

HOUSE BILL No. 5412

February 16, 2012, Introduced by Reps. Goike, Franz, Potvin, Bumstead, Jenkins, Johnson, Hooker, Yonker, Daley, Pscholka, Walsh, Rogers, Damrow, Somerville, Lyons, McBroom, MacGregor, Horn, Forlini, Agema, Lund, Nesbitt and Lane and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled
 "Michigan employment security act,"
 by amending section 28 (MCL 421.28), as amended by 2011 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) An unemployed individual is eligible to receive
 2 benefits with respect to any week only if the unemployment agency
 3 finds all of the following:

4 (a) For benefit years established before October 1, 2000, the
 5 individual has registered for work at and thereafter has continued
 6 to report at an employment office in accordance with unemployment
 7 agency rules and is seeking work. The **UNEMPLOYMENT AGENCY MAY WAIVE**
 8 **ANY OF THE** requirements that the individual ~~must~~ report at an
 9 employment office, ~~must~~ register for work, ~~must~~ be available to

1 perform suitable full-time work, ~~and must OR~~ seek work, ~~may be~~
2 ~~waived by the unemployment agency~~ if the individual is laid off and
3 the employer who laid the individual off notifies the unemployment
4 agency in writing or by computerized data exchange that the layoff
5 is temporary and that work is expected to be available for the
6 individual within a declared number of days, not to exceed 45
7 calendar days following the last day the individual worked. This
8 ~~waiver shall not be~~ **IS NOT** effective unless the **UNEMPLOYMENT AGENCY**
9 **RECEIVES** notification from the employer ~~has been received by the~~
10 ~~unemployment agency~~ before the individual has completed his or her
11 first compensable week following layoff. If the individual is not
12 recalled within the specified period, the waiver ~~shall cease to be~~
13 ~~operative with respect~~ **IS NO LONGER EFFECTIVE AS** to that layoff.
14 Except for a period of disqualification, **THE UNEMPLOYMENT AGENCY**
15 **MAY WAIVE** the requirement that the individual ~~shall seek work may~~
16 ~~be waived by the unemployment agency where~~ **IF** it finds that
17 suitable work is unavailable both in the locality where the
18 individual resides and in those localities in which the individual
19 has earned base period credit weeks. This waiver ~~shall~~ **DOES** not
20 apply, for weeks of unemployment beginning on or after March 1,
21 1981, to a claimant enrolled and attending classes as a full-time
22 student. An individual has satisfied the requirement of personal
23 reporting at an employment office, as applied to a week in a period
24 during which the **UNEMPLOYMENT AGENCY HAS WAIVED THE** requirements of
25 registration and seeking work, ~~have been waived by the unemployment~~
26 ~~agency pursuant to this subdivision,~~ if the individual has
27 satisfied the personal reporting requirement with respect to a

1 preceding week in that period and the individual has reported with
2 respect to the week by mail in accordance with ~~the~~ **UNEMPLOYMENT**
3 **AGENCY** rules. ~~promulgated by the unemployment agency.~~ For benefit
4 years established on or after October 1, 2000, the individual has
5 registered for work, ~~and~~ has continued to report in accordance with
6 unemployment agency rules, and is actively engaged in seeking work.
7 The **UNEMPLOYMENT AGENCY MAY WAIVE ANY OF THE** requirements that the
8 individual ~~must~~ report, ~~must~~ register for work, ~~must~~ be available
9 to perform suitable full-time work, ~~and must~~ **OR** seek work, ~~may be~~
10 ~~waived by the unemployment agency~~ if the individual is laid off and
11 the employer who laid the individual off notifies the unemployment
12 agency in writing or by computerized data exchange that the layoff
13 is temporary and that work is expected to be available for the
14 individual within a declared number of days, not to exceed 45
15 calendar days following the last day the individual worked. This
16 waiver ~~shall not be~~ **IS NOT** effective unless the **UNEMPLOYMENT AGENCY**
17 **RECEIVES** notification from the employer ~~has been received by the~~
18 ~~unemployment agency~~ before the individual has completed his or her
19 first compensable week following layoff. If the individual is not
20 recalled within the specified period, the waiver ~~shall cease to be~~
21 ~~operative with respect~~ **IS NO LONGER EFFECTIVE AS** to that layoff.
22 Except for a period of disqualification, the **UNEMPLOYMENT AGENCY**
23 **MAY WAIVE THE** requirement that the individual ~~shall~~ seek work ~~may~~
24 ~~be waived by the unemployment agency~~ if it finds that suitable work
25 is unavailable both in the locality where the individual resides
26 and in those localities in which the individual has earned wages
27 during or after the base period. This waiver does not apply to a

