

# SENATE BILL No. 1325

June 29, 2004, Introduced by Senators CHERRY, CLARK-COLEMAN, JACOBS,  
OLSHOVE, ALLEN, KUIPERS, BARCIA, PATTERSON, TOY, SCHAUER and  
BERNERO and referred to the Committee on Commerce and Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 29 (MCL 421.29), as amended by 2002 PA 192.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 29. (1) ~~An~~ **Except as provided in subsection (5), an**  
2 individual is disqualified from receiving benefits if he or she:  
3       (a) Left work voluntarily without good cause attributable to  
4 the employer or employing unit. An individual who left work is  
5 presumed to have left work voluntarily without good cause  
6 attributable to the employer or employing unit. An individual  
7 claiming benefits under this act has the burden of proof to  
8 establish that he or she left work involuntarily or for good  
9 cause that was attributable to the employer or employing unit.  
10 However, if ~~the~~ **either of the following conditions is met, the**  
11 **leaving does not disqualify the individual:**

1        **(i) The individual has an established benefit year in effect**  
2   **and during that benefit year leaves unsuitable work within 60**  
3   **days after the beginning of that work. ~~—, the leaving does not~~**  
4   **~~disqualify the individual.~~**

5        **(ii) The individual is the spouse of a full-time member of**  
6   **the United States armed forces, and the leaving is due to the**  
7   **military duty reassignment of that member of the United States**  
8   **armed forces to a different geographic location.**

9        (b) Was suspended or discharged for misconduct connected with  
10   the individual's work or for intoxication while at work.

11        (c) Failed without good cause to apply for available suitable  
12   work after receiving from the employment office or the commission  
13   notice of the availability of that work.

14        (d) Failed without good cause while unemployed to report to  
15   the individual's former employer or employing unit within a  
16   reasonable time after that employer or employing unit provided  
17   notice of the availability of an interview concerning available  
18   suitable work with the former employer or employing unit.

19        (e) Failed without good cause to accept suitable work offered  
20   to the individual or to return to the individual's customary  
21   self-employment, if any, when directed by the employment office  
22   or the commission. An employer that receives a monetary  
23   determination under section 32 may notify the unemployment agency  
24   regarding the availability of suitable work with the employer on  
25   the monetary determination or other form provided by the  
26   unemployment agency. Upon receipt of the notice of the  
27   availability of suitable work, the unemployment agency shall

1 notify the claimant of the availability of suitable work.

2 (f) Lost his or her job due to absence from work resulting  
3 from a violation of law for which the individual was convicted  
4 and sentenced to jail or prison. This subdivision does not apply  
5 if conviction of an individual results in a sentence to county  
6 jail under conditions of day parole as provided in 1962 PA 60,  
7 MCL 801.251 to 801.258, or if the conviction was for a traffic  
8 violation that resulted in an absence of less than 10 consecutive  
9 work days from the individual's place of employment.

10 (g) Is discharged, whether or not the discharge is  
11 subsequently reduced to a disciplinary layoff or suspension, for  
12 participation in either of the following:

13 (i) A strike or other concerted action in violation of an  
14 applicable collective bargaining agreement that results in  
15 curtailment of work or restriction of or interference with  
16 production.

17 (ii) A wildcat strike or other concerted action not  
18 authorized by the individual's recognized bargaining  
19 representative.

20 (h) Was discharged for an act of assault and battery  
21 connected with the individual's work.

22 (i) Was discharged for theft connected with the individual's  
23 work.

24 (j) Was discharged for willful destruction of property  
25 connected with the individual's work.

26 (k) Committed a theft after receiving notice of a layoff or  
27 discharge, but before the effective date of the layoff or

1 discharge, resulting in loss or damage to the employer who would  
2 otherwise be chargeable for the benefits, regardless of whether  
3 the individual qualified for the benefits before the theft.

4 (l) Was employed by a temporary help firm, which as used in  
5 this section means an employer whose primary business is to  
6 provide a client with the temporary services of 1 or more  
7 individuals under contract with the employer, to perform services  
8 for a client of that firm if each of the following conditions is  
9 met:

10 (i) The temporary help firm provided the employee with a  
11 written notice before the employee began performing services for  
12 the client stating in substance both of the following:

13 (A) That within 7 days after completing services for a client  
14 of the temporary help firm, the employee is under a duty to  
15 notify the temporary help firm of the completion of those  
16 services.

