employer shall not be entitled to consideration for an adjusted rate for the calendar year following the date of transfer and for subsequent calendar years, based upon his *experience record and* reserve account balance which has been thus transferred.

(2) A preceding employer or successor-in-interest who, prior to the transfer, was an employer during the calendar year in which the transfer occurred, shall not have his rate of contribution adjusted under the provisions of this subsection for the remainder of such year. A successor-in-interest who, prior to the transfer, was not an employer during the calendar year in which the transfer occurred and who has made application for a transfer which has been approved by the department, as provided herein, and who, together with his predecessor, has paid contributions for the period required under subsection [(a)] *(b)* of section three hundred one *point one* with respect to the organization, trade or business, or part thereof, which has been transferred, shall be

* "alllow" in original.
** "[a]" not in original.

assigned the same rate of contribution as the preceding employer for the remainder of such year, after which his rate of contribution shall be determined on the basis of the *experience record and* balance in the reserve account which has been combined with any other *experience record and* reserve account *balance* which such successor-in-interest may have acquired.

(3) A successor-in-interest who, subsequent to the first day of January, one thousand nine hundred sixty, acquires from a preceding employer the whole or a part of a reserve balance which has been adjusted to zero under the provisions of section 302 (h) of this act shall be liable for contributions at the maximum rate of four per centum under the provisions of section 301 (a) (3) of this act in the same manner as the preceding employer with respect to the part of the organization, trade or business transferred. This provision shall not apply if the successor-in-interest as of any computation date has been subject to this act for fourteen or more consecutive calendar quarters, or has been subject to this act for a period as long as or longer than the preceding employer.

(e) (1) [The] *With respect to benefits paid during benefit years which begin prior to July one, one thousand nine hundred sixty, the* department at least *once during each calendar quarter, shall furnish each employer with a notice showing the amount of compensation paid during the preceding calendar quarter and charged to such employer's account, including the names of the claimants, the weeks for which compensation was paid, and the amount of compensation charged. *With respect to benefits paid during benefit years which commence on or after July one, one thousand nine hundred sixty, the department at least once during each calendar month, shall furnish each employer with a notice showing the amount of compensation paid during the preceding month and charged to such employer's account. Such notice shall include at least the name and social security account number of each claimant, the weeks for which compensation was paid to him, and the amount of compensation charged.* All questions involving the eligibility of a claimant to receive compensation which have been resolved with notice to the employer as provided under the provisions of section five hundred one of this act shall remain final, and such eligibility may not be directly contested by an employer under the provisions of this section. However, any determination of eligibility or allowance of benefits as to which the employer was not furnished notice under the provisions of section five hundred one of this act shall become final, unless a protest contesting such determination is filed by the employer with the department within ninety (90) days

* "one" in original.

from the date of the mailing of notice under the provisions of this subsection. Where such protest has been filed, the department shall proceed in accordance with the provisions of section five hundred one and furnish the employer with notice of its determination or allowance. The clerical accuracy of the notice provided under the provisions of this subsection may not be contested by an employer in connection with any future appeal by the employer from the rate of contribution assigned to him, unless within ninety days from the date of mailing of such notice, the employer files with the department a protest in writing contesting the clerical accuracy of such notice and setting forth in detail the item or items to which exception is taken and the reasons therefor. Such period of ninety days may be extended with the approval of the department upon written application by the employer filed prior to the expiration of such period.

(e) (2) The department shall promptly notify each employer of his rate of contribution for the calendar year, determined as provided in this section *and section three hundred one point one (301.1) of this act.* The determination of the department of the employer's rate of contribution shall become conclusive and binding upon the employer, unless within ninety *(90)* days after the mailing of notice thereof to the employer's last known post office address the employer files an application for review, setting forth his reasons therefor: Provided, That if the department finds that because of an error of the department it has notified an employer that his rate of contribution is more than the rate to which he is entitled, the department shall, within one year from the date of such notice, adjust the rate of contribution. The department may, if it deems the reasons set forth by the employer insufficient to change the rate of contribution, deny the application, otherwise it shall grant the employer a fair hearing. The employer shall be promptly notified of the denial of his application or of the department's redetermination, both of which shall become final and conclusive within thirty days after the mailing of notice thereof to the employer's last known post office address, unless the employer shall appeal by petition from the action of the department to the Court of Common Pleas of Dauphin County within such time. *In any application for review filed hereunder and in any further appeal taken thereafter, as herein provided, no questions shall be raised with respect to the employer's contribution rate for the calendar year one thousand nine hundred sixty and any calendar year thereafter, except such as pertains to the determination of either the employer's Funding Factor, his Experience Factor, or both.*

Act of December 5, 1936-1937, P. L. 2897, amended by adding a new section 301.1.

