

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

As Engrossed: H3/11/11

# A Bill

HOUSE BILL 1728

5 By: Representatives Carter, D. Altes, Baird, Barnett, Bell, Benedict, Biviano, Branscum, J. Burris,  
6 Clemmer, Collins-Smith, Dale, Deffenbaugh, English, Eubanks, Garner, Gillam, Harris, Hickerson,  
7 Hobbs, Jean, Johnston, Kerr, Lea, Linck, Mauch, Mayberry, D. Meeks, S. Meeks, Perry, Rice, Sanders,  
8 Shepherd, Slinkard, Steel, Stubblefield, Summers, Westerman, Woods  
9 By: Senators J. Dismang, G. Baker, Bledsoe, Files, Holland, J. Hutchinson, M. Lamoureux, B. Pritchard,  
10 Rapert, J. Taylor, Whitaker, E. Williams, D. Wyatt  
11

## For An Act To Be Entitled

12 AN ACT TO SPECIFY MINIMUM AND MAXIMUM UNEMPLOYMENT  
13 BENEFITS; TO AMEND REQUIREMENTS FOR RECEIVING  
14 UNEMPLOYMENT BENEFITS FOR DISCHARGE FOR ABSENTEEISM,  
15 MISCONDUCT, AND FAILURE TO ACCEPT SUITABLE WORK; AND  
16 FOR OTHER PURPOSES.  
17

## Subtitle

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20 AN ACT TO SPECIFY MINIMUM AND MAXIMUM  
21 UNEMPLOYMENT BENEFITS AND TO AMEND  
22 REQUIREMENTS FOR RECEIVING UNEMPLOYMENT  
23 BENEFITS FOR DISCHARGE FOR ABSENTEEISM,  
24 MISCONDUCT, AND FAILURE TO ACCEPT  
25 SUITABLE WORK.  
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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31 SECTION 1. Arkansas Code § 11-10-502(b) and (c), concerning weekly  
32 unemployment benefit amounts, are amended to read as follows:

33 *(b)(1) ~~No~~ A weekly benefit amount shall not be less than*  
34 *twelve percent (12%) of the state average weekly wage for insured employment*  
35 *for the preceding calendar year for benefit years beginning after June 30,*  
36 *1987.*



1 (2) However, effective July, 1, 2012, the weekly benefit amount  
 2 shall not be greater than eighty-one dollars (\$81.00).

3 (c)(1) ~~No~~ A weekly benefit amount shall not be greater than sixty-six  
 4 and two-thirds percent (662/3%) of the state average weekly wage for insured  
 5 employment for the previous calendar year for benefit years beginning after  
 6 June 30, 1985.

7 ~~(2) However, for benefit years beginning July 1, 2003, through~~  
 8 ~~June 30, 2005, the maximum weekly benefit amount shall not exceed three~~  
 9 ~~hundred forty five dollars (\$345)~~

10 However, effective July, 1, 2012, the weekly benefit amount shall not be  
 11 greater than four hundred fifty-one dollars (\$451).

12  
 13 SECTION 2. Arkansas Code § 11-10-504(a), concerning maximum  
 14 unemployment benefits payable, is amended to read as follows:

15 (a) The maximum potential benefits of any insured worker in a benefit  
 16 year shall be the amount equal to whichever is the lesser of:

17 (1) ~~Twenty-six (26)~~ Twenty-five (25) times his or her weekly  
 18 benefit amount; or

19 (2) One-third (1/3) of his or her wages for insured work in his  
 20 or her base period.

21  
 22 SECTION 3. Arkansas Code § 11-10-507(5)(A) and (B), concerning  
 23 qualifying and requalifying wages for unemployment benefits, is amended to  
 24 read as follows:

25 (5)(A) Qualifying Wages. For any benefit year, he or she has  
 26 during his or her base period been paid wages in at least two (2) quarters of  
 27 his or her base period for insured work, and the total wages paid during his  
 28 or her base period equal not less than ~~twenty-seven (27)~~ thirty-five (35)  
 29 times his or her weekly benefit amount.

30 (B) Requalifying Wages. For all benefit years, ~~no~~ an  
 31 individual ~~may~~ shall not requalify on a succeeding benefit year claim unless  
 32 he or she has been paid wages for insured work equal to not less than ~~twenty-~~  
 33 ~~seven (27)~~ thirty-five (35) times his or her weekly benefit amount and has  
 34 wages paid for insured work in at least two (2) calendar quarters of his or  
 35 her base period and, subsequent to filing the claim which established his or  
 36 her previous benefit year, he or she has had insured work and was paid wages

1 for work equal to ~~three (3)~~ eight (8) times his or her weekly benefit amount.

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3 SECTION 4. Arkansas Code § 11-10-514 is amended to read as follows:

4 11-10-514. Disqualification – Discharge for misconduct.

5 (a)(1) If so found by the Director of the Department of Workforce  
6 Services, an individual shall be disqualified for benefits if he or she is  
7 discharged from his or her last work for misconduct in connection with the  
8 work.

9 (2)(A) In all cases of discharge for absenteeism, ~~the~~  
10 ~~individual's attendance record for the twelve month period immediately~~  
11 ~~preceding the discharge and the reasons for the absenteeism shall be taken~~  
12 ~~into consideration for purposes of determining whether the absenteeism~~  
13 ~~constitutes misconduct~~ the individual will be disqualified if the discharge  
14 was pursuant to the terms of a bona fide written attendance policy with  
15 progressive warnings, regardless of whether the policy is a fault or no-fault  
16 policy.