17 (B) That a failure to provide the temporary help firm with  
18 notice of the employee's completion of services pursuant to  
19 sub-subparagraph (A) constitutes a voluntary quit that will  
20 affect the employee's eligibility for unemployment compensation  
21 should the employee seek unemployment compensation following  
22 completion of those services.

23 (ii) The employee did not provide the temporary help firm  
24 with notice that the employee had completed his or her services  
25 for the client within 7 days after completion of his or her  
26 services for the client.

27 (m) Was discharged for ~~—(i) Illegally~~ **illegally** ingesting,

1 injecting, inhaling, or possessing a controlled substance on the  
2 premises of the employer; ~~—, (ii) Refusing~~ **refusing** to submit to  
3 a drug test that was required to be administered in a  
4 nondiscriminatory manner; ~~—, or (iii) Testing~~ **testing** positive  
5 on a drug test, if the test was administered in a  
6 nondiscriminatory manner. If the worker disputes the result of  
7 the testing, a generally accepted confirmatory test shall be  
8 administered and shall also indicate a positive result for the  
9 presence of a controlled substance before a disqualification of  
10 the worker under this subdivision. As used in this subdivision:

11 (i) ~~—(A)—~~ "Controlled substance" means that term as defined  
12 in section 7104 of the public health code, 1978 PA 368,  
13 MCL 333.7104.

14 (ii) ~~—(B)—~~ "Drug test" means a test designed to detect the  
15 illegal use of a controlled substance.

16 (iii) ~~—(C)—~~ "Nondiscriminatory manner" means administered  
17 impartially and objectively in accordance with a collective  
18 bargaining agreement, rule, policy, a verbal or written notice,  
19 or a labor-management contract.

20 (2) A disqualification under subsection (1) begins the week  
21 in which the act or discharge that caused the disqualification  
22 occurs and continues until the disqualified individual  
23 regualifies under subsection (3), except that for benefit years  
24 beginning before ~~the conversion date prescribed in section 75~~  
25 **October 1, 2000**, the disqualification does not prevent the  
26 payment of benefits if there are credit weeks, other than  
27 multiemployer credit weeks, after the most recent disqualifying

1 act or discharge.

2 (3) After the week in which the disqualifying act or  
3 discharge described in subsection (1) occurs, an individual who  
4 seeks to requalify for benefits is subject to all of the  
5 following:

6 (a) For benefit years established before ~~the conversion date~~  
7 ~~described in section 75~~ **October 1, 2000**, the individual shall  
8 complete 6 requalifying weeks if he or she was disqualified under  
9 subsection (1)(c), (d), (e), (f), (g), or (l), or 13 requalifying  
10 weeks if he or she was disqualified under subsection (1)(h), (i),  
11 (j), (k), or (m). A requalifying week required under this  
12 ~~subsection~~ **subdivision** shall be each week in which the  
13 individual does any of the following:

14 (i) Earns or receives remuneration in an amount at least  
15 equal to an amount needed to earn a credit week, as that term is  
16 defined in section 50.

17 (ii) Otherwise meets all of the requirements of this act to  
18 receive a benefit payment if the individual were not disqualified  
19 under subsection (1).

20 (iii) Receives a benefit payment based on credit weeks  
21 subsequent to the disqualifying act or discharge.

22 (b) For benefit years established before ~~the conversion date~~  
23 ~~prescribed in section 75~~ **October 1, 2000**, if the individual is  
24 disqualified under subsection (1)(a) or (b), he or she shall  
25 requalify, after the week in which the disqualifying discharge  
26 occurred by earning in employment for an employer liable under  
27 this act or the unemployment compensation act of another state an

1 amount equal to, or in excess of, 7 times the individual's  
2 potential weekly benefit rate, calculated on the basis of  
3 employment with the employer involved in the disqualification, or  
4 by earning in employment for an employer liable under this act or  
5 the unemployment compensation act of another state an amount  
6 equal to, or in excess of, 40 times the state minimum hourly wage  
7 times 7, whichever is the lesser amount.

