

# HOUSE BILL No. 5217

August 4, 2009, Introduced by Rep. Green and referred to the Committee on Labor.

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)~~ **(F)**, for  
2       benefit years beginning before ~~the conversion date prescribed in~~  
3       ~~section 75~~ **OCTOBER 1, 2000**, "benefit year" means the period of 52  
4       consecutive calendar weeks beginning the first calendar week in  
5       which an individual files a claim in accordance with section 32 and  
6       meets all of the following conditions:

7       (1) The individual has earned 20 credit weeks in the 52  
8       consecutive calendar weeks before the week he or she files the  
9       claim for benefits.

10       (2) The individual is unemployed and meets all requirements of

1 section 28 for the week for which he or she files a claim for  
2 benefits.

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

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

11 (b) For benefit years beginning ~~after the conversion date~~  
12 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, "benefit  
13 year" means the period of 52 consecutive calendar weeks beginning  
14 the first calendar week in which an individual files a claim in  
15 accordance with section 32. However, a benefit year shall not be  
16 established unless the individual meets either of the following  
17 conditions: ~~(1) the~~

18 (i) **THE** total wages paid to the individual in the base period  
19 of the claim equals not less than 1.5 times the wages paid to the  
20 individual in the calendar quarter of the base period in which the  
21 individual was paid the highest wages. ~~, or (2) the~~

22 (ii) **THE** individual was paid wages in 2 or more calendar  
23 quarters of the base period totaling at least 20 times the state  
24 average weekly wage as determined by the commission.

25 (c) For benefit years beginning ~~after the conversion date~~  
26 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the state average weekly  
27 wage for a calendar year shall be computed on the basis of the 12

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

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

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

15 (e) If all or part of a claimant's right to benefits during  
16 his or her benefit year is canceled under section 62(b), the  
17 benefit year is terminated on the effective date of the  
18 cancellation.

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

25 ~~—— (g) Notwithstanding subsection (a), for services performed on~~  
26 ~~or after January 2, 1983, and with respect to benefit years~~  
27 ~~established before the conversion date prescribed in section 75, an~~

~~1 individual shall not be entitled to establish a benefit year based  
2 in whole or in part on credit weeks for service in the employ of an  
3 employing unit, not otherwise excluded under section 43(g), in  
4 which more than 50% of the proprietary interest is owned by the  
5 individual or his or her son, daughter, or spouse, or any  
6 combination of these individuals, or in which more than 50% of the  
7 proprietary interest is owned by the mother or father of a child  
8 under the age of 18, or mother and father combined, unless both the  
9 individual and the employer notify the commission, in response to  
10 the commission's request for information, of the individual's  
11 relationship to the owners of the proprietary interest in the  
12 employing unit. Upon timely notification to the commission, a  
13 benefit year may be established for the individual, if the  
14 individual meets all of the following conditions: (1) has earned 20  
15 credit weeks in the 52 consecutive calendar weeks preceding the  
16 week with respect to which the individual filed an application for  
17 benefits; (2) with respect to the week for which the individual is  
18 filing an application for benefits is unemployed, and meets all of  
19 the other requirements of section 28; (3) with respect to the week  
20 for which the individual is filing an application for benefits the  
21 individual is not disqualified nor subject to disqualification,  
22 except in case of a labor dispute under section 29(8), with respect  
23 to the most recent period of employment with the most recent  
24 employer with whom the individual earned a credit week. If an  
25 individual files an application for a 7 day period as provided in  
26 section 27(c), the benefit year with respect to the individual  
27 shall begin with the calendar week which contains the first day of~~

1 ~~that 7 day period.~~

2 ~~—— (h) For benefit years established on or after July 1, 1983,~~  
3 ~~not more than 10 credit weeks based on services shall be used to~~  
4 ~~pay benefits. For the purpose of calculating the individual's~~  
5 ~~average weekly wage, all base period wages and credit weeks shall~~  
6 ~~be used. With respect to benefit years beginning after the~~  
7 ~~conversion date prescribed in section 75, and notwithstanding~~  
8 ~~subsection (a), an individual shall not be entitled to establish a~~  
9 ~~benefit year based in whole or in part on wages earned in service,~~  
10 ~~not otherwise excluded under section 43(g), in the employ of an~~  
11 ~~employing unit in which more than 50% of the proprietary interest~~  
12 ~~is owned by the individual or his or her son, daughter, spouse, or~~  
13 ~~any combination of these individuals, or in which more than 50% of~~  
14 ~~the proprietary interest is owned by the mother or father of a~~  
15 ~~child under the age of 18, or mother and father combined, unless~~  
16 ~~both the individual and the employer notify the commission, in~~  
17 ~~response to the commission's request for information, of the~~  
18 ~~individual's relationship to the owners of the proprietary interest~~  
19 ~~in the employing unit. Upon timely notification to the commission,~~  
20 ~~a benefit year may be established for the individual if the~~  
21 ~~individual meets the requirements of subsection (a). If wages in an~~  
22 ~~individual's base period were earned in service in the employ of~~  
23 ~~such an employing unit, the individual's weekly benefit rate shall~~  
24 ~~be calculated in accordance with section 27(b)(1) but the portion~~  
25 ~~of the benefit rate attributable to this service shall be payable~~  
26 ~~for not more than 7 weeks. The weekly benefit payment shall be~~  
27 ~~reduced thereafter by the percentage of charge attributable to~~

1 ~~service with this employer, in accordance with section 20.~~