

1 State of Arkansas *As Engrossed: S3/7/11 S3/10/11 S3/15/11*

2 88th General Assembly

# A Bill

3 Regular Session, 2011

SENATE BILL 593

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5 By: Senators J. Dismang, *G. Baker, Bledsoe, Holland, J. Hutchinson, M. Lamoureux, B. Pritchard,*  
6 *Rapert, J. Taylor, Whitaker, E. Williams, D. Wyatt, Files*

7 By: Representatives Carter, *D. Altes, Baird, Barnett, Bell, Benedict, Biviano, Branscum, J. Burris,*  
8 *Clemmer, Collins-Smith, Dale, Deffenbaugh, English, Eubanks, Garner, Gillam, Harris, Hickerson,*  
9 *Hobbs, Jean, Johnston, Kerr, Lea, Linck, Mauch, Mayberry, D. Meeks, S. Meeks, Perry, Rice, Sanders,*  
10 *Shepherd, Slinkard, Steel, Stubblefield, Summers, Westerman, Woods*

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## For An Act To Be Entitled

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

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## Subtitle

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AN ACT TO SPECIFY MINIMUM AND MAXIMUM  
22 UNEMPLOYMENT BENEFITS AND TO AMEND  
23 REQUIREMENTS FOR RECEIVING UNEMPLOYMENT  
24 BENEFITS FOR DISCHARGE FOR ABSENTEEISM,  
25 MISCONDUCT, AND FAILURE TO ACCEPT  
26 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:

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

36

*(2) However, effective July, 1, 2012, the weekly benefit amount*



1 shall not be greater than eighty-one dollars (\$81.00).

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

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

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

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

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

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

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

20  
21 SECTION 3. Arkansas Code § 11-10-507(5)(A) and (B), concerning  
22 qualifying and requalifying wages for unemployment benefits, is amended to  
23 read as follows:

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

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

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

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

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

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

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

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

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

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

(b)(1) If he or she is discharged from his or her last work for misconduct in connection with the work on account of dishonesty, drinking on the job, reporting for work while under the influence of intoxicants, including a controlled substance, or willful violation of bona fide rules or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

