

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 662

By: Rogers

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5
6 AS INTRODUCED

7 An Act relating to employment security; amending 40
8 O.S. 2021, Section 1-218, which relates to the
9 general definitions of the Employment Security Act of
10 1980; modifying definition; and providing an
11 effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 40 O.S. 2021, Section 1-218, is
14 amended to read as follows:

15 Section 1-218.

16 WAGES.

17 "Wages" means all remuneration for services from whatever
18 source, including ~~commissions and bonuses~~ and the cash value of all
19 remuneration in any medium other than cash, and includes dismissal
20 payments which the employer is required by law or contract to make.
21 Gratuities customarily received by an individual in the course of
22 work from persons other than the employing unit shall be treated as
23 wages received from the employing unit. The reasonable cash value
24 of remuneration in any medium other than cash, and the reasonable

1 amount of gratuities, shall be estimated and determined in
2 accordance with rules prescribed by the Oklahoma Employment Security
3 Commission. If the Internal Revenue Code, at 26 USCA, Section 1 et
4 seq., provides that a payment made by an employer to an employee is
5 considered to be wages, that payment shall also be considered wages
6 by the Oklahoma Employment Security Commission for the purposes of
7 this act. The term wages shall not include:

8 1. The amount of any payment, with respect to services
9 performed to or on behalf of an individual in its employ under a
10 plan or system established by an employing unit which makes
11 provision for individuals in its employ generally, or for a class or
12 classes of such individuals, including any amount paid by an
13 employing unit for insurance or annuities, or into a fund to provide
14 for any such payment, on account of:

15 a. retirement, other than employee contributions or
16 deferrals under a qualified plan as described in 26
17 U.S.C., Section 401(k), 403(b), 408(k), 457, 7701(j)
18 or 408(p),

19 b. sickness or accident disability,

20 c. medical and hospitalization expenses in connection
21 with sickness or accident disability,

22 d. death, provided the individual in its employ:

23 (1) has not the option to receive, instead of
24 provision for such death benefit, any part of
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1 such payment, or if such death benefit is
2 insured, any part of the premium or contributions
3 to premiums paid by the employing unit, and

4 (2) has not the right, under the provisions of the
5 plan or system or policy of insurance providing
6 for such death benefit, to assign such benefit,
7 or to receive cash consideration in lieu of such
8 benefit either upon withdrawal from the plan or
9 system providing for such benefit or upon
10 termination of such plan or system or policy of
11 insurance or of the individual's services with
12 such employing unit, or

13 e. a bona fide thrift or savings fund, providing:

14 (1) such payment is conditioned upon a payment of a
15 substantial sum by such individuals in its
16 employ, and

17 (2) that such sum paid by the employing unit cannot
18 under the provisions of such plan be withdrawn by
19 an individual more frequently than once in any
20 twelve-month period, except upon an individual's
21 separation from that employment;

22 2. Any payment made to, or on behalf of, an employee or his or
23 her beneficiary under a cafeteria plan of the type described in 26
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1 U.S.C., Section 125 and referred to in 26 U.S.C., Section
2 3306(b) (5) (G);

3 3. Any payment made, or benefit furnished, to or for the
4 benefit of an employee if at the time of such payment or such
5 furnishing it is reasonable to believe that the employee will be
6 able to exclude such payment or benefit from income under an
7 educational assistance program as described in 26 U.S.C., Section
8 127 or a dependent care assistance program as described in 26
9 U.S.C., Section 129 and as referred to in 26 U.S.C., Section
10 3306(b) (13);

11 4. The payment by an employing unit, without deduction from the
12 remuneration of the individual in its employ, of the tax imposed
13 upon such individual in its employ under 26 U.S.C., Section 3101
14 with respect to domestic services in a private home of the employer
15 or for agricultural labor;

16 5. Dismissal payments which the employer is not required by law
17 or contract to make;

18 6. The value of any meals and lodging furnished by or on behalf
19 of an employer to an individual in its employ; provided the meals
20 and lodging are furnished on the business premises of the employer
21 for the convenience of the employer; ~~or~~

22 7. Payments made under an approved supplemental unemployment
23 benefit plan;

24 8. Payments made as a one-time or annual bonus; or

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9. Wages paid on hours or a portion of an hour worked that is
in excess of forty (40) hours within a calendar week.

SECTION 2. This act shall become effective January 1, 2024.

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