17 (B) The disqualification under subdivision (a)(2)(A) of  
18 this section shall continue until, subsequent to filing a claim, the  
19 individual has had at least thirty (30) days of employment covered by an  
20 unemployment compensation law of this state, another state, or the United  
21 States.

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

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

31 (B) Misconduct includes violation of any behavioral  
32 policies of the employer as distinguished from deficiencies in meeting  
33 production standards or accomplishing job duties.

34 (b)(1) If he or she is discharged from his or her last work for  
35 misconduct in connection with the work on account of dishonesty, drinking on  
36 the job, reporting for work while under the influence of intoxicants,

1 including a controlled substance, or willful violation of bona fide rules or  
2 customs of the employer pertaining to his or her safety or the safety of  
3 fellow employees, persons, or company property, he or she shall be  
4 disqualified ~~from the date of filing the claim until he or she shall have ten~~  
5 ~~(10) weeks of employment in each of which he or she shall have earned wages~~  
6 ~~equal to at least his or her weekly benefit amount~~ until, subsequent to the  
7 date of the disqualification, the claimant has been paid wages in two (2)  
8 quarters for insured work totaling not less than thirty-five (35) times his  
9 or her weekly benefit amount.

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

14 (i) ~~From the date of filing the claim until he or~~  
15 ~~she shall have ten (10) weeks of employment in each of which he or she shall~~  
16 ~~have earned wages equal to at least his or her weekly benefit amount~~ Until,  
17 subsequent to the date of the disqualification, the claimant has been paid  
18 wages in two (2) quarters for insured work totaling not less than thirty-five  
19 (35) times his or her weekly benefit amount; and

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

23 (B) If an individual is disqualified under subdivision  
24 (b)(2)(A) of this section, no benefit paid to the individual with respect to  
25 any week of unemployment after the discharge shall be charged to the account  
26 of the employer that discharged the individual if the benefit is based upon  
27 wages paid to the individual for employment before the discharge by the  
28 employer that discharged the individual.

29 (c)(1) If so found by the director, an individual shall be  
30 disqualified for benefits if he or she is suspended from his or her last work  
31 for misconduct in connection with the work.

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

35 (d)(1) An individual shall not be deemed guilty of misconduct for poor  
36 performance in his or her job duties unless the employer can prove that the

1 poor performance was intentional.

2 (2) An individual's repeated act of commission or omission or  
3 negligence despite progressive discipline shall constitute sufficient proof  
4 of intentional poor performance.

5 (3) An individual who refuses an *alternate suitable job* rather  
6 than being terminated for poor performance shall be disqualified until,  
7 subsequent to filing a claim, he or she has had at least thirty (30) days of  
8 employment covered by an unemployment compensation law of this state, another  
9 state, or the United States.

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11 SECTION 5. Arkansas Code § 11-10-515 is amended to read as follows:

12 11-10-515. Disqualification – Failure or refusal to apply for or  
13 accept suitable work.

14 (a)(1)(A) If so found by the Director of the Department of Workforce  
15 Services, an individual shall be disqualified for benefits if he or she has  
16 failed without good cause:

17 (i) To apply for available suitable work when so  
18 directed by a Department of Workforce Services office; or

19 (ii) To accept available suitable work when offered.

20 (B) The disqualification under subdivision (a)(1)(A) of  
21 this section shall ~~be for eight (8) weeks of unemployment as defined in § 11-~~  
22 ~~10-512~~ continue until, subsequent to filing a claim, he or she has had at  
23 least thirty (30) days of employment covered by an unemployment compensation  
24 law of this state, another state, or the United States, and shall begin with  
25 the week in which the failure to apply for or accept available suitable work  
26 occurred.

27 (2)(A) An individual who applies for benefits ~~after July 31,~~  
28 ~~2007,~~ is disqualified for benefits if he or she was rejected for offered  
29 employment as the direct result of a failure:

30 (i) To appear for a United States Department of  
31 Transportation-qualified drug screen after having received a bona fide job  
32 offer of suitable work subject to passage of the drug screen; or

33 (ii) To pass a United States Department of  
34 Transportation-qualified drug screen by testing positive for an illegal drug  
35 after having received a bona fide job offer of suitable work.

36 (B) The disqualification under subdivision (a)(2)(A) of

1 this section shall continue until:

2 (i) Until, subsequent to the date of the  
3 disqualification, the claimant has been paid wages in two (2) quarters for  
4 insured work totaling not less than thirty-five (35) times his or her weekly  
5 benefit amount; and

6 (ii) the The disqualified individual passes a United  
7 States Department of Transportation-qualified drug screen by testing negative  
8 for illegal drugs.

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10 SECTION 6. Arkansas Code § 11-10-610(b), concerning amounts of  
11 unemployment benefits under shared work plans, is amended to read as  
12 follows:

13 (b) An individual may be eligible for shared work unemployment  
14 compensation benefits or unemployment compensation, as appropriate, except  
15 that no individual shall be eligible for combined benefits in any benefit  
16 year in an amount more than the maximum entitlement established for  
17 unemployment compensation, nor shall an individual be paid shared work  
18 unemployment compensation benefits for more than ~~twenty-six (26)~~ twenty-five  
19 (25) weeks, whether or not consecutive, in any benefit year pursuant to a  
20 shared work plan.

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22 /s/Carter  
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