



HOUSE BILL No. 6102

September 19, 1996, Introduced by Rep. Profit and referred to the Committee on Human Resources and Labor.

A bill to amend section 46 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. 25 of the Public Acts of 1995, being section 421.46 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 46 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 25 of the Public
3 Acts of 1995, being section 421.46 of the Michigan Compiled Laws,
4 is amended to read as follows:

5 Sec. 46. (a) Subject to subsections (d) through ~~(g)~~ (H),
6 for benefit years beginning before the conversion date prescribed
7 in section 75, "benefit year" means the period of 52 consecutive
8 calendar weeks beginning the first calendar week in which an

1 individual files a claim in accordance with section 32 and meets
2 all of the following conditions:

3 (1) The individual has earned 20 credit weeks in the 52 con-
4 secutive calendar weeks before the week he or she files the claim
5 for benefits.

6 (2) The individual is unemployed and meets all requirements
7 of section 28 for the week for which he or she files a claim for
8 benefits.

9 (3) Except for a disqualification under section ~~29(8)~~
10 29(8) involving a labor dispute during the individual's most
11 recent period of employment with the most recent employer with
12 whom the individual earned a credit week, the individual is not
13 disqualified or subject to disqualification for the week for
14 which he or she files a claim.

15 (4) The individual does not have a benefit year already in
16 effect at the time of the claim.

17 (b) For benefit years beginning after the conversion date
18 prescribed in section 75, "benefit year" means the period of 52
19 consecutive calendar weeks beginning the first calendar week in
20 which an individual files a claim in accordance with section 32.
21 However, a benefit year shall not be established unless the indi-
22 vidual meets either of the following conditions: (1) the total
23 wages paid to the individual in the base period of the claim
24 equals not less than 1.5 times the wages paid to the individual
25 in the calendar quarter of the base period in which the individ-
26 ual was paid the highest wages, or (2) the individual was paid
27 wages in 2 or more calendar quarters of the base period totaling

1 at least 20 times the state average weekly wage as determined by
2 the commission.

3 (c) For benefit years beginning after the conversion date
4 prescribed in section 75, the state average weekly wage for a
5 calendar year shall be computed on the basis of the 12 months
6 ending the June 30 preceding that calendar year. A benefit year
7 shall not be established if the individual was not paid wages of
8 at least the state minimum hourly wage multiplied by 388.06
9 rounded down to the nearest dollar in at least 1 calendar quarter
10 of the base period. A benefit year shall not be established
11 based on base period wages previously used to establish a benefit
12 year that resulted in the payment of benefits. However, if a
13 calendar quarter of the base period contains wages that were pre-
14 viously used to establish a benefit year that resulted in the
15 payment of benefits, a claimant may establish a benefit year
16 using the wages in the remaining calendar quarters from among the
17 first 4 of the last 5 completed calendar quarters, or if a bene-
18 fit year cannot be established using those quarters, then by
19 using wages from among the last 4 completed calendar quarters. A
20 benefit year shall not be established unless, after the beginning
21 of the immediately preceding benefit year during which the indi-
22 vidual received benefits, the individual worked and received
23 remuneration in an amount equal to at least 5 times the
24 individual's most recent state weekly benefit rate in effect
25 during the individual's immediately preceding benefit year. If a
26 quarterly wage report has not been submitted in a timely manner
27 by the employer as provided in section 13 for any of the quarters

1 of the base period, or if wage information is not available for
2 use by the commission for the most recent completed calendar
3 quarter, the commission may obtain and use the claimant's state-
4 ment of wages paid during the calendar quarters for which the
5 wage reports are missing to establish a benefit year. A determi-
6 nation based on the claimant's statement of wages paid during any
7 of these calendar quarters shall be redetermined if the quarterly
8 wage report from the employer is later received and would result
9 in a change in the claimant's weekly benefit amount or duration,
10 or both, or if the quarterly wage report from the employer later
11 becomes available for use by the commission and would result in a
12 change in the claimant's benefit amount or duration, or both. If
13 the redetermination results from the employer's failure to submit
14 the quarterly wage report in a timely manner, the redetermination
15 shall be effective as to benefits payable for weeks beginning
16 after the receipt of information not previously submitted by the
17 employer.

18 (d) If an individual files a claim for a 7-day period under
19 section 27(c), his or her benefit year begins the calendar week
20 containing the first day of that 7-day period.

21 (e) If all or part of a claimant's right to benefits during
22 his or her benefit year is canceled under section 62(b), the ben-
23 efit year is terminated on the effective date of the
24 cancellation.

25 (f) An individual may request a redetermination of his or
26 her benefit rights and cancellation of a previously established
27 benefit year if he or she has not completed a compensable

1 period. Under circumstances described in this subsection, the
 2 benefit year begins the first day of the first week in which the
 3 request for redetermination of benefit rights is duly filed.