Section 3. Said act is amended by adding, after section 301, a new section 301.1 to read as follows:

Section 301.1. Determination of Contribution Rate; Experience Rating.—

(a) The rate of contribution payable by an employer eligible for an adjusted rate with respect to the calendar year beginning January one, one thousand nine hundred sixty, and each calendar year thereafter, shall be the aggregate of three factors:

(A) A Funding Factor.

(B) An Experience Factor.

(C) A State Adjustment Factor.

In no event shall such aggregate produce a rate of contribution in excess of four per centum or less than one-tenth of one per centum.

(b) For the purpose of determining an employer's eligibility for an adjusted rate for the calendar year beginning January one, one thousand nine hundred sixty, and each calendar year thereafter, employers shall be grouped as follows:

*Group 1 shall consist of those employers who have paid contributions under this act for one or more quarters in the *twelve-month period ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such twelve-month period.*

Group 2 shall consist of employers who have paid contributions under this act for one or more quarters in each of the two twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such two twelve-month periods.

Group 3 shall consist of employers who have paid contributions under this act for one or more quarters in each of the three twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the first four of the last five calendar quarters immediately preceding such three twelve-month periods.

In no event shall those employers who have sufficient employer experience to be classified in Group 3 be classified in either Group 1 or Group 2, nor shall those employers who have sufficient employer experience to be classified in Group 2 be classified in Group 1.

(c) When, as of the computation date, there is a credit balance in such employer's reserve account, which

* "twelve-months" in original.

balance shall include (1) contributions with respect to the period ending on the computation date and paid on or before September fifteenth immediately following such computation date, (2) benefits paid on or before computation date, and shall also include any voluntary payments made in accordance with subsection (g) of section 302 of this act, his Funding Factor for the calendar year thereafter shall be as set forth in the table below and as applicable to his employer group and the employer percentage group containing his employer percentage.

Table

Employer Percentage Groups

Employer Group 1					
9.0 or more	*8.9-7.0*	*6.9-5.0*	*4.9-3.0*	*2.9-1.0*	*Less than 1.0*
Employer Group 2					
13.0 or more	*12.9-10.0*	*9.9-7.0*	*6.9-4.0*	*3.9-1.0*	*Less than 1.0*
Employer Group 3					
17.0 or more	*16.9-13.0*	*12.9-9.0*	*8.9-5.0*	*4.9-1.0*	*Less than 1.0*
Funding Factor	*0.5*	*0.6*	*0.7*	*0.8*	*0.9*	*1.0*

As used in the foregoing table, the term "employer percentage" means the ratio of the balance in an employer's reserve account to his average annual payroll. Each employer percentage group shown includes the fractional percentage between such percentage group and the immediately higher percentage group. The Funding Factor of an employer who has no credit balance in his reserve account shall be one per centum.

(d) An employer's Experience Factor shall be computed on the basis of the following formula:

$$\frac{\text{Average Annual Benefits}}{\text{Average Annual Payroll}} \times 100 = \text{Experience Factor}$$

to a tenth of a per centum, rounding all fractional parts of a tenth of a per centum to the next higher tenth of a per centum. No Experience Factor shall be more than three per centum nor less than five-tenths of one per centum, except as provided in subsection (f) of this section.