1 claimant enrolled and attending classes as a full-time student. An
2 individual is considered to have satisfied the requirement of
3 personal reporting at an employment office, as applied to a week in
4 a period during which the **UNEMPLOYMENT AGENCY HAS WAIVED THE**
5 requirements of registration and seeking work, ~~have been waived by~~
6 ~~the unemployment agency pursuant to this subdivision,~~ if the
7 individual has satisfied the personal reporting requirement with
8 respect to a preceding week in that period and the individual has
9 reported with respect to the week by mail in accordance with ~~the~~
10 **UNEMPLOYMENT AGENCY** rules. ~~promulgated by the unemployment agency.~~

11 (b) The individual has made a claim for benefits in accordance
12 with section 32 and has provided the unemployment agency with his
13 or her social security number.

14 (c) The individual is able and available to appear at a
15 location of the unemployment agency's choosing for evaluation of
16 eligibility for benefits, if required, and to perform suitable
17 full-time work of a character ~~which~~ **THAT** the individual is
18 qualified to perform by past experience or training, ~~which is~~ of a
19 character generally similar to work for which the individual has
20 previously received wages, and ~~for which the individual is~~
21 ~~available, full time,~~ either at a locality at which the individual
22 earned wages for insured work during his or her base period or at a
23 ~~locality where it is found by the unemployment agency~~ **WHICH THE**
24 **UNEMPLOYMENT AGENCY FINDS** that such work is available. An
25 individual is considered unavailable for work under any of the
26 following circumstances:

27 (i) The individual fails during a benefit year to notify or

1 update a chargeable employer with telephone, electronic mail, or
2 other information sufficient to allow the employer to contact the
3 individual about available work.

4 (ii) The individual fails, without good cause, to respond to
5 the unemployment agency within 14 calendar days of the later of the
6 mailing of a notice to the address of record requiring the
7 individual to contact the unemployment agency or of the leaving of
8 a telephone message requesting a return call and providing a return
9 name and telephone number on an automated answering device or with
10 an individual answering the telephone number of record.

11 (iii) Unless the claimant shows good cause for failure to
12 respond, mail sent to the individual's address of record is
13 returned as undeliverable and the telephone number of record has
14 been disconnected or changed or is otherwise no longer associated
15 with the individual.

16 (iv) **UNLESS THE INDIVIDUAL SHOWS GOOD CAUSE, THE INDIVIDUAL**
17 **FAILS OR REFUSES TO TAKE A DRUG TEST THAT IS REQUIRED OF THE**
18 **INDIVIDUAL AS PART OF AN EMPLOYMENT APPLICATION.**

19 ~~In the event of the death of an~~ **IF THE** individual's
20 immediate family member **DIES**, the eligibility requirements of
21 availability and reporting **IN SUBSECTION (1)** shall be waived for
22 the day of the death and for 4 consecutive calendar days
23 thereafter. As used in this subdivision, "immediate family member"
24 means a spouse, child, stepchild, adopted child, grandchild,
25 parent, grandparent, brother, or sister of the individual or his or
26 her spouse. ~~It shall also include~~ **IMMEDIATE FAMILY MEMBER ALSO**
27 **INCLUDES** the spouse of any of the persons specified in the previous

1 sentence.

2 (e) The individual participates in reemployment services, such
3 as job search assistance services, if the ~~individual has been~~
4 ~~determined or redetermined by the unemployment agency to be~~
5 **UNEMPLOYMENT AGENCY DETERMINES OR REDETERMINES USING A PROFILING**
6 **SYSTEM IT HAS ESTABLISHED THAT THE INDIVIDUAL IS** likely to exhaust
7 regular benefits and need reemployment services. ~~pursuant to a~~
8 ~~profiling system established by the unemployment agency.~~

9 (2) The unemployment agency may authorize an individual with
10 an unexpired benefit year to pursue vocational training or
11 retraining only if the unemployment agency finds ~~that~~ **ALL OF THE**
12 **FOLLOWING:**

13 (a) Reasonable opportunities for employment in occupations for
14 which the individual is fitted by training and experience do not
15 exist in the locality in which the individual is claiming benefits.

