

HOUSE BILL No. 4980

June 19, 1991, Introduced by Reps. Bankes, McBryde, Oxender, Dolan, Dalman and Jaye 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~~ THE leaving ~~shall~~ IS not ~~be~~
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, A SPECIAL
24 ALTERNATIVE INCARCERATION FACILITY, COMMUNITY WORK SERVICE, OR
25 OTHER SENTENCING ALTERNATIVE. This subdivision ~~shall~~ DOES not
26 apply if conviction of a person results in a sentence to county
27 jail under conditions of day parole as provided in Act No. 60 of

1 the Public Acts of 1962, being sections 801.251 to 801.258 of the
2 Michigan Compiled Laws, or when the conviction was for a traffic
3 violation that resulted in an absence of less than 10 consecutive
4 work days from the individual's place of employment.

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

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

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

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

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

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

25 (m) Committed a theft ~~which~~ THAT occurred ~~subsequent to~~
26 AFTER a notice of layoff or discharge, but ~~prior to~~ BEFORE the
27 effective date of layoff or discharge, resulting in loss or

1 damage of more than \$25.00 to the employer who would otherwise be
2 chargeable for the benefits, notwithstanding that the original
3 layoff or discharge was under nondisqualifying circumstances.

4 (N) LOST HIS OR HER JOB DUE TO A VIOLATION OF LAW FOR WHICH
5 THE INDIVIDUAL WAS CONVICTED IF THE INDIVIDUAL WORKED UNDER A
6 COLLECTIVE BARGAINING AGREEMENT OR OTHER EMPLOYMENT CONTRACT THAT
7 PROVIDED FOR TERMINATION OF EMPLOYMENT UNDER THOSE CIRCUMSTANCES.

8 (O) LOST HIS OR HER JOB BY REASON OF BEING ABSENT FROM WORK
9 DUE TO A CONVICTION OF HAVING MANUFACTURED, DELIVERED, OR POS-
10 SSESSED WITH INTENT TO MANUFACTURE OR DELIVER A CONTROLLED SUB-
11 STANCE IN VIOLATION OF SECTION 7401 OF THE PUBLIC HEALTH CODE,
12 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.7401 OF
13 THE MICHIGAN COMPILED LAWS. THIS SUBDIVISION APPLIES WHETHER THE
14 OFFENSE OCCURRED ON OR OFF THE WORK PREMISES.

15 (2) A disqualification provided in subsection (1) ~~shall~~
16 ~~begin~~ BEGINS with the week in which the act or discharge
17 occurred ~~which~~ THAT caused the disqualification and ~~shall~~
18 ~~continue~~ CONTINUES until the disqualified individual requalifies
19 under subsection (3). Except with respect to multiemployer
20 credit weeks, the disqualification ~~shall~~ DOES not prevent the
21 payment of benefits if there are credit weeks ~~subsequent to~~
22 AFTER the most recent disqualifying act or discharge.

23 (3) ~~Subsequent to~~ AFTER the week in which the disqualify-
24 ing act or discharge occurred, an individual shall complete 6
25 requalifying weeks if disqualified under subsection (1)(c), (d),
26 (e), (f), ~~or~~ (g), (N), OR (O), or shall complete 13
27 requalifying weeks if disqualified under subsection (1)(h), (j),

1 (l), or (m), for each week in which the individual earns or
2 receives remuneration in an amount at least equal to an amount
3 needed to earn a credit week, as defined in section 50, or would
4 otherwise meet all of the requirements of this act to receive a
5 benefit payment if the individual were not disqualified under
6 subsection (1), or receives a benefit payment based on credit
7 weeks subsequent to the disqualifying act or discharge. An indi-
8 vidual who is disqualified under subsection (1)(a), (b), (i), or
9 (k), ~~shall, subsequent to~~ AFTER the week in which the disquali-
10 fying discharge occurred, SHALL requalify by earning in employ-
11 ment for an employer liable under this act or the unemployment
12 compensation act of another state an amount equal to, or in
13 excess of, 7 times the individual's potential weekly benefit
14 rate, calculated on the basis of employment with the employer
15 involved in the disqualification, or by earning in employment for
16 an employer liable under this act or the unemployment compensa-
17 tion act of another state an amount equal to, or in excess of, 40
18 times the state minimum hourly wage times 7, whichever is the
19 lesser amount. Any benefits ~~which may~~ THAT become payable to
20 an individual disqualified under subsection (1)(a), (b), (i), or
21 (k) shall not be charged to the account of the employer with whom
22 the individual was involved in the disqualification. The bene-
23 fits paid shall be charged to the nonchargeable benefits
24 account.

