

# HOUSE BILL No. 5168

October 24, 2017, Introduced by Reps. Farrington and Phelps and referred to the Committee on Oversight.

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 requirements that the~~  
8 ~~individual must report at an employment office, must register for~~  
9 ~~work, must be available to perform suitable full time work, and~~  
10 ~~must seek work may be waived by the unemployment agency if the~~

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~~1 individual is laid off and the employer who laid the individual off  
2 notifies the unemployment agency in writing or by computerized data  
3 exchange that the layoff is temporary and that work is expected to  
4 be available for the individual within a declared number of days,  
5 not to exceed 45 calendar days following the last day the  
6 individual worked. This waiver shall not be effective unless the  
7 notification from the employer has been received by the  
8 unemployment agency before the individual has completed his or her  
9 first compensable week following layoff. If the individual is not  
10 recalled within the specified period, the waiver shall cease to be  
11 operative with respect to that layoff. Except for a period of  
12 disqualification, the requirement that the individual shall seek  
13 work may be waived by the unemployment agency where it finds that  
14 suitable work is unavailable both in the locality where the  
15 individual resides and in those localities in which the individual  
16 has earned base period credit weeks. This waiver shall not apply,  
17 for weeks of unemployment beginning on or after March 1, 1981, to a  
18 claimant enrolled and attending classes as a full-time student. An  
19 individual has satisfied the requirement of personal reporting at  
20 an employment office, as applied to a week in a period during which  
21 the requirements of registration and seeking work have been waived  
22 by the unemployment agency pursuant to this subdivision, if the  
23 individual has satisfied the personal reporting requirement with  
24 respect to a preceding week in that period and the individual has  
25 reported with respect to the week by mail in accordance with the  
26 rules promulgated by the unemployment agency. For benefit years  
27 established on or after October 1, 2000, the **THE** individual has~~

1 registered for work and has continued to report ~~in accordance with~~  
2 **PURSUANT TO** unemployment agency rules and is actively engaged in  
3 seeking work. The requirements that the individual must report,  
4 must register for work, must be available to perform suitable full-  
5 time work, and must seek work may be waived by the unemployment  
6 agency if the individual is laid off and the employer who laid the  
7 individual off notifies the unemployment agency in writing or by  
8 computerized data exchange that the layoff is temporary and that  
9 work is expected to be available for the individual within a  
10 declared number of days, not to exceed 45 calendar days following  
11 the last day the individual worked. This waiver ~~shall~~**IS** not be  
12 effective unless the notification from the employer ~~has been~~**IS**  
13 received by the unemployment agency before the individual has  
14 completed his or her first compensable week following layoff. If  
15 the individual is not recalled within the specified period, the  
16 waiver ~~shall cease~~**CEASES** to be operative with respect to that  
17 layoff. Except for a period of disqualification, the requirement  
18 that the individual shall seek work may be waived by the  
19 unemployment agency if it finds that suitable work is unavailable  
20 both in the locality where the individual resides and in those  
21 localities in which the individual has earned wages during or after  
22 the base period. This waiver does not apply to a claimant enrolled  
23 and attending classes as a full-time student. An individual is  
24 considered to have satisfied the requirement of personal reporting  
25 at an employment office, as applied to a week in a period during  
26 which the requirements of registration and seeking work have been  
27 waived by the unemployment agency pursuant to this subdivision, if

1 the individual has satisfied the personal reporting requirement  
2 with respect to a preceding week in that period and the individual  
3 has reported with respect to the week by mail ~~in accordance with~~  
4 **PURSUANT TO** the rules promulgated by the unemployment agency.

5 (b) The individual has made a claim for benefits ~~in accordance~~  
6 ~~with~~ **PURSUANT TO** section 32 and has provided the unemployment  
7 agency with ~~his~~ **ALL OF THE FOLLOWING:**

8 (i) ~~HIS~~ or her ~~social security~~ **SOCIAL SECURITY** number.

9 (ii) **HIS OR HER DRIVER LICENSE NUMBER, AND THE STATE THAT**  
10 **ISSUED THE LICENSE, OR STATE IDENTIFICATION CARD NUMBER, AND THE**  
11 **STATE THAT ISSUED THE IDENTIFICATION CARD, OR COPIES OF THE**  
12 **ACCEPTABLE DOCUMENTS AS PROVIDED IN THE FORM I-9.**

13 (iii) **IF THE UNEMPLOYMENT AGENCY HAS REQUESTED THEM, COPIES OF**  
14 **THE ACCEPTABLE DOCUMENTS AS PROVIDED IN THE FORM I-9. AS USED IN**  
15 **THIS SUBDIVISION, "FORM I-9" MEANS THE EMPLOYMENT VERIFICATION FORM**  
16 **THAT FULFILLS THE EMPLOYMENT VERIFICATION OBLIGATIONS UNDER 8 CFR**  
17 **274A.2.**

18 (c) The individual is able and available to appear at a  
19 location of the unemployment agency's choosing for evaluation of  
20 eligibility for benefits, if required, and to perform suitable  
21 full-time work of a character ~~which~~ **THAT** the individual is  
22 qualified to perform by past experience or training, which is of a  
23 character generally similar to work for which the individual has  
24 previously received wages, and for which the individual is  
25 available, full time, either at a locality at which the individual  
26 earned wages for insured work during his or her base period or at a  
27 locality where it is found by the unemployment agency that such

1 work is available. An individual is considered unavailable for work  
2 under any of the following circumstances:

3 (i) The individual fails during a benefit year to notify or  
4 update a chargeable employer with telephone, electronic mail, or  
5 other information sufficient to allow the employer to contact the  
6 individual about available work.

