

# HOUSE BILL No. 6169

June 5, 2002, Introduced by Rep. Scranton and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 46 (MCL 421.46), as amended by 1995 PA 25.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 46. (a) Subject to subsections (d) through (g), for  
2   benefit years beginning before the conversion date prescribed in  
3   section 75, "benefit year" means the period of 52 consecutive  
4   calendar weeks beginning the first calendar week ~~in which~~ an  
5   individual files a claim in accordance with section 32 and meets  
6   all of the following conditions:

7       (1) The individual has earned 20 credit weeks in the 52 con-  
8   secutive calendar weeks before the week ~~he or she~~ THE  
9   INDIVIDUAL files ~~the~~ A claim for benefits.

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

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

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

(b) For benefit years beginning after the conversion date prescribed in section 75, "benefit year" means the period of 52 consecutive calendar weeks beginning the first calendar week ~~in which~~ THAT an individual files a claim in accordance with section 32. However, a benefit year ~~shall not be~~ IS NOT established unless the individual meets either of the following conditions: (1) the total wages paid to the individual in the base period of the claim equals not less than 1.5 times the wages paid to the individual in the calendar quarter of the base period in which the individual was paid the highest wages, or (2) the individual was paid wages in 2 or more calendar quarters of the base period totaling at least 20 times the state average weekly wage as determined by the commission.

(c) For benefit years beginning after the conversion date prescribed in section 75, the state average weekly wage for a calendar year ~~shall be~~ IS computed on the basis of the 12

1 months ending the June 30 preceding that calendar year. A  
2 benefit year ~~shall not be~~ IS NOT established if the individual  
3 was not paid wages of at least the state minimum hourly wage  
4 multiplied by 388.06 rounded down to the nearest dollar in at  
5 least 1 calendar quarter of the base period. A benefit year  
6 ~~shall not be~~ IS NOT established based on base period wages pre-  
7 viously used to establish a benefit year that resulted in the  
8 payment of benefits. However, if a calendar quarter of the base  
9 period contains wages that were previously used to establish a  
10 benefit year that resulted in the payment of benefits, a claimant  
11 may establish a benefit year using the wages in the remaining  
12 calendar quarters from ~~among~~ the first 4 of the last 5 com-  
13 pleted calendar quarters, or if a benefit year cannot be estab-  
14 lished using those quarters, then by using wages from ~~among~~ the  
15 last 4 completed calendar quarters. A benefit year ~~shall not~~  
16 ~~be~~ IS NOT established unless, after the beginning of the immedi-  
17 ately preceding benefit year during which the individual received  
18 benefits, the individual worked and received remuneration in an  
19 amount equal to at least 5 times the individual's most recent  
20 state weekly benefit rate in effect during the individual's imme-  
21 diately preceding benefit year. If a quarterly wage report has  
22 not been submitted in a timely manner by the employer as provided  
23 in section 13 for any of the quarters of the base period, or if  
24 wage information is not available for use by the commission for  
25 the most recent completed calendar quarter, the commission may  
26 obtain and use the claimant's statement of wages paid during the  
27 calendar quarters for which the wage reports are missing to

1 establish a benefit year. A determination based on the  
2 claimant's statement of wages paid during any of these calendar  
3 quarters shall be redetermined if the quarterly wage report from  
4 the employer is later received and would result in a change in  
5 the claimant's weekly benefit amount or duration, or both, or if  
6 the quarterly wage report from the employer later becomes avail-  
7 able for use by the commission and would result in a change in  
8 the claimant's benefit amount or duration, or both. If the rede-  
9 termination results from the employer's failure to submit the  
10 quarterly wage report in a timely manner, the redetermination  
11 shall be effective as to benefits payable for weeks beginning  
12 after the receipt of information not previously submitted by the  
13 employer.

14 (d) If an individual files a claim for a 7-day period under  
15 section 27(c), ~~his or her~~ THE INDIVIDUAL'S benefit year begins  
16 the calendar week containing the first day of that 7-day period.

17 (e) If all or part of a claimant's right to benefits during  
18 ~~his or her~~ THE CLAIMANT'S benefit year is canceled under sec-  
19 tion 62(b), the benefit year is terminated on the effective date  
20 of the cancellation.

21 (f) An individual may request a redetermination of ~~his or~~  
22 ~~her~~ benefit rights and cancellation of a previously established  
23 benefit year if ~~he or she~~ THE INDIVIDUAL has not completed a  
24 compensable period. Under circumstances described in this sub-  
25 section, the benefit year begins the first day of the first week  
26 in which the request for redetermination of benefit rights is  
27 ~~duly~~ filed.

