



# HOUSE BILL No. 4765

May 11, 1993, Introduced by Reps. Bankes, McBryde, Dolan, Galloway, Voorhees and Bullard 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:

1 (a) Left work voluntarily without good cause attributable to  
2 the employer or employing unit. However, if the individual has  
3 an established benefit year in effect and, during that benefit  
4 year, has left unsuitable work within 60 days after the beginning  
5 of that work, ~~such~~ THE leaving ~~shall~~ IS not ~~be~~  
6 disqualifying.

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

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

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

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

23 (f) Lost his or her job by reason of being absent from work  
24 as a result of a violation of law for which the individual was  
25 convicted ~~—~~ and sentenced to jail, ~~or~~ prison, A SPECIAL  
26 ALTERNATIVE INCARCERATION FACILITY, COMMUNITY WORK SERVICE, OR  
27 OTHER SENTENCING ALTERNATIVE. This subdivision ~~shall~~ DOES not

1 apply if conviction of a person results in a sentence to county  
2 jail under conditions of day parole as provided in Act No. 60 of  
3 the Public Acts of 1962, being sections 801.251 to 801.258 of the  
4 Michigan Compiled Laws, or when the conviction was for a traffic  
5 violation that resulted in an absence of less than 10 consecutive  
6 work days from the individual's place of employment.

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

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

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

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

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

24 (l) Was discharged for ~~wilful~~ WILLFUL destruction of prop-  
25 erty connected with the individual's work resulting in loss or  
26 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 (N) LOST HIS OR HER JOB DUE TO A VIOLATION OF LAW FOR WHICH  
8 THE INDIVIDUAL WAS CONVICTED IF THE INDIVIDUAL WORKED UNDER A  
9 COLLECTIVE BARGAINING AGREEMENT OR OTHER EMPLOYMENT CONTRACT THAT  
10 PROVIDED FOR TERMINATION OF EMPLOYMENT UNDER THOSE CIRCUMSTANCES.

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

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

26 (3) ~~Subsequent to~~ AFTER the week in which the  
27 disqualifying act or discharge occurred, an individual shall

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

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

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

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

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

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

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

1 the individual's customary occupation, and the distance of the  
2 available work from the individual's residence.

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

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

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

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

16 (8) An individual ~~shall be~~ IS disqualified for benefits  
17 for a week in which the individual's total or partial unemploy-  
18 ment is due to a labor dispute in active progress — or to shut-  
19 down or start-up operations caused by that labor dispute — in  
20 the establishment in which the individual is or was last  
21 employed, or to a labor dispute, other than a lockout, in active  
22 progress — or to shutdown or start-up operations caused by that  
23 labor dispute — in any other establishment within the United  
24 States which is functionally integrated with the establishment  
25 and is operated by the same employing unit. An individual's dis-  
26 qualification imposed or imposable under this subsection ~~shall~~  
27 ~~be~~ IS terminated by the individual's performing services in



1 employment with an employer in at least 2 consecutive weeks  
2 falling wholly within the period of the individual's total or  
3 partial unemployment due to the labor dispute, and in addition by  
4 earning wages in each of those weeks in an amount equal to or in  
5 excess of the individual's actual or potential weekly benefit  
6 rate with respect to those weeks based on the individual's  
7 employment with the employer involved in the labor dispute. An  
8 individual ~~shall~~ IS not ~~be~~ disqualified under this subsection  
9 if the individual is not directly involved in the dispute.

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

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

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

26 (iii) At any time when there ~~is~~ WAS not a labor dispute in  
27 the establishment or department in which the individual was

1 employed, the individual voluntarily stopped working, other than  
2 at the direction of the individual's employing unit, in sympathy  
3 with employees in some other establishment or department in which  
4 a labor dispute was then in progress.

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

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

21 (i) If it is established that there is in the particular  
22 establishment or employing unit a practice, ~~or~~ custom, or con-  
23 tractual obligation to extend within a reasonable period to mem-  
24 bers of the individual's grade or class of workers in the estab-  
25 lishment in which the individual is or was last employed changes  
26 in terms and conditions of employment ~~which~~ THAT are  
27 substantially similar or related to some or all of the changes in

1 terms and conditions of employment ~~which~~ THAT are made for the  
2 workers among whom there exists the labor dispute ~~which~~ THAT  
3 has caused the individual's total or partial unemployment.

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

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

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

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

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

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

1 THAT are or have been bargained as a part of the same  
2 negotiations.

3 (iv) Any functional integration of the work performed by  
4 those workers.

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

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

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

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

1 representative. This subsection applies only if the individual  
2 is not subject to disqualification under subsection (1)(g) or if  
3 a disqualifying discharge under subsection (1)(b) is determined  
4 or redetermined to be a disciplinary layoff or suspension. If a  
5 disqualifying discharge under subsection (1)(b) is determined or  
6 redetermined to be a suspension, the disqualification provided  
7 under this subsection ~~shall apply~~ APPLIES from the date of the  
8 discharge.

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

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