

HOUSE BILL No. 6146

September 24, 1992, Introduced by Reps. Bennane, Pitoniak, Yokich, Hertel, Olshove, Murphy, Scott, Ciaramitaro and DeMars 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. AN INDIVIDUAL
12 IS NOT DISQUALIFIED FROM RECEIVING BENEFITS UNDER THIS SUBDIVI-
13 SION IF THE EMPLOYER INVOLVED IN THE LABOR DISPUTE REFUSES TO
14 BARGAIN OR TO BARGAIN IN GOOD FAITH WITH THE INDIVIDUAL'S RECOG-
15 NIZED BARGAINING REPRESENTATIVE.

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

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

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

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

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

1 (m) Committed a theft ~~which~~ THAT occurred ~~subsequent to~~
2 AFTER a notice of layoff or discharge, but ~~prior to~~ BEFORE the
3 effective date of layoff or discharge, resulting in loss or
4 damage of more than \$25.00 to the employer who would otherwise be
5 chargeable for the benefits, notwithstanding that the original
6 layoff or discharge was under nondisqualifying circumstances.

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

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

1 ~~subsequent to~~ AFTER the week in which the disqualifying
2 discharge occurred, SHALL requalify by earning in employment for
3 an employer liable under this act or the unemployment compensa-
4 tion act of another state an amount equal to, or in excess of, 7
5 times the individual's potential weekly benefit rate, calculated
6 on the basis of employment with the employer involved in the dis-
7 qualification, or by earning in employment for an employer liable
8 under this act or the unemployment compensation act of another
9 state an amount equal to, or in excess of, 40 times the state
10 minimum hourly wage times 7, whichever is the lesser amount. Any
11 benefits ~~which may~~ THAT become payable to an individual dis-
12 qualified under subsection (1)(a), (b), (i), or (k) shall not be
13 charged to the account of the employer with whom the individual
14 was involved in the disqualification. The benefits paid shall be
15 charged to the nonchargeable benefits account.

16 (4) Subject to the conditions provided in this subsection,
17 an individual's maximum amount of benefits otherwise available to
18 the individual ~~—~~ under section 27(d), based on wages and credit
19 weeks earned before an act or discharge with the employer
20 involved ~~therein~~ IN AN ACT as the result of which the individ-
21 ual was disqualified under subsection (1)(c), (d), (e), (f), or
22 (g), shall be reduced by an amount equal to the individual's
23 weekly benefit rate as to that employer multiplied by the number
24 of requalifying weeks required of the individual under this sub-
25 section or multiplied by the number of weeks of benefit entitle-
26 ment remaining with that employer, whichever is less. The
27 reductions of benefits provided for in this subsection are

1 subject, however, to the following conditions: if the individual
 2 has insufficient or no potential benefit entitlement remaining
 3 with that employer in the benefit year in existence on the date
 4 of the disqualifying determination, the reduction shall ~~be~~
 5 ~~applicable~~ APPLY in a succeeding benefit year with respect to
 6 any benefit entitlement based upon credit weeks earned with the
 7 employer involved in the disqualification before the disqualify-
 8 ing act or discharge.

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

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

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

19 (5) If an individual leaves work to accept permanent
 20 full-time work with another employer ~~—~~ and performs services
 21 for that employer, or LEAVES WORK to accept a recall from a
 22 former employer, the disqualification provisions of subsection
 23 (1) ~~shall~~ DO not apply to that leaving. ~~—, but~~ HOWEVER, the
 24 wages earned with the employer that the individual last left,
 25 including wages previously transferred under this ~~provision~~
 26 SUBSECTION to the last employer, ~~shall,~~ for the purpose of
 27 computing and charging benefits, ~~be~~ ARE considered wages earned

1 from the employer with whom the individual accepted work or
2 recall, and benefits paid based upon those wages shall be charged
3 to that employer. When issuing a determination covering that
4 period of employment, the commission shall advise the chargeable
5 employer of the name and address of the other employer, the
6 period covered by the employment, and the extent of the benefits
7 ~~which~~ THAT may be charged to the account of the chargeable
8 employer.

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

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

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

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

26 (c) ~~if as~~ AS a condition of being employed, the individual
27 would be required to join a ~~company union~~ LABOR ORGANIZATION or

1 to resign from or refrain from joining a bona fide labor
2 organization.

3 (8) An individual ~~shall be~~ IS disqualified for benefits
4 for a week in which the individual's total or partial unemploy-
5 ment is due to a labor dispute, OTHER THAN A LOCKOUT, in active
6 progress ~~—~~ or to shutdown or start-up operations caused by that
7 labor dispute ~~—~~ in the establishment in which the individual is
8 or was last employed, or to a labor dispute, other than a lock-
9 out, in active progress ~~—~~ or to shutdown or start-up operations
10 caused by that labor dispute ~~—~~ in any other establishment
11 within the United States ~~which~~ THAT is functionally integrated
12 with the establishment and is operated by the same employing
13 unit. An individual's disqualification imposed or imposable
14 under this subsection ~~shall be~~ IS terminated by the
15 individual's performing services in employment with an employer
16 in at least 2 consecutive weeks falling wholly within the period
17 of the individual's total or partial unemployment due to the
18 labor dispute, and in addition by earning wages in each of those
19 weeks in an amount equal to or in excess of the individual's
20 actual or potential weekly benefit rate with respect to those
21 weeks based on the individual's employment with the employer
22 involved in the labor dispute. An individual ~~shall not be~~ IS
23 NOT disqualified FROM RECEIVING BENEFITS under this subsection if
24 THE EMPLOYER INVOLVED IN THE LABOR DISPUTE REFUSES TO BARGAIN OR
25 TO BARGAIN IN GOOD FAITH WITH THE INDIVIDUAL'S RECOGNIZED BAR-
26 GAINING REPRESENTATIVE OR IF the individual is not directly
27 involved in the dispute.

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

5 (i) At the time or in the course of a labor dispute in the
6 establishment in which the individual was then employed, the
7 individual in concert with 1 or more other employees voluntarily
8 stopped working other than at the direction of the individual's
9 employing unit.

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

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

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

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

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

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

1 (iii) If the labor dispute exists at a time when the
2 collective bargaining agreement, which covers the individual's
3 grade or class of workers in the establishment in which the indi-
4 vidual is or was last employed and the workers in another estab-
5 lishment of the same employing unit who are actively participat-
6 ing in the labor dispute, has expired, has been opened by mutual
7 consent or may by its terms be modified, supplemented, or
8 replaced.

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

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

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

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

23 (iv) Any functional integration of the work performed by
24 those workers.

25 (v) Whether the resolution of issues of the type involved in
26 the labor dispute, as to some of the workers, could directly or

1 indirectly affect the advancement, negotiation, or settlement of
2 the same or similar issues in respect to the remaining workers.

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

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

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

1 subsection ~~shall apply~~ APPLIES from the date of the discharge.
2 AN INDIVIDUAL IS NOT DISQUALIFIED FROM RECEIVING BENEFITS UNDER
3 THIS SUBSECTION IF THE EMPLOYER INVOLVED IN THE DISPUTE REFUSES
4 TO BARGAIN OR TO BARGAIN IN GOOD FAITH WITH THE INDIVIDUAL'S REC-
5 OGNIZED BARGAINING REPRESENTATIVE.

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.