(e) The State Adjustment Factor for the calendar year beginning January one, one thousand nine hundred sixty, shall be six-tenths of one per centum and for the year beginning January one, one thousand nine hundred sixty-one, and for each calendar year thereafter, shall be computed as of the computation date for such year to a tenth of a per centum, rounding all fractional parts of a tenth of a per centum to the next higher tenth of a per centum, but in no event in excess of one per centum, according to the following formula:

$$\frac{Bdr—Dcr}{Wt} \times 100 = State\ Adjustment\ Factor$$

in which factor "Bdr" equals the aggregate of (A) all benefits paid but not charged to employers' accounts, plus, (B) all benefits paid and charged to inactive and terminated employers' accounts, plus, (C) all benefits paid and charged to accounts of employers assigned the maximum Experience Factor to the extent such benefits exceed the amount of contributions payable by such employers on the basis of such factor, plus, (D) the aggregate amount by which the contributions estimated to be due under the State Adjustment Factor for the calendar year 1961 and any year thereafter was in excess of one per centum of the total wages for such calendar year. Factor "Dcr" equals the aggregate of (A) interest credited to the Unemployment Compensation Fund, plus, (B) amounts transferred from the Special Administration Fund to the Unemployment Compensation Fund, plus, (C) refunds of benefits unlawfully paid, plus, (D) amounts credited to the Unemployment Compensation Fund by the Federal Government other than by loan and factor. "Wt" equals the wages paid by all employers. Each item in each factor shall be computed with respect to the twelve-month period ending on the computation date, except that item (D) under factor Bdr shall be computed on a calendar year basis.

(f) If the balance in the Pennsylvania Unemployment Compensation Fund as of December thirty-first of the preceding calendar year, as recorded on the records of the Department, was more than three hundred million dollars, the Funding Factor of all employers for the succeeding calendar year shall be zero per centum and the minimum Experience Factor as computed under subsection (d) of this section shall be one-tenth of one per centum. If, thereafter, such balance shall, as of December 31 of any subsequent year, be less than two hundred fifty million dollars, the provisions of this subsection shall not be applicable to the calculation of the funding and experience factors for succeeding calendar years until such balance shall again be more than three hundred million dollars.

Section 4. Subsection (h) of section 302 of said act, as added by the act of May 26, 1949 (P. L. 1854), is amended to read as follows:

Subsection (h), section 302 of the act, added May 26, 1949, P. L. 1854, amended.

Section 302. Establishment and Maintenance of Employer's Reserve Accounts.—The department shall establish and maintain for each employer a separate employer's reserve account in the following manner:

* * * * *

"Balance in an employer's reserve account."

(h) For the purpose of determining any employer's rate of contribution for any year, the phrase * "balance in an employer's reserve account" as used in section 301 [hereof] *and section 301.1 of this act* shall mean [the difference between the amounts computed or ascertained, as provided in this section, which have been credited or charged respectively, to his reserve account, either for the period during which he shall have been subject to this act ending on such year's computation date, or the immediately preceding three twelve-month periods ending on such computation date, whichever amount shall be the greater.] *the amount ascertained as of the computation date by subtracting the amounts charged to his reserve account from the amounts credited thereto including voluntary contributions. If, as of the computation date, the amounts charged to his reserve account are found to be greater than the amounts credited, the employer may elect, subject to the provisions of section 301 (a) (3) of this act, to have his reserve account balance adjusted to zero.*

Subsection (a), section 304 of the act, added April 23, 1942, P. L. 60, amended.

Section 5. Subsection (a) of section 304 of said act, as added by the act of April 23, 1942 (P. L. 60), is amended to read as follows:

Section 304. Reports by Employers; Assessments.—Each employer shall file with the department such reports, at such times, and containing such information, as the department shall require, for the purpose of ascertaining and paying the contributions required by this act.

(a) If any employer fails within the time prescribed by the department to file any report necessary to enable the department to determine the amount of any contribution owing by such employer, the department **may** make an assessment of contributions against such employer of such amount of contributions for which the department believes such employer to be liable, together with interest thereon as provided in this act.

Within fifteen days after making such assessment the department shall give notice thereof by registered mail to such employer. If such employer is dissatisfied with the assessment so made he may petition the department for a re-assessment in the manner hereinafter prescribed.

*In any petition for re-assessment filed hereunder and in any further appeal taken thereafter as **herein provided, no questions shall be raised with respect to the department's determination of the Adjustment Factor applicable to any year covered by the assessment.*

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* "the" in original.
** "herin" in original.

Section 6. Section 311 of said act, as last amended by the act of August 24, 1953 (P. L. 1397), is further amended to read as follows:

Section 311 of the act, last amended August 24, 1953, P. L. 1397, further amended.

