

HOUSE BILL No. 4062

February 5, 1991, Introduced by Rep. Profit and referred to the Committee on Labor.

A bill to amend section 29 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 164 of the Public Acts of 1983, being section 421.29 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 29 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 164 of the
3 Public Acts of 1983, being section 421.29 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 29. (1) An individual ~~shall be~~ IS disqualified for
6 benefits ~~in the following cases in which the individual~~ IF HE
7 OR SHE:

8 (a) Left work voluntarily without good cause attributable to
9 the employer or employing unit. However, if the individual has

1 an established benefit year in effect and, during that benefit
2 year, has left unsuitable work within 60 days after the beginning
3 of that work, ~~such leaving shall not be~~ THE LEAVING IS NOT
4 disqualifying.

5 (b) Was discharged for misconduct connected with the
6 individual's work ~~—~~ or for intoxication while at work unless
7 the discharge was subsequently reduced to a disciplinary layoff
8 or suspension.

9 (c) Failed without good cause to apply for available suit-
10 able work of which the individual was notified by the employment
11 office or the commission.

12 (d) Being unemployed, failed without good cause to report to
13 the individual's former employer or employing unit within a rea-
14 sonable time after notice from that employer or employing unit
15 for an interview concerning available suitable work with the
16 former employer or employing unit.

17 (e) Failed without good cause to accept suitable work when
18 offered the individual ~~—~~ or to return to the individual's cus-
19 tomary self-employment, if any, when directed by the employment
20 office or the commission.

21 (f) Lost his or her job by reason of being absent from work
22 as a result of a violation of law for which the individual was
23 convicted ~~—~~ and sentenced to jail or prison. This subdivision
24 ~~shall~~ DOES not apply if conviction of a person results in a
25 sentence to county jail under conditions of day parole as pro-
26 vided in Act No. 60 of the Public Acts of 1962, being sections
27 801.251 to 801.258 of the Michigan Compiled Laws, or when the

1 conviction was for a traffic violation that resulted in an
2 absence of less than 10 consecutive work days from the
3 individual's place of employment.

4 (g) Is discharged, whether or not the discharge is subse-
5 quently reduced to a disciplinary layoff or suspension, for par-
6 ticipation in a strike or other concerted action resulting in
7 curtailment of work or restriction of or interference with pro-
8 duction ~~—~~ contrary to ~~the provisions of~~ an applicable collec-
9 tive bargaining agreement, ~~—~~ or FOR participation in a wildcat
10 strike or other concerted action not authorized by the
11 individual's recognized bargaining representative.

12 (h) Was discharged for an act of assault and battery con-
13 nected with the individual's work.

14 (i) Was discharged for theft connected with the individual's
15 work resulting in a loss or damage of \$25.00 or less.

16 (j) Was discharged for theft connected with the individual's
17 work resulting in a loss or damage of more than \$25.00.

18 (k) Was discharged for ~~wilful~~ WILLFUL destruction of prop-
19 erty connected with the individual's work resulting in loss or
20 damage of \$25.00 or less.

21 (l) Was discharged for ~~wilful~~ WILLFUL destruction of prop-
22 erty connected with the individual's work resulting in loss or
23 damage of more than \$25.00.

24 (m) Committed a theft ~~which~~ THAT occurred ~~subsequent to~~
25 AFTER a notice of layoff or discharge, but ~~prior to~~ BEFORE the
26 effective date of layoff or discharge, resulting in loss or
27 damage of more than \$25.00 to the employer who would otherwise be

1 chargeable for the benefits, notwithstanding that the original
2 layoff or discharge was under nondisqualifying circumstances.

3 (2) A disqualification provided in subsection (1) ~~shall~~
4 ~~begin~~ BEGINS with the week in which the act or discharge
5 occurred ~~which~~ THAT caused the disqualification and ~~shall~~
6 ~~continue~~ CONTINUES until the disqualified individual regualifies
7 under subsection (3). Except with respect to multiemployer
8 credit weeks, the disqualification ~~shall~~ DOES not prevent the
9 payment of benefits if there are credit weeks ~~subsequent to~~
10 AFTER the most recent disqualifying act or discharge.

