



HOUSE BILL No. 5233

October 11, 1995, Introduced by Reps. Bennane, Pitoniak, Anthony, DeMars, Stallworth, Hanley, Cherry, Martinez, Baird and DeHart 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. AN INDIVIDUAL IS NOT DISQUALIFIED FROM RECEIVING
11 BENEFITS UNDER THIS SUBDIVISION IF THE EMPLOYER INVOLVED IN THE
12 LABOR DISPUTE REFUSES TO BARGAIN OR TO BARGAIN IN GOOD FAITH WITH
13 THE INDIVIDUAL'S RECOGNIZED BARGAINING REPRESENTATIVE.

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

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

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

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

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

26 (m) Committed a theft that occurred after a notice of layoff
27 or discharge, but before the effective date of layoff or

1 discharge, resulting in loss or damage of more than \$25.00 to the
2 employer who would otherwise be chargeable for the benefits, not-
3 withstanding that the original layoff or discharge was under non-
4 disqualifying circumstances.

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

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

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

26 (4) For benefit years established before the conversion date
27 prescribed in section 75, and subject to the conditions provided

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

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

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

1 For purposes of this subsection, the denial or reduction of
2 benefits does not apply to benefits based upon multiemployer
3 credit weeks.

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

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

1 charged to that employer. When issuing a determination covering
2 that period of employment, the commission shall advise the
3 chargeable employer of the name and address of the other employ-
4 er, the period covered by the employment, and the extent of the
5 benefits that may be charged to the account of the chargeable
6 employer.

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

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

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

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

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

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

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

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

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

13 (iii) At any time when there was not a labor dispute in the
14 establishment or department in which the individual was employed,
15 the individual voluntarily stopped working, other than at the
16 direction of the individual's employing unit, in sympathy with
17 employees in some other establishment or department in which a
18 labor dispute was then in progress.

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

22 (b) As used in this subsection, "directly interested" shall
23 be construed ~~and applied~~ so as not to disqualify individuals
24 unemployed as a result of a labor dispute the resolution of which
25 may not reasonably be expected to affect their wages, hours, or
26 other conditions of employment, and to disqualify individuals
27 whose wages, hours, or conditions of employment may reasonably be

1 expected to be affected by the resolution of the labor dispute.
2 A "reasonable expectation" of an effect on an individual's wages,
3 hours, or other conditions of employment is considered to exist,
4 in the absence of a substantial preponderance of evidence to the
5 contrary, in any of the following situations:

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

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

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

1 (c) In determining the scope of the grade or class of
2 workers evidence submitted to show any of the following is
3 relevant:

4 (i) Representation of the workers by the same national or
5 international organization or by local affiliates of that
6 national or international organization.

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

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

14 (iv) Any functional integration of the work performed by
15 those workers.

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

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

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

1 (9) An individual is disqualified for benefits for the
2 duration of the individual's disciplinary layoff or suspension in
3 all cases in which the individual becomes unemployed because of a
4 disciplinary layoff or suspension based upon misconduct directly
5 or indirectly connected with work, for participation in a strike
6 or other concerted activity resulting in a curtailment of work or
7 restriction of or interference with production contrary to an
8 applicable collective bargaining agreement, or for participation
9 in a wildcat strike or other concerted activity not authorized by
10 the individual's recognized bargaining representative. This sub-
11 section applies only if the individual is not subject to disqual-
12 ification under subsection (1)(g) or if a disqualifying discharge
13 under subsection (1)(b) is determined or redetermined to be a
14 disciplinary layoff or suspension. If a disqualifying discharge
15 under subsection (1)(b) is determined or redetermined to be a
16 suspension, the disqualification provided under this subsection
17 applies from the date of the discharge.

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

24 (11) An individual is disqualified for benefits for any week
25 with respect to which or a part of which the individual has
26 received, is receiving, or is seeking unemployment benefits under
27 an unemployment compensation law of another state or of the

1 United States. If the appropriate agency of the other state or
2 of the United States finally determines that the individual is
3 not entitled to unemployment benefits, this disqualification does
4 not apply.