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4

As Engrossed: H3/11/11 H3/16/11

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.
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18
19

Subtitle

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 minimum benefit
 2 amount established in subdivision (b)(1) of this section shall not be greater
 3 than eighty-one dollars (\$81.00).

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

8 ~~(2) However, for benefit years beginning July 1, 2003, through~~
 9 ~~June 30, 2005, the maximum weekly benefit amount shall not exceed three~~
 10 ~~hundred forty five dollars (\$345)~~
 11 However, effective July, 1, 2012, the weekly minimum benefit amount
 12 established in subdivision (c)(1) of this section shall not be greater than
 13 four hundred fifty-one dollars (\$451).

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

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

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

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

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

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

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

1 her base period and, subsequent to filing the claim which established his or
2 her previous benefit year, he or she has had insured work and was paid wages
3 for work equal to ~~three (3)~~ eight (8) times his or her weekly benefit amount.
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5 SECTION 4. Arkansas Code § 11-10-514 is amended to read as follows:

6 11-10-514. Disqualification – Discharge for misconduct.

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

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

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

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

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

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

36 (b)(1) If he or she is discharged from his or her last work for

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

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

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

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

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

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

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

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

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

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

12
13 SECTION 5. Arkansas Code § 11-10-515 is amended to read as follows:

14 11-10-515. Disqualification – Failure or refusal to apply for or
15 accept suitable work.

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

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

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

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

29 (2)(A) An individual who applies for benefits ~~after July 31,~~
30 ~~2007,~~ is disqualified for benefits if he or she was rejected for offered
31 employment as the direct result of a failure:

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

35 (ii) To pass a United States Department of
36 Transportation-qualified drug screen by testing positive for an illegal drug

1 after having received a bona fide job offer of suitable work.

2 (B) The disqualification under subdivision (a)(2)(A) of
3 this section shall continue until:

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

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

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

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

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24 /s/Carter

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