8 (c) For benefit years established before ~~the conversion date~~  
9 ~~prescribed in section 75~~ **October 1, 2000**, a benefit payable to  
10 an individual disqualified under subsection (1)(a) or (b) ~~—~~  
11 shall be charged to the nonchargeable benefits account, and not  
12 to the account of the employer with whom the individual was  
13 involved in the disqualification.

14 (d) For benefit years beginning **on or after** ~~the conversion~~  
15 ~~date prescribed in section 75~~ **October 1, 2000**, ~~subsequent to~~  
16 **after** the week in which the disqualifying act or discharge  
17 occurred, an individual shall complete 13 requalifying weeks if  
18 he or she was disqualified under subsection (1)(c), (d), (e),  
19 (f), (g), or (l), or 26 requalifying weeks if he or she was  
20 disqualified under subsection (1)(h), (i), (j), (k), or (m). A  
21 requalifying week required under this ~~subsection~~ **subdivision**  
22 shall be each week in which the individual does any of the  
23 following:

24 (i) Earns or receives remuneration in an amount equal to at  
25 least 1/13 of the minimum amount needed in a calendar quarter of  
26 the base period for an individual to qualify for benefits,  
27 rounded down to the nearest whole dollar.

(ii) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual were not disqualified under subsection (1).

(e) For benefit years beginning **on or after** ~~the conversion date prescribed in section 75~~ **October 1, 2000** and beginning before ~~the effective date of the amendatory act that added section 13/~~ **April 26, 2002**, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least the lesser of the following:

(i) Seven times the individual's weekly benefit rate.

(ii) Forty times the state minimum hourly wage times 7.

(f) For benefit years beginning ~~after the conversion date prescribed in section 75 and~~ **on or after** ~~the effective date of the amendatory act that added section 13/~~ **April 26, 2002**, if the individual is disqualified under subsection (1)(a), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 12 times the individual's weekly benefit rate.

(g) For benefit years beginning ~~after the conversion date prescribed in section 75 and~~ **on or after** ~~the effective date of the amendatory act that added section 13/~~ **April 26, 2002**, if the individual is disqualified under subsection (1)(b), he or she



1 shall requalify, after the week in which the disqualifying act or  
2 discharge occurred by earning in employment for an employer  
3 liable under this act or the unemployment compensation law of  
4 another state at least 17 times the individual's weekly benefit  
5 rate.

6 (h) A benefit payable to the individual disqualified or  
7 separated under disqualifying circumstances under  
8 subsection (1)(a) or (b), shall be charged to the nonchargeable  
9 benefits account, and not to the account of the employer with  
10 whom the individual was involved in the separation. Benefits  
11 payable to an individual determined by the commission to be  
12 separated under disqualifying circumstances shall not be charged  
13 to the account of the employer involved in the disqualification  
14 for any period after the employer notifies the commission of the  
15 claimant's possible ineligibility or disqualification. If a  
16 disqualifying act or discharge occurs during the individual's  
17 benefit year, any benefits that may become payable to the  
18 individual in a later benefit year based on employment with the  
19 employer involved in the disqualification shall be charged to the  
20 nonchargeable benefits account.

21 (4) The maximum amount of benefits otherwise available under  
22 section 27(d) to an individual disqualified under subsection (1)  
23 is subject to all of the following conditions:

24 (a) For benefit years established before ~~the conversion date~~  
25 ~~prescribed in section 75~~ **October 1, 2000**, if the individual is  
26 disqualified under subsection (1)(c), (d), (e), (f), (g), or (l)  
27 and the maximum amount of benefits is based on wages and credit

1 weeks earned from an employer before an act or discharge  
2 involving that employer, the amount shall be reduced by an amount  
3 equal to the individual's weekly benefit rate as to that employer  
4 multiplied by the lesser of either of the following:

5 (i) The number of regualifying weeks required of the  
6 individual under this section.

7 (ii) The number of weeks of benefit entitlement remaining  
8 with that employer.

9 (b) If the individual has insufficient or no potential  
10 benefit entitlement remaining with the employer involved in the  
11 disqualification in the benefit year in existence on the date of  
12 the disqualifying determination, a reduction of benefits  
13 described in this subsection shall apply in a succeeding benefit  
14 year with respect to any benefit entitlement based upon credit  
15 weeks earned with the employer before the disqualifying act or  
16 discharge.