25 (4) Subject to the conditions provided in this subsection,
26 an individual's maximum amount of benefits otherwise available to
27 the individual — under section 27(d), based on wages and credit

1 weeks earned before an act or discharge with the employer
2 involved ~~therein~~ IN AN ACT as the result of which the individ-
3 ual was disqualified under subsection (1)(c), (d), (e), (f), ~~or~~
4 (g), (N), OR (O), shall be reduced by an amount equal to the
5 individual's weekly benefit rate as to that employer multiplied
6 by the number of requalifying weeks required of the individual
7 under this subsection or multiplied by the number of weeks of
8 benefit entitlement remaining with that employer, whichever is
9 less. The reductions of benefits provided for in this subsection
10 are subject, however, to the following conditions: if the indi-
11 vidual has insufficient or no potential benefit entitlement
12 remaining with that employer in the benefit year in existence on
13 the date of the disqualifying determination, the reduction shall
14 ~~be applicable~~ APPLY in a succeeding benefit year with respect
15 to any benefit entitlement based upon credit weeks earned with
16 the employer involved in the disqualification before the disqual-
17 ifying act or discharge.

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

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

25 For purposes of this subsection, the denial or reduction of
26 benefits ~~shall~~ DOES not apply to benefits based upon
27 multiemployer credit weeks.

1 (5) If an individual leaves work to accept permanent
2 full-time work with another employer ~~—~~ and performs services
3 for that employer, or LEAVES WORK to accept a recall from a
4 former employer, the disqualification provisions of subsection
5 (1) ~~shall~~ DO not apply to that leaving. ~~—, but~~ HOWEVER, the
6 wages earned with the employer ~~that~~ WHOM the individual last
7 left, including wages previously transferred under this
8 ~~provision~~ SUBSECTION to the last employer, ~~shall,~~ for the
9 purpose of computing and charging benefits, ~~be~~ ARE considered
10 wages earned from the employer with whom the individual accepted
11 work or recall, and benefits paid based upon those wages shall be
12 charged to that employer. When issuing a determination covering
13 that period of employment, the commission shall advise the
14 chargeable employer of the name and address of the other employ-
15 er, the period covered by the employment, and the extent of the
16 benefits ~~which~~ THAT may be charged to the account of the
17 chargeable employer.

18 (6) In determining whether or not work is suitable for an
19 individual, the commission shall consider the degree of risk
20 involved to the individual's health, safety, and morals, the
21 individual's physical fitness and prior training, the
22 individual's experience and prior earnings, the individual's
23 length of unemployment and prospects for securing local work in
24 the individual's customary occupation, and the distance of the
25 available work from the individual's residence.

26 (7) Work ~~shall~~ IS not ~~be~~ considered suitable and
27 benefits shall not be denied under this act to an otherwise

1 eligible individual for refusing to accept new work under any of
2 the following conditions:

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

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

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

12 (8) An individual ~~shall be~~ IS disqualified for benefits
13 for a week in which the individual's total or partial unemploy-
14 ment is due to a labor dispute in active progress ~~—~~ or to shut-
15 down or start-up operations caused by that labor dispute ~~—~~ in
16 the establishment in which the individual is or was last
17 employed, or to a labor dispute, other than a lockout, in active
18 progress ~~—~~ or to shutdown or start-up operations caused by that
19 labor dispute ~~—~~ in any other establishment within the United
20 States which is functionally integrated with the establishment
21 and is operated by the same employing unit. An individual's dis-
22 qualification imposed or imposable under this subsection ~~shall~~
23 ~~be~~ IS terminated by the individual's performing services in
24 employment with an employer in at least 2 consecutive weeks fall-
25 ing wholly within the period of the individual's total or partial
26 unemployment due to the labor dispute, and in addition by earning
27 wages in each of those weeks in an amount equal to or in excess

1 of the individual's actual or potential weekly benefit rate with
2 respect to those weeks based on the individual's employment with
3 the employer involved in the labor dispute. An individual
4 ~~shall~~ IS not ~~be~~ disqualified under this subsection if the
5 individual is not directly involved in the dispute.

6 (a) For ~~the~~ purposes of this subsection, an individual
7 ~~shall~~ IS not ~~be~~ considered to be directly involved in a labor
8 dispute unless it is established that any of the following
9 occurred:

10 (i) At the time or in the course of a labor dispute in the
11 establishment in which the individual, was then employed, the
12 individual in concert with 1 or more other employees, voluntarily
13 stopped working other than at the direction of the individual's
14 employing unit.

