

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 87

5 By: Senator J. Key
6

For An Act To Be Entitled

8 AN ACT CONCERNING HEARINGS ON QUALIFICATIONS FOR
9 UNEMPLOYMENT BENEFITS; DISQUALIFICATION FROM
10 UNEMPLOYMENT COMPENSATION BENEFITS WHEN DISCHARGED
11 FOR MISCONDUCT; TO INCLUDE DISQUALIFICATION FROM
12 BENEFITS FOR DISCHARGE DUE TO MISCONDUCT WITH REGARD
13 TO ALL EMPLOYERS IN THE BASE PERIOD; TO EXEMPT FROM
14 CHARGE FOR BENEFITS ANY EMPLOYER WHO DISCHARGED AN
15 INDIVIDUAL DUE TO CRIMINAL MISCONDUCT; AND FOR OTHER
16 PURPOSES.

Subtitle

17
18
19 CONCERNING QUALIFICATIONS AND
20 DISQUALIFICATION FROM UNEMPLOYMENT
21 COMPENSATION BENEFITS WHEN BEING
22 DISCHARGED FOR MISCONDUCT.
23
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 11-10-308, concerning administrative
29 determinations of coverage for unemployment benefits, is amended to read as
30 follows:

31 (a)(1) The Director of the Department of Workforce Services may, upon
32 his or her own motion or upon application of an employing unit, after notice
33 and opportunity for hearing, make findings of fact and, on the basis thereof,
34 determinations with respect to whether an employing unit constitutes an
35 employer and whether services performed for or in connection with the
36 business of an employing unit constitute employment for that employing unit.



1 (2)(A) Before a hearing is held under subdivision (a)(1) of this
 2 section, the director shall give notice of the hearing to each employing unit
 3 that might be liable for payments of unemployment benefits arising from the
 4 hearing.

5 (B) The director shall afford an employing unit that might
 6 be liable for payments of unemployment benefits arising from hearing under
 7 subdivision (a)(1) of this section an opportunity to present information and
 8 arguments regarding the employing unit's potential liability.

9
 10 SECTION 2. Arkansas Code § 11-10-514 is amended to read as follows:

11 11-10-514. Disqualification – Discharge for misconduct.

12 (a)(1) If so found by the Director of the Department of Workforce
 13 Services, an individual shall be disqualified for benefits if he or she is
 14 discharged from his or her last ~~work~~ employment by any employer during the
 15 base period for misconduct in connection with the ~~work~~ employment.

16 (2) In all cases of discharge for absenteeism, the individual's
 17 attendance record for the twelve-month period immediately preceding the
 18 discharge and the reasons for the absenteeism shall be taken into
 19 consideration for purposes of determining whether the absenteeism constitutes
 20 misconduct.

21 (3)(A) Except as otherwise provided in this section, an
 22 individual's disqualification for misconduct shall be for eight (8) weeks of
 23 unemployment as defined in § 11-10-512.

24 (B) However, for a discharge that occurs during the period
 25 of July 1, 2009, through June 30, 2011, the disqualification under
 26 subdivision (a)(3)(A) of this section shall continue until, subsequent to
 27 filing a claim, he or she has had at least thirty (30) days of employment
 28 covered by an unemployment compensation law of this state, another state, or
 29 the United States.

30 (b)(1)(A) An individual shall be disqualified from the date of filing
 31 the claim until he or she has ten (10) weeks of employment in each of which
 32 he or she shall have earned wages equal to at least his or her weekly benefit
 33 amount ~~If~~ if he or she is discharged from his or her last ~~work~~ employment by
 34 any employer during the base period for misconduct in connection with the
 35 ~~work~~ employment on account of:

36 (i) dishonesty, Dishonesty;

1 ~~(ii) drinking~~ Drinking on the job,;
 2 ~~(iii) reporting~~ Reporting for work while under
 3 the influence of intoxicants, including a controlled substance,; or
 4 ~~(iv) willful~~ Willful violation of bona fide
 5 rules or customs of the employer pertaining to the safety of fellow
 6 employees, persons, or company property,; or
 7 ~~(v) Being found guilty or pleading guilty or~~
 8 nolo contendere to a criminal offense in this state he or she shall be
 9 disqualified from the date of filing the claim until he or she shall have ten
 10 (10) weeks of employment in each of which he or she shall have earned wages
 11 equal to at least his or her weekly benefit amount.

12 (B) If an individual is disqualified under subdivision
 13 (b)(1)(A)(v) of this section in connection with a crime committed against his
 14 or her employer, no benefit paid to the individual with respect to any week
 15 of unemployment after the discharge shall be charged to the account of the
 16 employer that discharged the individual if the benefit is based upon wages
 17 paid to the individual for employment before the discharge by the employer
 18 that discharged the individual.

19 (2)(A) If an individual is discharged for testing positive for
 20 an illegal drug pursuant to under a United States Department of
 21 Transportation-qualified drug screen conducted in accordance with the
 22 employer's bona fide written drug policy, the individual is disqualified:

23 (i) From the date of filing the claim until he or
 24 she ~~shall have~~ has ten (10) weeks of employment in each of which he or she
 25 ~~shall have~~ has earned wages equal to at least his or her weekly benefit
 26 amount; and

27 (ii) Until he or she passes a United States
 28 Department of Transportation-qualified drug screen by testing negative for
 29 illegal drugs.

30 (B) If an individual is disqualified under subdivision
 31 (b)(2)(A) of this section, no benefit paid to the individual with respect to
 32 any week of unemployment after the discharge shall be charged to the account
 33 of the employer that discharged the individual if the benefit is based upon
 34 wages paid to the individual for employment before the discharge by the
 35 employer that discharged the individual.

36 (c)(1) If so found by the director, an individual shall be

1 disqualified for benefits if he or she is suspended from his or her last ~~work~~
2 employment for misconduct in connection with the ~~work~~ employment.

3 (2) Except as otherwise provided, the disqualification shall be
4 for the duration of the suspension or eight (8) weeks, whichever is the
5 lesser.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36