



# HOUSE BILL No. 4100

January 17, 1995, Introduced by Rep. Profit and referred to the Committee on Human Resources and 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. 162 of the Public Acts of 1994, 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. 162 of the  
3 Public Acts of 1994, being section 421.29 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 29. (1) An individual is disqualified for benefits if  
6 he or she:

7 (a) Left work voluntarily without good cause attributable to  
8 the employer or employing unit. However, if the individual has  
9 an established benefit year in effect and, during that benefit

1 year, has left unsuitable work within 60 days after the beginning  
2 of that work, the leaving is not disqualifying.

3 (b) Was discharged for misconduct connected with the  
4 individual's work or for intoxication while at work unless the  
5 discharge was subsequently reduced to a disciplinary layoff or  
6 suspension.

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

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

15 (e) Failed without good cause to accept suitable work when  
16 offered the individual or to return to the individual's customary  
17 self-employment, if any, when directed by the employment office  
18 or the commission.

19 (f) Lost his or her job by reason of being absent from work  
20 as a result of a violation of law for which the individual was  
21 convicted and sentenced to jail or prison. This subdivision does  
22 not apply if conviction of a person results in a sentence to  
23 county jail under conditions of day parole as provided in Act  
24 No. 60 of the Public Acts of 1962, being sections 801.251 to  
25 801.258 of the Michigan Compiled Laws, or when the conviction was  
26 for a traffic violation that resulted in an absence of less than

1 10 consecutive work days from the individual's place of  
2 employment.

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

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

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

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

17 (k) Was discharged for willful destruction of property con-  
18 nected with the individual's work resulting in loss or damage of  
19 \$25.00 or less.

20 (l) Was discharged for willful destruction of property con-  
21 nected with the individual's work resulting in loss or damage of  
22 more than \$25.00.

23 (m) Committed a theft that occurred after a notice of layoff  
24 or discharge, but before the effective date of layoff or dis-  
25 charge, resulting in loss or damage of more than \$25.00 to the  
26 employer who would otherwise be chargeable for the benefits,

1 notwithstanding that the original layoff or discharge was under  
2 nondisqualifying circumstances.

3       (2) A disqualification provided in subsection (1) begins  
4 with the week in which the act or discharge occurred that caused  
5 the disqualification and continues until the disqualified indi-  
6 vidual requalifies under subsection (3), except that for benefit  
7 years beginning before the conversion date prescribed in  
8 section 75, with respect to multiemployer credit weeks, the dis-  
9 qualification does not prevent the payment of benefits if there  
10 are credit weeks after the most recent disqualifying act or  
11 discharge.

12       (3) For benefit years established before the conversion date  
13 prescribed in section 75, after the week in which the disqualify-  
14 ing act or discharge occurred, an individual shall complete 6  
15 requalifying weeks if disqualified under subsection (1)(c), (d),  
16 (e), (f), or (g), or shall complete 13 requalifying weeks if dis-  
17 qualified under subsection (1)(h), (j), (l), or (m), for each  
18 week in which the individual earns or receives remuneration in an  
19 amount at least equal to an amount needed to earn a credit week,  
20 as defined in section 50, or would otherwise meet all of the  
21 requirements of this act to receive a benefit payment if the  
22 individual were not disqualified under subsection (1), or  
23 receives a benefit payment based on credit weeks subsequent to  
24 the disqualifying act or discharge. An individual who is dis-  
25 qualified under subsection (1)(a), (b), (i), or (k), shall, after  
26 the week in which the disqualifying discharge occurred, requalify  
27 by earning in employment for an employer liable under this act or

1 the unemployment compensation act of another state an amount  
2 equal to, or in excess of, 7 times the individual's potential  
3 weekly benefit rate, calculated on the basis of employment with  
4 the employer involved in the disqualification, or by earning in  
5 employment for an employer liable under this act or the unemploy-  
6 ment compensation act of another state an amount equal to, or in  
7 excess of, 40 times the state minimum hourly wage times 7, which-  
8 ever is the lesser amount. Any benefits that become payable to  
9 an individual disqualified under subsection (1)(a), (b), (i), or  
10 (k) shall not be charged to the account of the employer with whom  
11 the individual was involved in the disqualification. The bene-  
12 fits paid shall be charged to the nonchargeable benefits  
13 account. For benefit years beginning after the conversion date  
14 prescribed in section 75, subsequent to the week in which the  
15 disqualifying act or discharge occurred, an individual shall com-  
16 plete 6 requalifying weeks if disqualified under  
17 subsection (1)(c), (d), (e), (f), or (g), or shall complete 13  
18 requalifying weeks if disqualified under subsection (1)(h), (j),  
19 (l), or (m), for each week in which the individual earns or  
20 receives remuneration in an amount equal to at least 1/13 of the  
21 minimum amount needed in a calendar quarter of the base period  
22 for an individual to qualify for benefits, rounded down to the  
23 nearest whole dollar, or would otherwise meet all of the require-  
24 ments of this act to receive a benefit payment if the individual  
25 were not disqualified under subsection (1). An individual who is  
26 disqualified under subsection (1)(a), (b), (i), or (k) shall,  
27 subsequent to the week in which the disqualifying act or