15 (ii) The individual is participating in, ~~or~~ financing, or
16 directly interested in the labor dispute ~~which~~ THAT causes the
17 individual's total or partial unemployment. The payment of regu-
18 lar union dues, in amounts and for purposes established before
19 the inception of the labor dispute, shall not be construed as
20 financing a labor dispute within the meaning of this
21 subparagraph.

22 (iii) At any time when there ~~is~~ WAS not a labor dispute in
23 the establishment or department in which the individual was
24 employed, the individual voluntarily stopped working, other than
25 at the direction of the individual's employing unit, in sympathy
26 with employees in some other establishment or department in which
27 a labor dispute was then in progress.

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

5 (b) ~~"Directly interested", as~~ AS used in this subsection,
6 "DIRECTLY INTERESTED" shall be construed ~~and applied~~ so as not
7 to disqualify individuals unemployed as a result of a labor dis-
8 pute the resolution of which may not reasonably be expected to
9 affect their wages, hours, or other conditions of employment, and
10 to disqualify individuals whose wages, hours, or OTHER conditions
11 of employment may reasonably be expected to be affected by the
12 resolution of the labor dispute. A "reasonable expectation" of
13 an effect on an individual's wages, hours, or other conditions of
14 employment ~~shall be~~ IS considered to exist, in the absence of A
15 substantial ~~preponderating~~ PREPONDERANCE OF evidence to the
16 contrary, in any of the following situations:

17 (i) If it is established that there is in the particular
18 establishment or employing unit a practice, ~~or~~ custom, or con-
19 tractual obligation to extend within a reasonable period to mem-
20 bers of the individual's grade or class of workers in the estab-
21 lishment in which the individual is or was last employed changes
22 in terms and conditions of employment ~~which~~ THAT are substan-
23 tially similar or related to some or all of the changes in terms
24 and conditions of employment ~~which~~ THAT are made for the work-
25 ers among whom there exists the labor dispute ~~which~~ THAT has
26 caused the individual's total or partial unemployment.

1 (ii) If it is established that 1 of the issues in or
2 purposes of the labor dispute is to obtain a change in the terms
3 and conditions of employment for members of the individual's
4 grade or class of workers in the establishment in which the indi-
5 vidual is or was last employed.

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

13 (c) In determining the scope of the grade or class of work-
14 ers evidence submitted to show ANY OF the following ~~shall be~~ IS
15 relevant:

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

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

21 (iii) Whether the workers are, or have within the past 6
22 months been, covered by a common master collective bargaining
23 agreement ~~which~~ THAT sets forth all or any part of their terms
24 and conditions of employment, or by separate agreements ~~which~~
25 THAT are or have been bargained as a part of the same
26 negotiations.

1 (iv) Any functional integration of the work performed by
2 those workers.

3 (v) Whether the resolution of issues of the type involved in
4 the labor dispute, as to some of the workers, could directly or
5 indirectly affect the advancement, negotiation, or settlement of
6 the same or similar issues in respect to the remaining workers.

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

11 (vii) Whether issues on the same subject matter as those
12 involved in the labor dispute have been the subject of proposals
13 or demands made upon the employing unit ~~which~~ THAT would by
14 their terms have applied to those workers.

15 (9) An individual ~~shall be~~ IS disqualified for benefits
16 for the duration of the individual's disciplinary layoff or sus-
17 pension in all cases in which the individual becomes unemployed
18 because of a disciplinary layoff or suspension based upon miscon-
19 duct directly or indirectly connected with work, ~~or~~ for partic-
20 ipation in a strike or other concerted ~~action~~ ACTIVITY result-
21 ing in a curtailment of work or restriction of or interference
22 with production contrary to ~~the provisions of~~ an applicable
23 collective bargaining agreement, ~~—~~ or FOR participation in a
24 wildcat strike or other concerted ~~action~~ ACTIVITY not autho-
25 rized by the individual's recognized bargaining representative.
26 This subsection applies only if the individual is not subject to
27 disqualification under subsection (1)(g) or if a disqualifying

1 discharge under subsection (1)(b) is determined or redetermined
2 to be a disciplinary layoff or suspension. If a disqualifying
3 discharge under subsection (1)(b) is determined or redetermined
4 to be a suspension, the disqualification provided under this sub-
5 section ~~shall apply~~ APPLIES from the date of the discharge.

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

13 (11) An individual ~~shall be~~ IS disqualified for benefits
14 for any week with respect to which or a part of which the indi-
15 vidual has received, ~~or~~ is receiving, or is seeking unemploy-
16 ment benefits under an unemployment compensation law of another
17 state or of the United States. If the appropriate agency of the
18 other state or of the United States finally determines that the
19 individual is not entitled to unemployment benefits, this dis-
20 qualification ~~shall~~ DOES not apply.