17 (c) For benefit years established before ~~the conversion date~~  
18 ~~prescribed in section 75~~ **October 1, 2000**, an individual  
19 disqualified under subsection (1)(h), (i), (j), (k), or (m) is  
20 not entitled to benefits based on wages and credit weeks earned  
21 before the disqualifying act or discharge with the employer  
22 involved in the disqualification.

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

26 (e) A denial or reduction of benefits under this subsection  
27 does not apply to benefits based upon multiemployer credit

1 weeks.

2 (f) For benefit years established **on or** after ~~the conversion~~  
3 ~~date prescribed in section 75~~ **October 1, 2000**, if the individual  
4 is disqualified under subsection (1)(c), (d), (e), (f), (g), or  
5 (l), the maximum number of weeks otherwise applicable in  
6 calculating benefits for the individual under section 27(d) shall  
7 be reduced by the lesser of the following:

8 (i) The number of requalifying weeks required of the  
9 individual under this ~~subsection~~ **section**.

10 (ii) The number of weeks of benefit entitlement remaining on  
11 the claim.

12 (g) For benefit years beginning **on or** after ~~the conversion~~  
13 ~~date prescribed in section 75~~ **October 1, 2000**, the benefits of  
14 an individual disqualified under subsection (1)(h), (i), (j),  
15 (k), or (m) shall be reduced by 13 weeks and any weekly benefit  
16 payments made to the claimant thereafter shall be reduced by the  
17 portion of the payment attributable to base period wages paid by  
18 the base period employer involved in a disqualification under  
19 subsection (1)(h), (i), (j), (k), or (m).

20 (5) If an individual leaves work to accept permanent  
21 full-time work with another employer and performs services for  
22 that employer, or if an individual leaves work to accept a recall  
23 from a former employer, **all of the following apply**:

24 (a) Subsection (1) does not apply.

25 (b) Wages earned with the employer whom the individual last  
26 left, including wages previously transferred under this  
27 subsection to the last employer, for the purpose of computing and

1 charging benefits, are wages earned from the employer with whom  
2 the individual accepted work or recall, and benefits paid based  
3 upon those wages shall be charged to that employer.

4 (c) When issuing a determination covering the period of  
5 employment with a new or former employer described in this  
6 subsection, the commission shall advise the chargeable employer  
7 of the name and address of the other employer, the period covered  
8 by the employment, and the extent of the benefits that may be  
9 charged to the account of the chargeable employer.

10 (6) In determining whether work is suitable for an  
11 individual, the commission shall consider the degree of risk  
12 involved to the individual's health, safety, and morals, the  
13 individual's physical fitness and prior training, the  
14 individual's length of unemployment and prospects for securing  
15 local work in the individual's customary occupation, and the  
16 distance of the available work from the individual's residence.  
17 Additionally, the commission shall consider the individual's  
18 experience and prior earnings, but an unemployed individual who  
19 refuses an offer of work determined to be suitable under this  
20 section shall be denied benefits if the pay rate for that work is  
21 at least 70% of the gross pay rate he or she received immediately  
22 before becoming unemployed.

23 (7) Work is not suitable and benefits shall not be denied  
24 under this act to an otherwise eligible individual for refusing  
25 to accept new work under any of the following conditions:

26 (a) If the position offered is vacant due directly to a  
27 strike, lockout, or other labor dispute.

1       (b) If the remuneration, hours, or other conditions of the  
2 work offered are substantially less favorable to the individual  
3 than those prevailing for similar work in the locality.

4       (c) If as a condition of being employed, the individual would  
5 be required to join a company union or to resign from or refrain  
6 from joining a bona fide labor organization.

7       (8) All of the following apply to an individual who seeks  
8 benefits under this act:

9       (a) An individual is disqualified from receiving benefits for  
10 a week in which the individual's total or partial unemployment is  
11 due to either of the following:

12       (i) A labor dispute in active progress at the place at which  
13 the individual is or was last employed, or a shutdown or start-up  
14 operation caused by that labor dispute.

15       (ii) A labor dispute, other than a lockout, in active  
16 progress or a shutdown or start-up operation caused by that labor  
17 dispute in any other establishment within the United States that  
18 is both functionally integrated with the establishment described  
19 in subparagraph (i) and operated by the same employing unit.