1 discharge occurred, requalify by earning in employment for an  
2 employer liable under this act or the unemployment compensation  
3 law of another state an amount equal to, or in excess of, 7 times  
4 the individual's weekly benefit rate, or by earning in employment  
5 for an employer liable under this act or the unemployment compen-  
6 sation law of another state an amount equal to, or in excess of,  
7 40 times the state minimum hourly wage times 7, whichever is the  
8 lesser amount. Any benefits which may become payable to an indi-  
9 vidual disqualified or separated under disqualifying circum-  
10 stances under subsection (1)(a), (b), (i), or (k) shall not be  
11 charged to the account of the employer with whom the individual  
12 was involved in the separation. Those benefits paid shall be  
13 charged to the nonchargeable benefits account. Benefits payable  
14 to an individual determined by the commission to be separated  
15 under disqualifying circumstances shall not be charged to the  
16 account of the employer involved in the disqualification for any  
17 period after the employer notifies the commission of the  
18 claimant's possible ineligibility or disqualification. If a dis-  
19 qualifying act or discharge occurs during the individual's bene-  
20 fit year, any benefits that may become payable to the individual  
21 in a later benefit year based on employment with the employer  
22 involved in the disqualification shall be charged to the non-  
23 chargeable benefits account.

24 (4) For benefit years established before the conversion date  
25 prescribed in section 75, and subject to the conditions provided  
26 in this subsection, an individual's maximum amount of benefits  
27 otherwise available to the individual under section 27(d), based

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

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

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

24 For purposes of this subsection, the denial or reduction of  
25 benefits does not apply to benefits based upon multiemployer  
26 credit weeks.

1 For benefit years established after the conversion date  
2 prescribed in section 75, and subject to the conditions provided  
3 in this subsection, if an individual is disqualified under  
4 subsection (1)(c), (d), (e), (f), or (g), the individual's maxi-  
5 mum number of weeks otherwise payable to the individual under  
6 section 27(d), shall be reduced by the number of requalifying  
7 weeks required of the individual under this subsection, or by the  
8 number of weeks of benefit entitlement remaining on the claim,  
9 whichever is less. The benefits of an individual disqualified  
10 under subsection (1)(h), (j), (l), or (m) shall be reduced by 13  
11 weeks and any weekly benefit payments made to the claimant there-  
12 after shall be reduced by the portion of the payment attributable  
13 to base period wages paid by the base period employer involved in  
14 a disqualification under subsection (1)(h), (j), (l), or (m).

15 (5) If an individual leaves work to accept permanent  
16 full-time work with another employer and performs services for  
17 that employer, or leaves work to accept a recall from a former  
18 employer, the disqualification provisions of subsection (1) do  
19 not apply to that leaving. However, the wages earned with the  
20 employer whom the individual last left, including wages previ-  
21 ously transferred under this subsection to the last employer, for  
22 the purpose of computing and charging benefits, are considered  
23 wages earned from the employer with whom the individual accepted  
24 work or recall, and benefits paid based upon those wages shall be  
25 charged to that employer. When issuing a determination covering  
26 that period of employment, the commission shall advise the  
27 chargeable employer of the name and address of the other



1 employer, the period covered by the employment, and the extent of  
2 the benefits that may be charged to the account of the chargeable  
3 employer.

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

12       (7) Work is not considered suitable and benefits shall not  
13 be denied under this act to an otherwise eligible individual for  
14 refusing to accept new work under any of the following  
15 conditions:

16       (a) The position offered is vacant due directly to a strike,  
17 lockout, or other labor dispute.

18       (b) The remuneration, hours, or other conditions of the work  
19 offered are substantially less favorable to the individual than  
20 those prevailing for similar work in the locality.

21       (c) As a condition of being employed, the individual would  
22 be required to join a company union or to resign from or refrain  
23 from joining a bona fide labor organization.