Section 311. Refunds and Adjustments.—If any individual or organization shall make application for refund or credit of any amount paid as contribution, interest or penalties, under this act, and the department shall determine that such amount, or any portion thereof, was erroneously collected, the department may at its discretion either allow a credit therefor, without interest, in connection with subsequent contribution payments or shall refund from the Unemployment Compensation Fund, without interest, the amount erroneously paid: Provided, That an amount equal to any refund or credit of interest and penalties allowed, as provided herein, shall be transferred from the Special Administration Fund to the Unemployment Compensation Fund, irrespective of whether such interest or penalties were paid into the Unemployment Compensation Fund or into the Special Administration Fund. No refund or credit shall be allowed with respect to a payment as contributions, interest or penalties, unless an application therefor shall be made on or before, whichever of the following dates shall be the later: (a) one year from the date on which such payment was made, or (b) four years from the reporting due date of the reporting period with respect to which such payment was made. For a like cause and within the same period, a refund may be so made or a credit allowed on the initiative of the department.

An amount paid as contribution, interest or penalties shall not be deemed to have been erroneously collected within the meaning of this section if such amount was collected under and pursuant to a notice of contribution rate or a notice of assessment which, because of the applicant's failure to file a timely appeal therefrom, shall have become binding and final against the applicant under the provisions of this act.

In any proceeding instituted to obtain a refund alleged to be due and owing under the provisions of this section, the Adjustment Factor as determined by the department under the provisions of section three hundred one point one (301.1) of this act for the calendar year one thousand nine hundred sixty, and any calendar year thereafter, shall not be subject to review or redetermination.

Subsection (a), section 401 of the act, last amended September 29, 1951, P. L. 1580; subsection (d), section 401 of the act, last amended March 30, 1955, P. L. 6; subsection (e), section 401 of the act, last amended September 3, 1955, P. L. 556; and subsection (f), section 401 of the act, last amended August 24, 1953, P. L. 1397, further amended.

Section 7. Subsection (a) of section 401 of said act, as last amended by the act of September 29, 1951 (P. L. 1580), subsection (d) of section 401 of said act, as last amended by the act of March 30, 1955 (P. L. 6), subsection (e) of section 401 of said act, as last amended by the act of September 3, 1955 (P. L. 556), and subsection (f) of section 401 of said act, as last amended by the act of August 24, 1953 (P. L. 1397), are further amended to read as follows:

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

(a) Has, within his base year, been paid wages for employment equal to not less than thirty (30) times his weekly benefit rate: *Provided, however, That (1) an employe whose base year wages are less than six hundred dollars ($600.00) shall not be eligible under the provisions of this subsection unless such wages were earned during eighteen (18) different weeks within such base year, which weeks need not be consecutive, or more than fifty per centum (50%) of such wages were earned while engaged in a full-time occupation in a full-time industry or enterprise while attached to the labor market for permanent full-time employment, and (2) wages earned by a full-time day student in temporary employment during holidays or periods of vacation, or in employment which is an integrated part of a cooperative educational curriculum, shall not be considered base year wages within the meaning of this subsection and section four hundred four of this act.*

The secretary shall define, by rule and regulation, full-time occupation, full-time industry and permanent full-time employment for the purposes of this subsection. Such rule and regulation shall include, inter alia, provisions excluding casual workers, persons who at their own option work less than full-time, and persons who at their own option work irregularly rather than in permanent employment.

* * * * *

(d) Is able to work and available for suitable work: Provided, That a *pregnant* claimant *not disqualified under the provisions of subsection 402 (b) (1) or 402 (f) of this act* shall be conclusively presumed to be unavailable for work *and ineligible for benefits under the provisions of this act* with respect to [any week of unemployment after seven and one-half months of pregnancy, and until after thirty days of confinement,] *the period beginning thirty days prior to anticipated birth and ending thirty days after birth of the child.*

(e) Has been unemployed for a waiting period of one week, unless the Governor upon the occurrence of a

disaster declares that a state of emergency exists, in which event the department may suspend the waiting week requirement with respect to unemployment resulting *directly from such disaster.

