



HOUSE BILL No. 5477

April 19 1994 Introduced by Reps Griffin and LeTarte 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 BY REASON OF BEING ABSENT FROM WORK
8 DUE TO A CONVICTION OF HAVING MANUFACTURED, DELIVERED, OR POS-
9 SSESSED WITH INTENT TO MANUFACTURE OR DELIVER A CONTROLLED SUB-
10 STANCE IN VIOLATION OF SECTION 7401 OF THE PUBLIC HEALTH CODE,
11 ACT NO 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333 7401 OF
12 THE MICHIGAN COMPILED LAWS THIS SUBDIVISION APPLIES WHETHER THE
13 OFFENSE OCCURRED ON OR OFF THE WORK PREMISES

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

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

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

23 (4) Subject to the conditions provided in this subsection,
24 an individual s maximum amount of benefits otherwise available to
25 the individual ~~—~~ under section 27(d), based on wages and credit
26 weeks earned before an act or discharge with the employer
27 involved ~~therein~~ IN AN ACT as the result of which the

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

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

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

23 For purposes of this subsection, the denial or reduction of
 24 benefits ~~shall~~ DOES not apply to benefits based upon multiem-
 25 ployer credit weeks

26 (5) If an individual leaves work to accept permanent
 27 full-time work with another employer ~~—~~ and performs services

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

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

24 (7) Work ~~shall~~ IS not ~~be~~ considered suitable and bene-
25 fits shall not be denied under this act to an otherwise eligible
26 individual for refusing to accept new work under any of the
27 following conditions

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

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

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

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

1 the employer involved in the labor dispute An individual
2 ~~shall~~ IS not ~~be~~ disqualified under this subsection if the
3 individual is not directly involved in the dispute

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

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

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

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

26 (iv) The individual's total or partial unemployment is due
27 to a labor dispute ~~which~~ THAT was or is in progress in a

1 department ~~or~~ unit, or group of workers in the same
2 establishment

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

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

25 (2) If it is established that 1 of the issues in or pur-
26 poses of the labor dispute is to obtain a change in the terms and
27 conditions of employment for members of the individual s grade or

1 class of workers in the establishment in which the individual is
2 or was last employed

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

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

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

16 (11) Whether the workers are included in a single, legally
17 designated, or negotiated bargaining unit

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

24 (1v) Any functional integration of the work performed by
25 those workers

26 (v) Whether the resolution of issues of the type involved in
27 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

1 to be a suspension, the disqualification provided under this
2 subsection ~~shall apply~~ APPLIES from the date of the discharge

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

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