4 (g) ~~Notwithstanding subsection (a), for services performed~~
 5 ~~on or after January 2, 1983, and with respect to~~ FOR benefit
 6 years established before OR AFTER the conversion date prescribed
 7 in section 75, an individual ~~shall~~ IS not ~~be~~ entitled to
 8 establish a benefit year based in whole or in part on credit
 9 weeks for ~~service~~ EITHER OF THE FOLLOWING:

10 (1) SERVICES AS AN ELECTION OFFICIAL OR ELECTION WORKER, IF
 11 REMUNERATION FOR THOSE SERVICES IS OR IS REASONABLY EXPECTED TO
 12 BE LESS THAN \$1,000.00 IN A CALENDAR YEAR, AND IF THE EXCLUSION
 13 FROM BENEFIT ELIGIBILITY DESCRIBED IN THIS SUBDIVISION IS NOT
 14 PROHIBITED BY FEDERAL LAW.

15 (2) SERVICES in the employ of an employing unit, not other-
 16 wise excluded under section 43(g), in which more than 50% of the
 17 proprietary interest IN THAT EMPLOYING UNIT is owned by ~~the~~ ANY
 18 OF THE FOLLOWING, UNLESS BOTH THE INDIVIDUAL AND THE EMPLOYER
 19 NOTIFY THE COMMISSION, IN RESPONSE TO THE COMMISSION'S REQUEST
 20 FOR INFORMATION, OF THE INDIVIDUAL'S RELATIONSHIP TO THE OWNERS
 21 OF THE PROPRIETARY INTEREST IN THE EMPLOYING UNIT:

22 (A) THE individual or his or her son, daughter, or spouse.
 23 ~~, or any~~

24 (B) A combination of ~~these~~ individuals ~~, or in which more~~
 25 ~~than 50% of the proprietary interest is owned by the mother or~~
 26 ~~father of a child~~ DESCRIBED IN SUBPARAGRAPH (A).

1 (C) IF THE INDIVIDUAL IS under the age of 18, ~~OR~~ THE
2 INDIVIDUAL'S mother, ~~and~~ father, OR BOTH PARENTS JOINTLY.
3 ~~combined, unless both the individual and the employer notify the~~
4 ~~commission, in response to the commission's request for informa-~~
5 ~~tion, of the individual's relationship to the owners of the pro-~~
6 ~~prietary interest in the employing unit. Upon timely notifica-~~
7 ~~tion to the commission, a benefit year may be established for the~~
8 ~~individual, if the individual meets all of the following~~
9 ~~conditions: (1) has earned 20 credit weeks in the 52 consecutive~~
10 ~~calendar weeks preceding the week with respect to which the indi-~~
11 ~~vidual filed an application for benefits; (2) with respect to the~~
12 ~~week for which the individual is filing an application for bene-~~
13 ~~fits is unemployed, and meets all of the other requirements of~~
14 ~~section 28; (3) with respect to the week for which the individual~~
15 ~~is filing an application for benefits the individual is not dis-~~
16 ~~qualified nor subject to disqualification, except in case of a~~
17 ~~labor dispute under section 29(8), with respect to the most~~
18 ~~recent period of employment with the most recent employer with~~
19 ~~whom the individual earned a credit week. If an individual files~~
20 ~~an application for a 7 day period as provided in section 27(c),~~
21 ~~the benefit year with respect to the individual shall begin with~~
22 ~~the calendar week which contains the first day of that 7 day~~
23 ~~period.~~

24 (h) ~~For benefit years established on or after July 1, 1983,~~
25 ~~not more than 10 credit weeks based on services shall be used to~~
26 ~~pay benefits.~~ For the purpose of calculating the individual's
27 average weekly wage, all base period wages and credit weeks shall

1 be used. ~~With respect to benefit years beginning after the~~
2 ~~conversion date prescribed in section 75, and notwithstanding~~
3 ~~subsection (a), an individual shall not be entitled to establish~~
4 ~~a benefit year based in whole or in part on wages earned in serv-~~
5 ~~ice, not otherwise excluded under section 43(g), in the employ of~~
6 ~~an employing unit in which more than 50% of the proprietary~~
7 ~~interest is owned by the individual or his or her son, daughter,~~
8 ~~spouse, or any combination of these individuals, or in which more~~
9 ~~than 50% of the proprietary interest is owned by the mother or~~
10 ~~father of a child under the age of 18, or mother and father com-~~
11 ~~bined, unless both the individual and the employer notify the~~
12 ~~commission, in response to the commission's request for informa-~~
13 ~~tion, of the individual's relationship to the owners of the pro-~~
14 ~~prietary interest in the employing unit. Upon timely notifica-~~
15 ~~tion to the commission, a benefit year may be established for the~~
16 ~~individual if the individual meets the requirements of~~
17 ~~subsection (a). If wages in an individual's base period were~~
18 ~~earned in service in the employ of such an employing unit,~~
19 ~~DESCRIBED IN SUBSECTION (G)(2), the individual's weekly benefit~~
20 ~~rate shall be calculated in accordance with section 27(b)(1).~~
21 ~~but the portion of the benefit rate attributable to this service~~
22 ~~shall be payable for not more than 7 weeks. The weekly benefit~~
23 ~~payment shall be reduced thereafter by the percentage of charge~~
24 ~~attributable to service with this employer, in accordance with~~
25 ~~section 20.~~