No week shall be counted as a week of unemployment for the purposes of this subsection, (1) unless it occurs within the benefit year which includes the week with respect to which such employe claims compensation, or (2) if compensation has been paid or is payable with respect thereto, or (3) *which includes any part of a benefit year extended under the provisions of subsection 4 (b) of this act, or (4)* unless the employe was eligible for compensation with respect thereto under all other provisions of this section and was not disqualified with respect thereto under section 402 (a), (b), (d), (e), [and] (f), *(g), and (h);* and

(f) Has, subsequent to his [voluntarily leaving work without good cause or to his discharge or suspension from work for willful misconduct connected with his work,] *separation from work under circumstances which are disqualifying under the provisions of subsections 402 (b) and 402 (e) of this act,* been paid remuneration for services in an amount equal to or in excess of eight (8) times his weekly benefit rate, irrespective of whether or not such services were in "employment" as defined in this act. The provisions of this subsection shall not apply *(1)* to a suspension of work by an individual pursuant to a leave of absence granted by his last employer, provided such individual has made a reasonable effort to return to work with such employer upon the expiration of his leave of absence, *or (2) to an individual disqualified under the provisions of subsection 402 (f) of this act.*

Section 8. Subsection (b) of section 402 of said act **as last amended by the act of March 30, 1955 (P. L. 6), is further amended to read as follows:

Subsection (b), section 402 of the act, last amended March 30, 1955, P. L. 6, further amended.

Section 402. Ineligibility for Compensation.—An employe shall be ineligible for compensation for any week—

* * * * *

(b) *(1)* In which his unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature, irrespective of whether or not such work is in "employment" as defined in this act: Provided, That *a voluntary leaving work because of pregnancy, whether or not the employer is able to provide other work, shall be deemed not a cause of a necessitous and compelling nature: And provided further, That* no

* "directly" not in original.
** "at" in original.

employe shall be deemed to be ineligible under this subsection where as a condition of continuing in employment such employe would be required to join or remain a member of a company union or to resign from or refrain from joining any bona fide labor organization, or to accept wages, hours or conditions of employment not desired by a majority of the employes in the establishment or the occupation, or would be denied the right of collective bargaining under generally prevailing conditions, and that in determining whether or not an employe has left his work voluntarily without [good] cause *of a necessitous and compelling nature,* the department shall give consideration to the same factors, insofar as they are applicable, provided, with respect to the determination of suitable work under section four (t): And provided further, That the provisions of this subsection shall not apply in the event of a stoppage of work which exists because of a labor dispute within the meaning of subsection (d).

(2) In which his or her unemployment is due to leaving work (I) to accompany or to join his or her spouse in a new locality, or (II) because of a marital, filial or other domestic obligation or circumstance, whether or not such work is in "employment" as defined in this act: Provided, however, That the provisions of this subsection (2) shall not be applicable if the employe during a substantial part of the six months either prior to such leaving or the time of filing either an application or claim for benefits was the sole or major support of his or her family, and such work is not within a reasonable commuting distance from the new locality to which the employe has moved.

Subsection (f), section 402 of the act, amended May 23, 1949, P. L. 1738, repealed.

Section 9. Subsection (f) of section 402 of said act, amended May 23, 1949 (P. L. 1738), is hereby repealed, and a new subsection (f) is added to read as follows:

New subsection (f), section 402, of the act, added.

Section 402. Ineligibility for Compensation.—An employe shall be ineligible for compensation for any week—

* * * * *

(f) Which with respect to an employe who has been discharged or laid off by her employer from work by reason of pregnancy is included in whole or in part within the period beginning ninety (90) days prior to anticipated birth and ending thirty (30) days after birth of the child: Provided, however, That the provisions of this subsection shall be applicable whether or not such work was in "employment" as defined in this act.

Section 402 of said act, amended by adding a new subsection (h).

Section 10. Section 402 of said act is amended by adding, after subsection (g), a new subsection (h) to read as follows:

Section 402. Ineligibility for Compensation.—An employe shall be ineligible for compensation for any week—

* * * * *

(h) In which he is engaged in self-employment: Provided, however, That an employe who is able and available for full-time work shall be deemed not engaged in self-employment by reason of continued participation without substantial change during a period of unemployment in any activity including farming operations undertaken while customarily employed by an employer in full-time work whether or not such work is in "employment" as defined in this act and continued subsequent to separation from such work when such activity is not engaged in as a primary source of livelihood. Net earnings received by the employe with respect to such activity shall be deemed remuneration paid or payable with respect to such period as shall be determined by rules and regulations of the department.

First paragraph and subsections (d) and (e), section 404 of the act, last amended March 30, 1955, P. L. 6, further amended.

