

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

A Bill

HOUSE BILL 1728

5 By: Representative Carter
6 By: Senator J. Dismang
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).~~

4
 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.

13
 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.

30
 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.

35
 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)(a) To accept available suitable work when
9 offered.

10 (b) During the first twelve (12) weeks that a
11 claimant receives benefits, any job offer for less than eighty percent (80%)
12 of the claimant's prior wages shall not be deemed a suitable offer.

13 (c) After the first twelve (12) weeks that a
14 claimant receives benefits, any job offer that pays at least fifty percent
15 (50%) of the claimant's prior wages shall not be deemed a suitable offer.

16 (d) After the first eighteen (18) weeks that a
17 claimant receives benefits, any offer that pays at least the amount of
18 claimant's benefits shall be deemed suitable.

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:

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

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

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

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