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

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

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

27 (e) The individual participates in reemployment services, such

1 as job search assistance services, if the individual has been  
2 determined or redetermined by the unemployment agency to be likely  
3 to exhaust regular benefits and need reemployment services pursuant  
4 to a profiling system established by the unemployment agency.

5 (2) The unemployment agency may authorize an individual with  
6 an unexpired benefit year to pursue vocational training or  
7 retraining only if the unemployment agency finds that:

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

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

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

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

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

22 (3) Notwithstanding any other provision of this act, an  
23 otherwise eligible individual ~~shall~~**IS** not ~~be~~ ineligible for  
24 benefits because he or she is participating in training with the  
25 approval of the unemployment agency. For each week that the  
26 unemployment agency finds that an individual who is claiming  
27 benefits under this act and who is participating in training with

1 the approval of the unemployment agency, is satisfactorily pursuing  
2 an approved course of vocational training, it shall waive the  
3 requirements that he or she be available for work and be seeking  
4 work as prescribed in subsection (1)(a) and (c), and it shall find  
5 good cause for his or her failure to apply for suitable work,  
6 report to a former employer for an interview concerning suitable  
7 work, or accept suitable work as required in section 29(1)(c), (d),  
8 and (e).

9 (4) The waiver of the requirement that a claimant seek work ~~7~~  
10 ~~as provided in~~ **UNDER** subsection (1)(a) ~~, shall~~ **IS** not be applicable  
11 to weeks of unemployment for which the claimant is claiming  
12 extended benefits ~~if~~ **AND TO WHICH** section ~~64(8)(a)(ii)~~ **64(7)(A)(ii)**  
13 ~~is in effect,~~ **APPLIES**, unless the individual is participating in  
14 training approved by the unemployment agency.

15 (5) Notwithstanding any other provisions of this act, an  
16 otherwise eligible individual ~~shall~~ **MUST** not be denied benefits ~~for~~  
17 ~~any week beginning after October 30, 1982~~ solely because the  
18 individual is in training approved under section 236(a)(1) of the  
19 trade act of 1974, ~~as amended,~~ 19 USC 2296, nor shall the  
20 individual be denied benefits by reason of leaving work to enter  
21 such training if the work left is not suitable employment.  
22 Furthermore, an otherwise eligible individual ~~shall~~ **MUST** not be  
23 denied benefits because of the application to any such week in  
24 training of provisions of this act, or any applicable federal  
25 unemployment compensation law, relating to availability for work,  
26 active search for work, or refusal to accept work. For purposes of  
27 this subsection, "suitable employment" means, with respect to an

1 individual, work of a substantially equal or higher skill level  
2 than the individual's past adversely affected employment, as  
3 defined for purposes of the trade act of 1974, 19 USC 2101 to ~~2495,~~  
4 **2497B**, and wages for that work at not less than 80% of the  
5 individual's average weekly wage as determined for the purposes of  
6 the trade act of 1974, **19 USC 2101 TO 2497B**.

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

13 (a) Reporting at monthly intervals on the unemployment  
14 agency's online reporting system the name of each employer and  
15 physical or online location of each employer where work was sought  
16 and the date and method by which work was sought with each  
17 employer.

18 (b) Filing a written report with the unemployment agency by  
19 mail or facsimile transmission not later than the end of the fourth  
20 calendar week after the end of the week in which the individual  
21 engaged in the work search, on a form approved by the unemployment  
22 agency, indicating the name of each employer and physical or online  
23 location of each employer where work was sought and the date and  
24 method by which work was sought with each employer.

25 (c) Appearing at least monthly in person at a Michigan works  
26 agency office to report the name and physical or online location of  
27 each employer where the individual sought work during the previous

1 month and the date and method by which work was sought with each  
2 employer.

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

5 (8) THE UNEMPLOYMENT AGENCY SHALL REQUEST BUT SHALL NOT  
6 REQUIRE AN INDIVIDUAL WHO IS APPLYING FOR BENEFITS TO SUBMIT HIS OR  
7 HER BASE PERIOD EMPLOYER'S UNEMPLOYMENT AGENCY ACCOUNT NUMBER AND  
8 FEDERAL EMPLOYER IDENTIFICATION NUMBER.

9 (9) THE UNEMPLOYMENT AGENCY SHALL USE ALL OF THE DOCUMENTATION  
10 AND INFORMATION PROVIDED BY AN INDIVIDUAL APPLYING FOR BENEFITS TO  
11 VERIFY THE IDENTITY OF THE INDIVIDUAL BEFORE MAKING AN INITIAL  
12 PAYMENT ON THE INDIVIDUAL'S CLAIM.

13 Enacting section 1. This amendatory act takes effect 90 days  
14 after the date it is enacted into law.

15 Enacting section 2. This amendatory act does not take effect  
16 unless all of the following bills of the 99th Legislature are  
17 enacted into law:

18 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5169 (request no.  
19 03872'17).

20 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5167 (request no.  
21 03873'17).

22 (c) Senate Bill No. \_\_\_\_ or House Bill No. 5172 (request no.  
23 03874'17).

24 (d) Senate Bill No. \_\_\_\_ or House Bill No. 5170 (request no.  
25 03876'17).

26 (e) Senate Bill No. \_\_\_\_ or House Bill No. 5165 (request no.  
27 03877'17).

1 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 5166 (request no.  
2 03879'17).

3 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 5171 (request no.  
4 03880'17).