Section 11. The first paragraph and subsection (d) and subsection (e) of section 404 of said act, as last amended by the act of March 30, 1955 (P. L. 6), are further amended to read as follows:

Section 404. Rate and Amount of Compensation.—Compensation shall be paid to each eligible employe in accordance with the following provisions of this section except that compensation payable with respect to weeks ending in benefit years which begin prior to [the first day of the second calendar month following *enactment of this amendment] *the first day of January, one thousand nine hundred sixty,* shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years: [Provided, That the amendments to subsections (d) and (e) removing the limitations on the amount and duration of compensation shall take effect immediately] *Provided, however, That with respect to benefit years which begin on or after the first day of January, one thousand nine hundred sixty, and prior to the first day of July, one thousand nine hundred sixty, the maximum weekly benefit rate of compensation shall not be in excess of thirty-eight dollars ($38.00) nor the maximum amount of compensation payable with respect to such year in excess of eleven hundred forty dollars ($1140.00).*

* * * * *

(d) Notwithstanding any other provisions of this section, each eligible employe who is unemployed with respect to any week ending subsequent to the [effective date of this act] *first day of January, one thousand nine hundred sixty,* shall be paid with respect to such week

* "enacting" in original.

compensation in an amount equal to his weekly benefit rate less *the total of (1)* that part of the remuneration, if any, paid or payable to him with respect to such week which is in excess of [six dollars ($6.00)] *his partial benefit credit, and also (2) that part of a retirement pension or annuity, if any, received by him under a private pension plan to which a base-year employer of such employe has contributed which is in excess of the maximum weekly benefit rate provided for in this act. If such retirement pension or annuity payments deductible under the provisions of this subsection are received on other than a weekly basis, the amount thereof shall be allocated and pro-rated in accordance with the rules and regulations of the department. Retirement pension or annuity payments received by the employe under the Federal OASI program, the Federal Railroad Retirement program or under any private retirement plan to which the employe was the sole contributor, shall not be considered a deductible retirement pension or annuity payment for the purposes of this subsection.* Such compensation, if not a multiple of one dollar ($1.00), shall be computed to the next higher multiple of one dollar ($1.00).

(e) Table Specified for the Determination of Rate and Amount of Benefits

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages	Part D Amount of Compensation
$120-262	$10	$320	$300
263-287	11	333	330
288-312	12	367	360
313-337	13	402	390
338-362	14	439	420
363-387	15	476	450
388-412	16	514	480
413-437	17	553	510
438-462	18	592	540
463-487	19	633	570
488-512	20	675	600
513-537	21	718	630
538-562	22	763	660
563-587	23	808	690
588-612	24	855	720
613-637	25	903	750
638-662	26	952	780
663-687	27	1003	810
688-712	28	1055	840
713-737	29	1109	870
738-762	30	1164	900
763-787	31	1221	930

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages	Part D Amount of Compensation
788-812	32	1280	960
813-837	33	1341	990
838-862	34	1403	1020
863-[or more] *887*	35	1468	1050
888-912	*36*	*1534*	*1080*
913-937	*37*	*1603*	*1110*
938-962	*38*	*1675*	*1140*
963-987	*39*	*1748*	*1170*
988 or more	*40*	*1825*	*1200*

Effective dates.

Section 12. The amendments to section 4 (w) (1), section 401 (a), section 402 (h) and section 404 shall take effect January one, one thousand nine hundred sixty; the amendments to section 4 (w) (2) shall be applicable to any individual who exhausts his benefits subsequent to the effective date of this act; otherwise this act shall be effective immediately.

APPROVED—The 17th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 694

AN ACT

Prohibiting discrimination in rate of pay because of sex; conferring powers and imposing duties on the Department of Labor and Industry; and prescribing penalties.

Equal Pay Law.

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

Short Title.

Section 1. Short Title.—This act shall be known and may be cited as the "Equal Pay Law."

Definitions.

Section 2. Definitions.—(a) The term "employe," as used in this act, shall mean any person employed for hire in any lawful business, industry, trade or profession, or in any other lawful enterprise.

(b) "Employer" includes any person acting, directly or indirectly, in the interest of any employer in relations with an employe.

(c) "To employ" shall mean to engage, suffer or permit to work.

(d) "Occupation" shall mean any industry, trade, business, profession or any other employment.