

FIRST REGULAR SESSION

# SENATE BILL NO. 27

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Pre-filed December 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

0332L.01I

## AN ACT

To repeal section 288.050, RSMo, and to enact in lieu thereof one new section relating to unemployment benefits.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 288.050, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 288.050, to read as follows:

288.050. 1. Notwithstanding the other provisions of this law, a claimant  
2 shall be disqualified for waiting week credit or benefits until after the claimant  
3 has earned wages for work insured pursuant to the unemployment compensation  
4 laws of any state equal to ten times the claimant's weekly benefit amount if the  
5 deputy finds:

6 (1) That the claimant has left work voluntarily without good cause  
7 attributable to such work or to the claimant's employer, **except that the spouse**  
8 **of an active member of the United States Armed Forces shall be deemed**  
9 **to have good cause to leave his or her employment to accompany the**  
10 **military spouse in the event of a military transfer.** A temporary employee  
11 of a temporary help firm will be deemed to have voluntarily quit employment if  
12 the employee does not contact the temporary help firm for reassignment prior to  
13 filing for benefits. Failure to contact the temporary help firm will not be deemed  
14 a voluntary quit unless the claimant has been advised of the obligation to contact  
15 the firm upon completion of assignments and that unemployment benefits may  
16 be denied for failure to do so. The claimant shall not be disqualified:

17 (a) If the deputy finds the claimant quit such work for the purpose of  
18 accepting a more remunerative job which the claimant did accept and earn some  
19 wages therein;

20 (b) If the claimant quit temporary work to return to such claimant's

21 regular employer; or

22 (c) If the deputy finds the individual quit work, which would have been  
23 determined not suitable in accordance with paragraphs (a) and (b) of subdivision  
24 (3) of this subsection, within twenty-eight calendar days of the first day worked;

25 (d) As to initial claims filed after December 31, 1988, if the claimant  
26 presents evidence supported by competent medical proof that she was forced to  
27 leave her work because of pregnancy, notified her employer of such necessity as  
28 soon as practical under the circumstances, and returned to that employer and  
29 offered her services to that employer as soon as she was physically able to return  
30 to work, as certified by a licensed and practicing physician, but in no event later  
31 than ninety days after the termination of the pregnancy. An employee shall have  
32 been employed for at least one year with the same employer before she may be  
33 provided benefits pursuant to the provisions of this paragraph;

34 (2) That the claimant has retired pursuant to the terms of a labor  
35 agreement between the claimant's employer and a union duly elected by the  
36 employees as their official representative or in accordance with an established  
37 policy of the claimant's employer; or

38 (3) That the claimant failed without good cause either to apply for  
39 available suitable work when so directed by a deputy of the division or designated  
40 staff of an employment office as defined in subsection 16 of section 288.030, or to  
41 accept suitable work when offered the claimant, either through the division or  
42 directly by an employer by whom the individual was formerly employed, or to  
43 return to the individual's customary self-employment, if any, when so directed by  
44 the deputy. An offer of work shall be rebuttably presumed if an employer notifies  
45 the claimant in writing of such offer by sending an acknowledgment via any form  
46 of certified mail issued by the United States Postal Service stating such offer to  
47 the claimant at the claimant's last known address. Nothing in this subdivision  
48 shall be construed to limit the means by which the deputy may establish that the  
49 claimant has or has not been sufficiently notified of available work.

50 (a) In determining whether or not any work is suitable for an individual,  
51 the division shall consider, among other factors and in addition to those  
52 enumerated in paragraph (b) of this subdivision, the degree of risk involved to the  
53 individual's health, safety and morals, the individual's physical fitness and prior  
54 training, the individual's experience and prior earnings, the individual's length  
55 of unemployment, the individual's prospects for securing work in the individual's  
56 customary occupation, the distance of available work from the individual's

57 residence and the individual's prospect of obtaining local work; except that, if an  
58 individual has moved from the locality in which the individual actually resided  
59 when such individual was last employed to a place where there is less probability  
60 of the individual's employment at such individual's usual type of work and which  
61 is more distant from or otherwise less accessible to the community in which the  
62 individual was last employed, work offered by the individual's most recent  
63 employer if similar to that which such individual performed in such individual's  
64 last employment and at wages, hours, and working conditions which are  
65 substantially similar to those prevailing for similar work in such community, or  
66 any work which the individual is capable of performing at the wages prevailing  
67 for such work in the locality to which the individual has moved, if not hazardous  
68 to such individual's health, safety or morals, shall be deemed suitable for the  
69 individual;

70 (b) Notwithstanding any other provisions of this law, no work shall be  
71 deemed suitable and benefits shall not be denied pursuant to this law to any  
72 otherwise eligible individual for refusing to accept new work under any of the  
73 following conditions:

74 a. If the position offered is vacant due directly to a strike, lockout, or  
75 other labor dispute;

76 b. If the wages, hours, or other conditions of the work offered are  
77 substantially less favorable to the individual than those prevailing for similar  
78 work in the locality;

79 c. If as a condition of being employed the individual would be required to  
80 join a company union or to resign from or refrain from joining any bona fide labor  
81 organization.

82 2. If a deputy finds that a claimant has been discharged for misconduct  
83 connected with the claimant's work, such claimant shall be disqualified for  
84 waiting week credit and benefits, and no benefits shall be paid nor shall the cost  
85 of any benefits be charged against any employer for any period of employment  
86 within the base period until the claimant has earned wages for work insured  
87 under the unemployment laws of this state or any other state as prescribed in  
88 this section. In addition to the disqualification for benefits pursuant to this  
89 provision the division may in the more aggravated cases of misconduct, cancel all  
90 or any part of the individual's wage credits, which were established through the  
91 individual's employment by the employer who discharged such individual,  
92 according to the seriousness of the misconduct. A disqualification provided for

93 pursuant to this subsection shall not apply to any week which occurs after the  
94 claimant has earned wages for work insured pursuant to the unemployment  
95 compensation laws of any state in an amount equal to six times the claimant's  
96 weekly benefit amount. Should a claimant be disqualified on a second or  
97 subsequent occasion within the base period or subsequent to the base period the  
98 claimant shall be required to earn wages in an amount equal to or in excess of six  
99 times the claimant's weekly benefit amount for each disqualification.

100           3. Absenteeism or tardiness may constitute a rebuttable presumption of  
101 misconduct, regardless of whether the last incident alone constitutes misconduct,  
102 if the discharge was the result of a violation of the employer's attendance policy,  
103 provided the employee had received knowledge of such policy prior to the  
104 occurrence of any absence or tardy upon which the discharge is based.

105           4. Notwithstanding the provisions of subsection 1 of this section, a  
106 claimant may not be determined to be disqualified for benefits because the  
107 claimant is in training approved pursuant to Section 236 of the Trade Act of 1974,  
108 as amended, (19 U.S.C.A. Sec. 2296, as amended), or because the claimant left  
109 work which was not suitable employment to enter such training. For the  
110 purposes of this subsection "suitable employment" means, with respect to a  
111 worker, work of a substantially equal or higher skill level than the worker's past  
112 adversely affected employment, and wages for such work at not less than eighty  
113 percent of the worker's average weekly wage as determined for the purposes of  
114 the Trade Act of 1974.

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