



HOUSE BILL No. 4287

February 17, 1993, Introduced by Reps. Brackenridge, McBryde, Voorhees, Stille, Llewellyn, Gnodtke, Dalman, Whyman, Horton, Hill, Galloway, Cropsey, Dobb, DeLange and Middleton 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~~ DOES not ~~be~~
4 ~~disqualifying~~ DISQUALIFY THE INDIVIDUAL.

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

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

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

17 (e) Failed without good cause to accept suitable work when
18 offered ~~the individual,~~ HIM OR HER or to return to ~~the~~
19 ~~individual's~~ HIS OR HER customary self-employment, if any, when
20 directed by the employment 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~~ HE
23 OR SHE was convicted ~~—~~ and sentenced to jail or prison. This
24 subdivision ~~shall~~ DOES not apply if conviction of ~~a person~~ AN
25 INDIVIDUAL results in a sentence to county jail under conditions
26 of day parole as provided in Act No. 60 of the Public Acts of
27 1962, being sections 801.251 to 801.258 of the Michigan Compiled

1 Laws, or when the conviction was for a traffic violation that
2 resulted in an absence of less than 10 consecutive work days from
3 the 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 ~~or~~ 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~~ HIS OR HER recognized bargaining representative.

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

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

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

20 (k) Was discharged for ~~wilful~~ THE WILLFUL destruction of
21 property connected with ~~the individual's~~ HIS OR HER work
22 resulting in A loss or damage of \$25.00 or less.

23 (l) Was discharged for ~~wilful~~ THE WILLFUL destruction of
24 property connected with ~~the individual's~~ HIS OR HER work
25 resulting in A loss or damage of more than \$25.00.

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

1 effective date of THE layoff or discharge, resulting in A loss or
2 damage of more than \$25.00 to the employer who would otherwise be
3 chargeable for the benefits, notwithstanding THE FACT that the
4 original layoff or discharge was under nondisqualifying
5 circumstances.

6 (N) WAS DISCHARGED FOR FAILING A RANDOM DRUG TEST IF ALL OF
7 THE FOLLOWING CONDITIONS ARE MET:

8 (i) THE INDIVIDUAL AGREED ORALLY OR IN WRITING AT THE TIME
9 OF HIRE TO SUBMIT TO THE TESTS AS A CONDITION OF EMPLOYMENT.

10 (ii) THE TEST COMPLIED WITH SCIENTIFICALLY ACCEPTED ANALYTICAL
11 METHODS AND PROCEDURES, AND A POSITIVE TEST RESULT WAS CONFIRMED
12 BY GAS CHROMATOGRAPHY, GAS CHROMATOGRAPHY-MASS SPECTROSCOPY,
13 OR OTHER COMPARABLY RELIABLE ANALYTICAL METHOD.

14 (iii) THE TEST WAS ADMINISTERED IN A NONDISCRIMINATORY
15 MANNER.

16 (iv) THE SAMPLE OF URINE, BLOOD, BREATH, SALIVA, OR HAIR
17 TESTED WAS COLLECTED, STORED, TRANSPORTED, AND TESTED IN A MANNER
18 REASONABLY CALCULATED TO PREVENT A SUBSTITUTION OR INTERFERENCE
19 OF ANY KIND AND TO REASONABLY PRECLUDE THE PROBABILITY OF SAMPLE
20 CONTAMINATION OR ADULTERATION.

21 (v) THE INDIVIDUAL WAS GIVEN AN OPPORTUNITY TO PROVIDE
22 NOTICE TO THE INDIVIDUAL ANALYZING THE SAMPLE OF ANY INFORMATION
23 THAT MAY BE CONSIDERED RELEVANT TO THE TEST, INCLUDING IDENTIFICATION
24 OF CURRENTLY OR RECENTLY USED PRESCRIPTION OR NONPRESCRIPTION
25 DRUGS OR OTHER RELEVANT MEDICAL INFORMATION.

26 (2) A disqualification provided in subsection (1) ~~shall~~
27 ~~begin~~ BEGINS with the week in which the act or discharge

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

7 (3) ~~Subsequent to~~ AFTER the week in which the disqualify-
 8 ing act or discharge occurred, an individual shall complete 6
 9 requalifying weeks if HE OR SHE IS disqualified under subsection
 10 (1)(c), (d), (e), (f), or (g), or shall complete 13 requalifying
 11 weeks if HE OR SHE IS disqualified under subsection (1)(h), (j),
 12 (l), or (m), for each week in which ~~the individual~~ HE OR SHE
 13 earns or receives remuneration in an amount at least equal to an
 14 amount needed to earn a credit week, as defined in section 50, or
 15 would otherwise meet all of the requirements of this act to
 16 receive a benefit payment if ~~the individual~~ HE OR SHE were not
 17 disqualified under subsection (1) ~~—~~ or receives a benefit pay-
 18 ment based on credit weeks ~~subsequent to~~ EARNED AFTER the dis-
 19 qualifying act or discharge. An individual who is disqualified
 20 under subsection (1)(a), (b), (i), or (k), ~~shall, subsequent to~~
 21 AFTER the week in which the disqualifying discharge occurred,
 22 SHALL requalify by earning in employment for an employer liable
 23 under this act or the unemployment compensation act of another
 24 state an amount equal to, or in excess of, 7 times the
 25 individual's potential weekly benefit rate, calculated on the
 26 basis of employment with the employer involved in the
 27 disqualification, or by earning in employment for an employer

1 liable under this act or the unemployment compensation act of
 2 another state an amount equal to, or in excess of, 40 times the
 3 state minimum hourly wage times 7, whichever is the lesser
 4 amount. Any benefits ~~which may~~ THAT become payable to an indi-
 5 vidual disqualified under subsection (1)(a), (b), (i), or (k)
 6 shall not be charged to the account of the employer with whom the
 7 individual was involved in the disqualification. The benefits
 8 paid shall be charged to the nonchargeable benefits account.