11 (3) ~~Subsequent to~~ AFTER the week in which the disqualify-
12 ing act or discharge occurred, an individual shall complete 6
13 regualifying weeks if disqualified under subsection (1)(c), (d),
14 (e), (f), or (g), or shall complete 13 regualifying weeks if dis-
15 qualified under subsection (1)(h), (j), (l), or (m), for each
16 week in which the individual earns or receives remuneration in an
17 amount at least equal to an amount needed to earn a credit week,
18 as defined in section 50, or would otherwise meet all of the
19 requirements of this act to receive a benefit payment if the
20 individual were not disqualified under subsection (1), or
21 receives a benefit payment based on credit weeks subsequent to
22 the disqualifying act or discharge. An individual who is dis-
23 qualified under subsection (1)(a), (b), (i), or (k), ~~shall, sub-~~
24 ~~sequent to~~ AFTER the week in which the disqualifying discharge
25 occurred, SHALL regualify by earning in employment for an
26 employer liable under this act or the unemployment compensation
27 act of another state an amount equal to, or in excess of, 7 times

1 the individual's potential weekly benefit rate, calculated on the
2 basis of employment with the employer involved in the disqualifi-
3 cation, or by earning in employment for an employer liable under
4 this act or the unemployment compensation act of another state an
5 amount equal to, or in excess of, 40 times the state minimum
6 hourly wage times 7, whichever is the lesser amount. Any bene-
7 fits ~~which may~~ THAT become payable to an individual disquali-
8 fied under subsection (1)(a), (b), (i), or (k) shall not be
9 charged to the account of the employer with whom the individual
10 was involved in the disqualification. The benefits paid shall be
11 charged to the nonchargeable benefits account.

12 (4) Subject to the conditions provided in this subsection,
13 an individual's maximum amount of benefits otherwise available to
14 the individual ~~under~~ under section 27(d), based on wages and credit
15 weeks earned before an act or discharge with the employer
16 involved ~~therein~~ IN AN ACT as the result of which the individ-
17 ual was disqualified under subsection (1)(c), (d), (e), (f), or
18 (g), shall be reduced by an amount equal to the individual's
19 weekly benefit rate as to that employer multiplied by the number
20 of requalifying weeks required of the individual under this sub-
21 section or multiplied by the number of weeks of benefit entitle-
22 ment remaining with that employer, whichever is less. The reduc-
23 tions of benefits provided for in this subsection are subject,
24 however, to the following conditions: if the individual has
25 insufficient or no potential benefit entitlement remaining with
26 that employer in the benefit year in existence on the date of the
27 disqualifying determination, the reduction shall ~~be applicable~~

1 APPLY in a succeeding benefit year with respect to any benefit
2 entitlement based upon credit weeks earned with the employer
3 involved in the disqualification before the disqualifying act or
4 discharge.

5 An individual disqualified under subsection (1)(h), (j),
6 (l), or (m) ~~shall not be~~ IS NOT entitled to benefits based on
7 wages and credit weeks earned before the disqualifying act or
8 discharge with the employer involved in the disqualification.

9 The benefit entitlement of an individual disqualified under
10 subsection (1)(a), (b), (i), or (k) ~~shall not be~~ IS NOT subject
11 to reduction as a result of that disqualification.

12 For purposes of this subsection, the denial or reduction of
13 benefits ~~shall~~ DOES not apply to benefits based upon multiem-
14 ployer credit weeks.

15 (5) If an individual leaves work to accept permanent
16 full-time work with another employer ~~—~~ and performs services
17 for that employer, or LEAVES WORK to accept a recall from a
18 former employer, the disqualification provisions of subsection
19 (1) ~~shall~~ DO not apply to that leaving. ~~—, but~~ HOWEVER, the
20 wages earned with the employer ~~that~~ WHOM the individual last
21 left, including wages previously transferred under this
22 ~~provision~~ SUBSECTION to the last employer, ~~shall,~~ for the
23 purpose of computing and charging benefits, ~~be~~ ARE considered
24 wages earned from the employer with whom the individual accepted
25 work or recall, and benefits paid based upon those wages shall be
26 charged to that employer. When issuing a determination covering
27 that period of employment, the commission shall advise the

1 chargeable employer of the name and address of the other
2 employer, the period covered by the employment, and the extent of
3 the benefits ~~which~~ THAT may be charged to the account of the
4 chargeable employer.

5 (6) In determining whether or not work is suitable for an
6 individual, the commission shall consider the degree of risk
7 involved to the individual's health, safety, and morals, the
8 individual's physical fitness and prior training, the
9 individual's experience and prior earnings, the individual's
10 length of unemployment and prospects for securing local work in
11 the individual's customary occupation, and the distance of the
12 available work from the individual's residence.

