

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

As Engrossed: S3/7/11
A Bill

SENATE BILL 593

5 By: Senator J. Dismang
6 By: Representative Carter
7

For An Act To Be Entitled

9 AN ACT TO SPECIFY MINIMUM AND MAXIMUM UNEMPLOYMENT
10 BENEFITS; TO AMEND REQUIREMENTS FOR RECEIVING
11 UNEMPLOYMENT BENEFITS FOR DISCHARGE FOR ABSENTEEISM,
12 MISCONDUCT, AND FAILURE TO ACCEPT SUITABLE WORK; AND
13 FOR OTHER PURPOSES.
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Subtitle

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

29 (b) ~~No~~ A weekly benefit amount shall not be less than ~~twelve percent~~
30 ~~(12%) of the state average weekly wage for insured employment for the~~
31 ~~preceding calendar year for benefit years beginning after June 30, 1987~~
32 eighty-one dollars (\$81.00).

33 (c)~~(1)~~ ~~No~~ A weekly benefit amount shall not be greater than ~~sixty-six~~
34 ~~and two thirds percent (66 2/3%) of the state average weekly wage for insured~~
35 ~~employment for the previous calendar year for benefit years beginning after~~
36 ~~June 30, 1985~~ four hundred fifty-one dollars (\$451).



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

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

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

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

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

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

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

22 (B) Requalifying Wages. For all benefit years, ~~no~~ an
23 individual ~~may~~ shall not requalify on a succeeding benefit year claim unless
24 he or she has been paid wages for insured work equal to not less than ~~twenty-~~
25 ~~seven (27)~~ thirty-five (35) times his or her weekly benefit amount and has
26 wages paid for insured work in at least two (2) calendar quarters of his or
27 her base period and, subsequent to filing the claim which established his or
28 her previous benefit year, he or she has had insured work and was paid wages
29 for work equal to ~~three (3)~~ eight (8) times his or her weekly benefit amount.

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

32 11-10-514. Disqualification – Discharge for misconduct.

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

1 (2)(A) In all cases of discharge for absenteeism, the
2 ~~individual's attendance record for the twelve month period immediately~~
3 ~~preceding the discharge and the reasons for the absenteeism shall be taken~~
4 ~~into consideration for purposes of determining whether the absenteeism~~
5 ~~constitutes misconduct~~ the individual will be disqualified if the discharge
6 was pursuant to the terms of a bona fide written attendance policy with
7 progressive warnings, regardless of whether the policy is a fault or no-fault
8 policy.

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

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

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

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

26 (b)(1) If he or she is discharged from his or her last work for
27 misconduct in connection with the work on account of dishonesty, drinking on
28 the job, reporting for work while under the influence of intoxicants,
29 including a controlled substance, or willful violation of bona fide rules or
30 customs of the employer pertaining to his or her safety or the safety of
31 fellow employees, persons, or company property, he or she shall be
32 disqualified from the date of filing the claim until he or she shall have ten
33 (10) weeks of employment in each of which he or she shall have earned wages
34 equal to at least his or her weekly benefit amount until after he or she
35 again earns additional qualifying wages under section 11-10-507(5)(A).

36 (2)(A) If an individual is discharged for testing positive for

1 an illegal drug pursuant to a United States Department of Transportation-
2 qualified drug screen conducted in accordance with the employer's bona fide
3 written drug policy, the individual is disqualified:

4 (i) ~~From the date of filing the claim until he or~~
5 ~~she shall have ten (10) weeks of employment in each of which he or she shall~~
6 ~~have earned wages equal to at least his or her weekly benefit amount~~ Until
7 after he or she again earns additional qualifying wages under section 11-10-
8 507(5)(A); and

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

12 (B) If an individual is disqualified under subdivision
13 (b)(2)(A) of this section, no benefit paid to the individual with respect to
14 any week of unemployment after the discharge shall be charged to the account
15 of the employer that discharged the individual if the benefit is based upon
16 wages paid to the individual for employment before the discharge by the
17 employer that discharged the individual.

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

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

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

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

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

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

1 11-10-515. Disqualification – Failure or refusal to apply for or
2 accept suitable work.

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

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

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

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

16 (2)(A) An individual who applies for benefits ~~after July 31,~~
17 ~~2007,~~ is disqualified for benefits if he or she was rejected for offered
18 employment as the direct result of a failure:

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

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

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

27 (i) After he or she again earns additional
28 qualifying wages under section 11-10-507(5)(A); and

29 (ii) ~~the~~ The disqualified individual passes a United
30 States Department of Transportation-qualified drug screen by testing negative
31 for illegal drugs.

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

36 (b) An individual may be eligible for shared work unemployment

1 compensation benefits or unemployment compensation, as appropriate, except
2 that no individual shall be eligible for combined benefits in any benefit
3 year in an amount more than the maximum entitlement established for
4 unemployment compensation, nor shall an individual be paid shared work
5 unemployment compensation benefits for more than ~~twenty-six (26)~~ twenty-five
6 (25) weeks, whether or not consecutive, in any benefit year pursuant to a
7 shared work plan.

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/s/J. Dismang