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

1 the employer involved in the disqualification before the
2 disqualifying act or discharge.

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

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

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

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

1 ~~which~~ THAT may be charged to the account of the chargeable
2 employer.

3 (6) In determining whether or not work is suitable for an
4 individual, the commission shall consider the degree of risk
5 involved to the individual's health, safety, and morals, AND the
6 individual's physical fitness, ~~and~~ prior training ~~the~~
7 ~~individual's~~ AND experience, ~~and~~ prior earnings, ~~the~~
8 ~~individual's~~ length of unemployment, ~~and~~ prospects for secur-
9 ing local work in ~~the individual's~~ HIS OR HER customary occupa-
10 tion, and the distance of the available work from ~~the~~
11 ~~individual's~~ HIS OR HER residence.

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

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

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

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

25 (8) An individual ~~shall be~~ IS disqualified for benefits
26 for a week in which ~~the individual's~~ HIS OR HER total or
27 partial unemployment is due to a labor dispute, OTHER THAN A

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

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

24 (i) At the time or in the course of a labor dispute in the
25 establishment in which the individual was then employed, the
26 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~~ HIS OR HER total or partial unemployment. The pay-
6 ment of regular union dues, in amounts and for purposes estab-
7 lished before the inception of the labor dispute, shall not be
8 construed as 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~~ HIS OR HER employing unit,
14 in sympathy with employees in some other establishment or depart-
15 ment in which 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 ~~shall be construed and applied so as not to~~ "DIRECTLY
22 INTERESTED" DOES NOT disqualify individuals unemployed as a
23 result of a labor dispute the resolution of which may not reason-
24 ably be expected to affect their wages, hours, or other condi-
25 tions of employment, and ~~to disqualify~~ DISQUALIFIES individuals
26 whose wages, hours, or conditions of employment may reasonably be
27 expected to be affected by the resolution of the labor dispute.

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

6 (i) ~~If it~~ IT is established that there is in the particu-
7 lar establishment or employing unit a practice, ~~or~~ custom, or
8 contractual obligation to extend within a reasonable period to
9 members of the individual's grade or class of workers in the
10 establishment in which the individual is or was last employed
11 changes in terms and conditions of employment ~~which~~ THAT are
12 substantially similar or related to some or all of the changes in
13 terms and conditions of employment ~~which~~ THAT are made for the
14 workers among whom there exists the labor dispute ~~which~~ THAT
15 has caused the individual's total or partial unemployment.

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

21 (iii) If the labor dispute exists at a time when the collec-
22 tive bargaining agreement, ~~which~~ THAT covers the individual's
23 grade or class of workers in the establishment in which the indi-
24 vidual is or was last employed and the workers in another estab-
25 lishment of the same employing unit who are actively participat-
26 ing in the labor dispute, has expired, has been opened by mutual

1 consent, or may by its terms be modified, supplemented, or
2 replaced.

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

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

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

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

17 (iv) Any functional integration of the work performed by
18 those workers.

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

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

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

5 (9) An individual ~~shall be~~ IS disqualified for benefits
 6 for the duration of ~~the individual's~~ HIS OR HER disciplinary
 7 layoff or suspension in all cases in which ~~the individual~~ HE OR
 8 SHE becomes unemployed because of a disciplinary layoff or sus-
 9 pension based upon misconduct directly or indirectly connected
 10 with work, ~~or~~ for participation in a strike or other concerted
 11 ~~action~~ ACTIVITY resulting in a curtailment of work or restric-
 12 tion of or interference with production contrary to ~~the provi-~~
 13 ~~sions of~~ an applicable collective bargaining agreement, ~~—~~ or
 14 FOR participation in a wildcat strike or other concerted ~~action~~
 15 ACTIVITY not authorized by ~~the individual's~~ HIS OR HER recog-
 16 nized bargaining representative. This subsection applies only if
 17 the individual is not subject to disqualification under subsec-
 18 tion (1)(g) or if a disqualifying discharge under subsection
 19 (1)(b) is determined or redetermined to be a disciplinary layoff
 20 or suspension. If a disqualifying discharge under subsection
 21 (1)(b) is determined or redetermined to be a suspension, the dis-
 22 qualification provided under this subsection ~~shall apply~~
 23 APPLIES from the date of the discharge.

24 (10) Notwithstanding subsections (1) to (9), if the employ-
 25 ing unit submits notice to the commission of possible ineligibil-
 26 ity or disqualification beyond the time limits prescribed by
 27 commission rule, the notice ~~shall~~ DOES not form the basis of a

1 determination of ineligibility or disqualification for a claim
2 period compensated before the receipt of the notice by the
3 commission.

4 (11) An individual ~~shall be~~ IS disqualified for benefits
5 for any week with respect to which or a part of which ~~the~~
6 ~~individual~~ HE OR SHE has received, ~~or~~ is receiving, or is
7 seeking unemployment benefits under an unemployment compensation
8 law of another state or of the United States. If the appropriate
9 agency of the other state or of the United States finally deter-
10 mines that the individual is not entitled to unemployment bene-
11 fits, this disqualification ~~shall~~ DOES not apply.