13 (7) Work ~~shall not be~~ IS NOT considered suitable and bene-
14 fits shall not be denied under this act to an otherwise eligible
15 individual for refusing to accept new work under any of the fol-
16 lowing conditions:

17 (a) ~~if the~~ THE position offered is vacant due directly to
18 a strike, lockout, or other labor dispute. —

19 (b) ~~if the~~ THE remuneration, hours, or other conditions of
20 the work offered are substantially less favorable to the individ-
21 ual than those prevailing for similar work in the locality. —

22 (c) ~~if as~~ AS a condition of being employed, the individual
23 would be required to join a ~~company union~~ LABOR ORGANIZATION or
24 to resign from or refrain from joining a bona fide labor
25 organization.

26 (8) An individual ~~shall be~~ IS disqualified for benefits
27 for a week in which the individual's total or partial

1 unemployment is due to a labor dispute in active progress, OTHER
 2 THAN A LOCKOUT, or to shutdown or start-up operations caused by
 3 that labor dispute ~~—~~ in the establishment in which the individ-
 4 ual is or was last employed, or to a labor dispute, other than a
 5 lockout, in active progress ~~—~~ or to shutdown or start-up opera-
 6 tions caused by that labor dispute ~~—~~ in any other establishment
 7 within the United States which is functionally integrated with
 8 the establishment and is operated by the same employing unit. An
 9 individual's disqualification imposed or imposable under this
 10 subsection ~~shall be~~ IS terminated by the individual's perform-
 11 ing services in employment with an employer in at least 2 consec-
 12 utive weeks falling wholly within the period of the individual's
 13 total or partial unemployment due to the labor dispute, and in
 14 addition by earning wages in each of those weeks in an amount
 15 equal to or in excess of the individual's actual or potential
 16 weekly benefit rate with respect to those weeks based on the
 17 individual's employment with the employer involved in the labor
 18 dispute. An individual ~~shall not be~~ IS NOT disqualified under
 19 this subsection if the individual is not directly involved in the
 20 dispute.

21 (a) For ~~the~~ purposes of this subsection, an individual
 22 ~~shall not be~~ IS NOT considered to be directly involved in a
 23 labor dispute unless it is established that any of the following
 24 occurred:

25 (i) At the time or in the course of a labor dispute in the
 26 establishment in which the individual was then employed, the
 27 individual in concert with 1 or more other employees voluntarily

1 stopped working other than at the direction of the individual's
2 employing unit.

3 (ii) The individual is participating in, ~~or~~ financing, or
4 directly interested in the labor dispute ~~which~~ THAT causes the
5 individual's total or partial unemployment. The payment of regu-
6 lar union dues, in amounts and for purposes established before
7 the inception of the labor dispute, shall not be construed as
8 financing a labor dispute within the meaning of this
9 subparagraph.

10 (iii) At any time when there ~~is~~ WAS not a labor dispute in
11 the establishment or department in which the individual was
12 employed, the individual voluntarily stopped working, other than
13 at the direction of the individual's employing unit, in sympathy
14 with employees in some other establishment or department in which
15 a labor dispute was then in progress.

16 (iv) The individual's total or partial unemployment is due
17 to a labor dispute ~~which~~ THAT was or is in progress in a
18 department, ~~or~~ unit, or group of workers in the same
19 establishment.

20 (b) ~~"Directly interested", as~~ AS used in this subsection,
21 "DIRECTLY INTERESTED" shall be construed ~~and applied~~ so as not
22 to disqualify individuals unemployed as a result of a labor dis-
23 pute the resolution of which may not reasonably be expected to
24 affect their wages, hours, or other conditions of employment, and
25 to disqualify individuals whose wages, hours, or conditions of
26 employment may reasonably be expected to be affected by the
27 resolution of the labor dispute. A "reasonable expectation" of

1 an effect on an individual's wages, hours, or other conditions of
2 employment ~~shall be~~ IS considered to exist, in the absence of A
3 substantial ~~preponderating~~ PREPONDERANCE OF evidence to the
4 contrary, in any of the following situations:

5 (i) If it is established that there is in the particular
6 establishment or employing unit a practice, ~~or~~ custom, or con-
7 tractual obligation to extend within a reasonable period to mem-
8 bers of the individual's grade or class of workers in the estab-
9 lishment in which the individual is or was last employed changes
10 in terms and conditions of employment ~~which~~ THAT are substan-
11 tially similar or related to some or all of the changes in terms
12 and conditions of employment ~~which~~ THAT are made for the work-
13 ers among whom there exists the labor dispute ~~which~~ THAT has
14 caused the individual's total or partial unemployment.