20       (b) An individual's disqualification imposed or imposable  
21 under this subsection is terminated if the individual performs  
22 services in employment with an employer in at least 2 consecutive  
23 weeks falling wholly within the period of the individual's total  
24 or partial unemployment due to the labor dispute, and in addition  
25 earns wages in each of those weeks in an amount equal to or  
26 greater than the individual's actual or potential weekly benefit  
27 rate with respect to those weeks based on the individual's

1 employment with the employer involved in the labor dispute.

2 (c) An individual is not disqualified under this subsection  
3 if the individual is not directly involved in the labor dispute.  
4 An individual is not directly involved in a labor dispute unless  
5 any of the following are established:

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

11 (ii) The individual is participating in, financing, or  
12 directly interested in the labor dispute that causes the  
13 individual's total or partial unemployment. The payment of  
14 regular union dues, in amounts and for purposes established  
15 before the inception of the labor dispute, is not financing a  
16 labor dispute within the meaning of this subparagraph.

17 (iii) At any time a labor dispute in the establishment or  
18 department in which the individual was employed does not exist,  
19 and the individual voluntarily stops working, other than at the  
20 direction of the individual's employing unit, in sympathy with  
21 employees in some other establishment or department in which a  
22 labor dispute is in progress.

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

26 (d) As used in this subsection, "directly interested" shall  
27 be construed and applied so as not to disqualify individuals

1 unemployed as a result of a labor dispute the resolution of which  
2 may not reasonably be expected to affect their wages, hours, or  
3 other conditions of employment, and to disqualify individuals  
4 whose wages, hours, or conditions of employment may reasonably be  
5 expected to be affected by the resolution of the labor dispute.

6 A "reasonable expectation" of an effect on an individual's wages,  
7 hours, or other conditions of employment exists, in the absence  
8 of a substantial preponderance of evidence to the contrary, in  
9 any of the following situations:

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

20       (ii) If it is established that 1 of the issues in or purposes  
21 of the labor dispute is to obtain a change in the terms and  
22 conditions of employment for members of the individual's grade or  
23 class of workers in the establishment in which the individual is  
24 or was last employed.

25       (iii) If a collective bargaining agreement covers both the  
26 individual's grade or class of workers in the establishment in  
27 which the individual is or was last employed and the workers in

1 another establishment of the same employing unit who are actively  
2 participating in the labor dispute, and that collective  
3 bargaining agreement is subject by its terms to modification,  
4 supplementation, or replacement, or has expired or been opened by  
5 mutual consent at the time of the labor dispute.

6 (e) In determining the scope of the grade or class of  
7 workers, evidence of the following is relevant:

8 (i) Representation of the workers by the same national or  
9 international organization or by local affiliates of that  
10 national or international organization.

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

13 (iii) Whether the workers are or within the past 6 months  
14 have been covered by a common master collective bargaining  
15 agreement that sets forth all or any part of the terms and  
16 conditions of the workers' employment, or by separate agreements  
17 that are or have been bargained as a part of the same  
18 negotiations.

19 (iv) Any functional integration of the work performed by  
20 those workers.

21 (v) Whether the resolution of those issues involved in the  
22 labor dispute as to some of the workers could directly or  
23 indirectly affect the advancement, negotiation, or settlement of  
24 the same or similar issues in respect to the remaining workers.

25 (vi) Whether the workers are currently or have been covered  
26 by the same or similar demands by their recognized or certified  
27 bargaining agent or agents for changes in their wages, hours, or



1 other conditions of employment.

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

6       (9) Notwithstanding subsections (1) to (8), if the employing  
7 unit submits notice to the commission of possible ineligibility  
8 or disqualification beyond the time limits prescribed by  
9 commission rule, the notice shall not form the basis of a  
10 determination of ineligibility or disqualification for a claim  
11 period compensated before the receipt of the notice by the  
12 commission.

13       (10) An individual is disqualified from receiving benefits  
14 for any week or part of a week in which the individual has  
15 received, is receiving, or is seeking unemployment benefits under  
16 an unemployment compensation law of another state or of the  
17 United States. If the appropriate agency of the other state or  
18 of the United States finally determines that the individual is  
19 not entitled to unemployment benefits, the disqualification  
20 described in this subsection does not apply.