24       (8) An individual is disqualified for benefits for a week in  
25 which the individual's total or partial unemployment is due to a  
26 labor dispute in active progress, OTHER THAN A LOCKOUT, or to  
27 shutdown or start-up operations caused by that labor dispute, in

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

18 (a) For purposes of this subsection, an individual is not  
19 considered to be directly involved in a labor dispute unless it  
20 is established that any of the following occurred:

21 (i) At the time or in the course of a labor dispute in the  
22 establishment in which the individual was then employed, the  
23 individual in concert with 1 or more other employees voluntarily  
24 stopped working other than at the direction of the individual's  
25 employing unit.

26 (ii) The individual is participating in, financing, or  
27 directly interested in the labor dispute that causes the

1 individual's total or partial unemployment. The payment of  
2 regular union dues, in amounts and for purposes established  
3 before the inception of the labor dispute, shall not be construed  
4 as financing a labor dispute within the meaning of this  
5 subparagraph.

6 (iii) At any time when there was not a labor dispute in the  
7 establishment or department in which the individual was employed,  
8 the individual voluntarily stopped working, other than at the  
9 direction of the individual's employing unit, in sympathy with  
10 employees in some other establishment or department in which a  
11 labor dispute was then in progress.

12 (iv) The individual's total or partial unemployment is due  
13 to a labor dispute that was or is in progress in a department,  
14 unit, or group of workers in the same establishment.

15 (b) As used in this subsection, "directly interested" shall  
16 be construed ~~and applied~~ so as not to disqualify individuals  
17 unemployed as a result of a labor dispute the resolution of which  
18 may not reasonably be expected to affect their wages, hours, or  
19 other conditions of employment, and to disqualify individuals  
20 whose wages, hours, or conditions of employment may reasonably be  
21 expected to be affected by the resolution of the labor dispute.  
22 A "reasonable expectation" of an effect on an individual's wages,  
23 hours, or other conditions of employment is considered to exist,  
24 in the absence of a substantial preponderance of evidence to the  
25 contrary, in any of the following situations:

26 (i) If it is established that there is in the particular  
27 establishment or employing unit a practice, custom, or

1 contractual obligation to extend within a reasonable period to  
2 members of the individual's grade or class of workers in the  
3 establishment in which the individual is or was last employed  
4 changes in terms and conditions of employment that are substan-  
5 tially similar or related to some or all of the changes in terms  
6 and conditions of employment that are made for the workers among  
7 whom there exists the labor dispute that has caused the  
8 individual's total or partial unemployment.

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

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

21       (c) In determining the scope of the grade or class of work-  
22 ers evidence submitted to show any of the following is relevant:

23       (i) Representation of the workers by the same national or  
24 international organization or by local affiliates of that  
25 national or international organization.

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

1       (iii) Whether the workers are, or have within the past 6  
2 months been, covered by a common master collective bargaining  
3 agreement that sets forth all or any part of their terms and con-  
4 ditions of employment, or by separate agreements that are or have  
5 been bargained as a part of the same negotiations.

6       (iv) Any functional integration of the work performed by  
7 those workers.

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

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

16       (vii) Whether issues on the same subject matter as those  
17 involved in the labor dispute have been the subject of proposals  
18 or demands made upon the employing unit that would by their terms  
19 have applied to those workers.

20       (9) An individual is disqualified for benefits for the dura-  
21 tion of the individual's disciplinary layoff or suspension in all  
22 cases in which the individual becomes unemployed because of a  
23 disciplinary layoff or suspension based upon misconduct directly  
24 or indirectly connected with work, for participation in a strike  
25 or other concerted activity resulting in a curtailment of work or  
26 restriction of or interference with production contrary to an  
27 applicable collective bargaining agreement, or for participation

1 in a wildcat strike or other concerted activity not authorized by  
2 the individual's recognized bargaining representative. This sub-  
3 section applies only if the individual is not subject to disqual-  
4 ification under subsection (1)(g) or if a disqualifying discharge  
5 under subsection (1)(b) is determined or redetermined to be a  
6 disciplinary layoff or suspension. If a disqualifying discharge  
7 under subsection (1)(b) is determined or redetermined to be a  
8 suspension, the disqualification provided under this subsection  
9 applies from the date of the discharge.

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

16 (11) An individual is disqualified for benefits for any week  
17 with respect to which or a part of which the individual has  
18 received, is receiving, or is seeking unemployment benefits under  
19 an unemployment compensation law of another state or of the  
20 United States. If the appropriate agency of the other state or  
21 of the United States finally determines that the individual is  
22 not entitled to unemployment benefits, this disqualification does  
23 not apply.