1 (g) Notwithstanding subsection (a), for services performed  
2 on or after January 2, 1983, and with respect to benefit years  
3 established before the conversion date prescribed in section 75,  
4 an individual ~~shall not be~~ IS NOT entitled to establish a bene-  
5 fit year based in whole or in part on credit weeks for service in  
6 the employ of an employing unit, not otherwise excluded under  
7 section 43(g), in which more than 50% of the proprietary interest  
8 is owned by the individual or his or her son, daughter, or  
9 spouse, or any combination of these individuals, or in which more  
10 than 50% of the proprietary interest is owned by the mother or  
11 father of a child under the age of 18, or mother and father com-  
12 bined, unless both the individual and the employer notify the  
13 commission ~~—~~ OF THE INDIVIDUAL'S RELATIONSHIP TO THE OWNERS OF  
14 THE PROPRIETARY INTEREST IN THE EMPLOYING UNIT in response to the  
15 commission's request for information. ~~—, of the individual's~~  
16 ~~relationship to the owners of the proprietary interest in the~~  
17 ~~employing unit.~~ Upon timely notification to the commission, a  
18 benefit year may be established for the individual, if the indi-  
19 vidual meets all of the following conditions: (1) THE INDIVIDUAL  
20 has earned 20 credit weeks in the 52 consecutive calendar weeks  
21 preceding the week with respect to which the individual filed an  
22 application for benefits; (2) with respect to the week for which  
23 the individual is filing an application for benefits is unem-  
24 ployed, and meets all of the other requirements of section 28;  
25 (3) with respect to the week for which the individual is filing  
26 an application for benefits the individual is not disqualified  
27 nor subject to disqualification, except in case of a labor

1 dispute under section 29(8), with respect to the most recent  
2 period of employment with the most recent employer with whom the  
3 individual HAS earned a credit week. If an individual files an  
4 application for a 7-day period as provided in section 27(c), the  
5 benefit year with respect to the individual ~~shall begin~~ BEGINS  
6 with the calendar week ~~which~~ THAT contains the first day of  
7 that 7-day period. THIS SUBSECTION DOES NOT APPLY TO AN INDIVID-  
8 UAL WHO IS A PARTY TO A DIVORCE PROCEEDING. UPON PROOF OF FILING  
9 A COMPLAINT FOR DIVORCE REFERENCED IN THE PRECEDING SENTENCE, AND  
10 NOTWITHSTANDING ANY PERCENTAGE PROPRIETARY INTEREST HIS OR HER  
11 SPOUSE MAY HAVE, THE INDIVIDUAL MAY ESTABLISH A BENEFIT YEAR IF  
12 HE OR SHE MEETS THE REQUIREMENTS OF SUBSECTION (A).

13 (h) For benefit years established on or after July 1, 1983,  
14 not more than 10 credit weeks based on services shall be used to  
15 pay benefits. For the purpose of calculating the individual's  
16 average weekly wage, all base period wages and credit weeks shall  
17 be used. With respect to benefit years beginning after the con-  
18 version date prescribed in section 75, and notwithstanding  
19 subsection (a), an individual ~~shall not be~~ IS NOT entitled to  
20 establish a benefit year based in whole or in part on wages  
21 earned in service, not otherwise excluded under section 43(g), in  
22 the employ of an employing unit in which more than 50% of the  
23 proprietary interest is owned by the individual, or his or her  
24 son, daughter, spouse, or any combination of these individuals,  
25 or in which more than 50% of the proprietary interest is owned by  
26 the mother or father of a child under the age of 18, or mother  
27 and father combined, unless both the individual and the employer

1 notify the commission ~~—~~ OF THE INDIVIDUAL'S RELATIONSHIP TO THE  
2 OWNERS OF THE PROPRIETARY INTEREST IN THE EMPLOYING UNIT in  
3 response to the commission's request for information. ~~—, of the~~  
4 ~~individual's relationship to the owners of the proprietary inter-~~  
5 ~~est in the employing unit.~~ Upon timely notification to the com-  
6 mission, a benefit year may be established for the individual if  
7 the individual meets the requirements of subsection (a). If  
8 wages in an individual's base period were earned in service in  
9 the employ of such an employing unit, the individual's weekly  
10 benefit rate ~~shall be~~ IS calculated in accordance with  
11 section 27(b)(1). ~~but the portion of the benefit rate attribut-~~  
12 ~~able to this service shall be payable for not more than 7 weeks.~~  
13 ~~The weekly benefit payment shall be reduced thereafter by the~~  
14 ~~percentage of charge attributable to service with this employer,~~  
15 ~~in accordance with section 20.~~ IN ACCORDANCE WITH SECTION 20,  
16 THE WEEKLY BENEFIT PAYMENT IS REDUCED BY THE PERCENTAGE OF CHARGE  
17 ATTRIBUTABLE TO SERVICE WITH THIS EMPLOYER. THIS SUBSECTION DOES  
18 NOT APPLY TO AN INDIVIDUAL WHO IS A PARTY TO A DIVORCE  
19 PROCEEDING. UPON PROOF OF FILING A COMPLAINT FOR DIVORCE REFER-  
20 ENCED IN THE PRECEDING SENTENCE, AND NOTWITHSTANDING ANY PERCENTAGE  
21 PROPRIETARY INTEREST HIS OR HER SPOUSE MAY HAVE, THE INDIVIDUAL  
22 MAY ESTABLISH A BENEFIT YEAR IF HE OR SHE MEETS THE  
23 REQUIREMENTS OF SUBSECTION (A).