16 (b) The vocational training course relates to an occupation or
17 skill for which there are, or are expected to be in the immediate
18 future, reasonable employment opportunities.

19 (c) The training course has been approved by a local advisory
20 council on which both management and labor are represented, or if
21 there is no local advisory council, by the unemployment agency.

22 (d) The individual has the required qualifications and
23 aptitudes to complete the course successfully.

24 (e) The vocational training course has been approved by the
25 state board of education and is maintained by a public or private
26 school or by the unemployment agency.

27 (3) Notwithstanding any other provision of this act, an

1 otherwise eligible individual ~~shall not be~~ **IS NOT** ineligible for
2 benefits because he or she is participating in training with the
3 approval of the unemployment agency. For each week that the
4 unemployment agency finds that an individual who is claiming
5 benefits under this act and who is participating in training with
6 the approval of the unemployment agency, is satisfactorily pursuing
7 an approved course of vocational training, it shall waive the
8 requirements that he or she be available for work and be seeking
9 work as prescribed in subsection (1)(a) and (c), and it shall find
10 good cause for his or her failure to apply for suitable work,
11 report to a former employer for an interview concerning suitable
12 work, or accept suitable work as required in section 29(1)(c), (d),
13 and (e).

14 (4) The waiver of the requirement that a claimant seek work,
15 as provided in subsection (1)(a), ~~shall not be~~ **IS NOT** applicable to
16 weeks of unemployment for which the claimant is claiming extended
17 benefits if section ~~64(8)(a)(ii) is in effect~~ **64(7)(A)(i) APPLIES**,
18 unless the individual is participating in training approved by the
19 unemployment agency.

20 (5) Notwithstanding any other provisions of this act, an
21 otherwise eligible individual shall not be denied benefits for any
22 week beginning after October 30, 1982 solely because the individual
23 is in training approved under section 236(a)(1) of the trade act of
24 1974, ~~as amended, 19 USC 2296, nor shall the individual~~ **AND SHALL**
25 **NOT** be denied benefits ~~by reason of~~ **FOR** leaving work to enter ~~such~~
26 **THAT** training if the work left is not suitable employment.
27 Furthermore, an otherwise eligible individual shall not be denied

1 benefits ~~because of the application to~~ **FOR** any such week in
2 training ~~of~~ **UNDER** provisions of this act ~~,~~ or **OF** any applicable
3 federal unemployment compensation law ~~,~~ ~~relating~~ **THAT RELATE** to
4 availability for work, active search for work, or refusal to accept
5 work. For purposes of this subsection, "suitable employment" means,
6 with respect to an individual, work of a substantially equal or
7 higher skill level than the individual's past adversely affected
8 employment, as defined for purposes of the trade act of 1974, 19
9 USC 2101 to ~~2495~~ **2497B**, and wages for that work at not less than
10 80% of the individual's average weekly wage as determined for the
11 purposes of ~~the trade act of 1974.~~ **THAT ACT.**

12 (6) For purposes of this section, for benefit years beginning
13 on or after January 1, 2013, to be actively engaged in seeking
14 work, an individual must conduct a systematic and sustained search
15 for work in each week the individual is claiming benefits, using
16 any of the following methods to report the details of the work
17 search:

18 (a) Reporting at monthly intervals on the unemployment
19 agency's online reporting system the name of each employer and
20 physical or online location of each employer where work was sought
21 and the date and method by which work was sought with each
22 employer.

23 (b) Filing a written report with the unemployment agency by
24 mail or facsimile transmission not later than the end of the fourth
25 calendar week after the end of the week in which the individual
26 engaged in the work search, on a form approved by the unemployment
27 agency, indicating the name of each employer and physical or online

1 location of each employer where work was sought and the date and
2 method by which work was sought with each employer.

3 (c) Appearing at least monthly in person at a Michigan works
4 agency office to report the name and physical or online location of
5 each employer where the individual sought work during the previous
6 month and the date and method by which work was sought with each
7 employer.

8 (7) The work search conducted by the claimant is subject to
9 random audit by the unemployment agency.