15 (ii) If it is established that 1 of the issues in or pur-
16 poses of the labor dispute is to obtain a change in the terms and
17 conditions of employment for members of the individual's grade or
18 class of workers in the establishment in which the individual is
19 or was last employed.

20 (iii) If the labor dispute exists at a time when the collec-
21 tive bargaining agreement, which covers the individual's grade or
22 class of workers in the establishment in which the individual is
23 or was last employed and the workers in another establishment of
24 the same employing unit who are actively participating in the
25 labor dispute, has expired, has been opened by mutual consent or
26 may by its terms be modified, supplemented, or replaced.

1 (c) In determining the scope of the grade or class of
2 workers evidence submitted to show ANY OF the following ~~shall~~
3 ~~be~~ IS relevant:

4 (i) Representation of the workers by the same national or
5 international organization or by local affiliates ~~thereof~~ OF A
6 NATIONAL OR INTERNATIONAL ORGANIZATION.

7 (ii) Whether the workers are included in a single, legally
8 designated, or negotiated bargaining unit.

9 (iii) Whether the workers are, or have within the past 6
10 months been, covered by a common master collective bargaining
11 agreement ~~which~~ THAT sets forth all or any part of their terms
12 and conditions of employment, or by separate agreements ~~which~~
13 THAT are or have been bargained as a part of the same
14 negotiations.

15 (iv) Any functional integration of the work performed by
16 those workers.

17 (v) Whether the resolution of issues of the type involved in
18 the labor dispute, as to some of the workers, could directly or
19 indirectly affect the advancement, negotiation, or settlement of
20 the same or similar issues in respect to the remaining workers.

21 (vi) Whether the workers are currently ~~—~~ or have been ~~—~~
22 covered by the same or similar demands by their recognized or
23 certified bargaining agent or agents for changes in their wages,
24 hours, or other conditions of employment.

25 (vii) Whether issues on the same subject matter as those
26 involved in the labor dispute have been the subject of proposals

1 or demands made upon the employing unit ~~which~~ THAT would by
2 their terms have applied to those workers.

3 (9) An individual ~~shall be~~ IS disqualified for benefits
4 for the duration of the individual's disciplinary layoff or sus-
5 pension in all cases in which the individual becomes unemployed
6 because of a disciplinary layoff or suspension based upon miscon-
7 duct directly or indirectly connected with work, ~~or~~ for partic-
8 ipation in a strike or other concerted ~~action~~ ACTIVITY result-
9 ing in a curtailment of work or restriction of or interference
10 with production contrary to ~~the provisions of~~ an applicable
11 collective bargaining agreement, ~~or~~ FOR participation in a
12 wildcat strike or other concerted ~~action~~ ACTIVITY not autho-
13 rized by the individual's recognized bargaining representative.
14 This subsection applies only if the individual is not subject to
15 disqualification under subsection (1)(g) or if a disqualifying
16 discharge under subsection (1)(b) is determined or redetermined
17 to be a disciplinary layoff or suspension. If a disqualifying
18 discharge under subsection (1)(b) is determined or redetermined
19 to be a suspension, the disqualification provided under this sub-
20 section ~~shall apply~~ APPLIES from the date of the discharge.

21 (10) Notwithstanding subsections (1) to (9), if the employ-
22 ing unit submits notice to the commission of possible ineligibil-
23 ity or disqualification beyond the time limits prescribed by com-
24 mission rule, the notice ~~shall~~ DOES not form the basis of a
25 determination of ineligibility or disqualification for a claim
26 period compensated before the receipt of the notice by the
27 commission.

1 (11) An individual ~~shall be~~ IS disqualified for benefits
2 for any week with respect to which or a part of which the indi-
3 vidual has received, ~~or~~ is receiving, or is seeking unemploy-
4 ment benefits under an unemployment compensation law of another
5 state or of the United States. If the appropriate agency of the
6 other state or of the United States finally determines that the
7 individual is not entitled to unemployment benefits, this dis-
8 qualification ~~shall~~ DOES not apply.