



HOUSE BILL No. 4915

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July 1, 1993, Introduced by Rep. Profit and referred to the Committee on Labor.

A bill to amend section 29 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 164 of the Public Acts of 1983, being section 421.29 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 29 of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as amended by Act No. 164 of the  
3 Public Acts of 1983, being section 421.29 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 29. (1) An individual ~~shall be~~ IS disqualified for  
6 benefits ~~in the following cases in which the individual~~ IF HE  
7 OR SHE:

8 (a) Left work voluntarily without good cause attributable to  
9 the employer or employing unit. However, if the individual has

1 an established benefit year in effect and, during that benefit  
2 year, has left unsuitable work within 60 days after the beginning  
3 of that work, ~~such leaving shall not be~~ THE LEAVING IS NOT  
4 disqualifying.

5 (b) Was discharged for misconduct connected with the  
6 individual's work ~~—~~ or for intoxication while at work unless  
7 the discharge was subsequently reduced to a disciplinary layoff  
8 or suspension.

9 (c) Failed without good cause to apply for available suit-  
10 able work of which the individual was notified by the employment  
11 office or the commission.

12 (d) Being unemployed, failed without good cause to report to  
13 the individual's former employer or employing unit within a rea-  
14 sonable time after notice from that employer or employing unit  
15 for an interview concerning available suitable work with the  
16 former employer or employing unit.

17 (e) Failed without good cause to accept suitable work when  
18 offered the individual ~~—~~ or to return to the individual's cus-  
19 tomary self-employment, if any, when directed by the employment  
20 office or the commission.

21 (f) Lost his or her job by reason of being absent from work  
22 as a result of a violation of law for which the individual was  
23 convicted ~~—~~ and sentenced to jail or prison. This subdivision  
24 ~~shall~~ DOES not apply if conviction of a person results in a  
25 sentence to county jail under conditions of day parole as pro-  
26 vided in Act No. 60 of the Public Acts of 1962, being sections  
27 801.251 to 801.258 of the Michigan Compiled Laws, or when the

1 conviction was for a traffic violation that resulted in an  
2 absence of less than 10 consecutive work days from the  
3 individual's place of employment.

4 (g) Is discharged, whether or not the discharge is subse-  
5 quently reduced to a disciplinary layoff or suspension, for par-  
6 ticipation in a strike or other concerted action resulting in  
7 curtailment of work or restriction of or interference with pro-  
8 duction ~~—~~ contrary to ~~the provisions of~~ an applicable collec-  
9 tive bargaining agreement, ~~—~~ or FOR participation in a wildcat  
10 strike or other concerted action not authorized by the  
11 individual's recognized bargaining representative.

12 (h) Was discharged for an act of assault and battery con-  
13 nected with the individual's work.

14 (i) Was discharged for theft connected with the individual's  
15 work resulting in a loss or damage of \$25.00 or less.

16 (j) Was discharged for theft connected with the individual's  
17 work resulting in a loss or damage of more than \$25.00.

18 (k) Was discharged for ~~wilful~~ WILLFUL destruction of prop-  
19 erty connected with the individual's work resulting in loss or  
20 damage of \$25.00 or less.

21 (l) Was discharged for ~~wilful~~ WILLFUL destruction of prop-  
22 erty connected with the individual's work resulting in loss or  
23 damage of more than \$25.00.

24 (m) Committed a theft ~~which~~ THAT occurred ~~subsequent to~~  
25 AFTER a notice of layoff or discharge, but ~~prior to~~ BEFORE the  
26 effective date of layoff or discharge, resulting in loss or  
27 damage of more than \$25.00 to the employer who would otherwise be

1 chargeable for the benefits, notwithstanding that the original  
2 layoff or discharge was under nondisqualifying circumstances.

3 (2) A disqualification provided in subsection (1) ~~shall~~  
4 ~~begin~~ BEGINS with the week in which the act or discharge  
5 occurred ~~which~~ THAT caused the disqualification and ~~shall~~  
6 ~~continue~~ CONTINUES until the disqualified individual requalifies  
7 under subsection (3). Except with respect to multiemployer  
8 credit weeks, the disqualification ~~shall~~ DOES not prevent the  
9 payment of benefits if there are credit weeks ~~subsequent to~~  
10 AFTER the most recent disqualifying act or discharge.

11 (3) ~~Subsequent to~~ AFTER the week in which the disqualify-  
12 ing act or discharge occurred, an individual shall complete 6  
13 requalifying weeks if disqualified under subsection (1)(c), (d),  
14 (e), (f), or (g), or shall complete 13 requalifying weeks if dis-  
15 qualified under subsection (1)(h), (j), (l), or (m), for each  
16 week in which the individual earns or receives remuneration in an  
17 amount at least equal to an amount needed to earn a credit week,  
18 as defined in section 50, or would otherwise meet all of the  
19 requirements of this act to receive a benefit payment if the  
20 individual were not disqualified under subsection (1), or  
21 receives a benefit payment based on credit weeks subsequent to  
22 the disqualifying act or discharge. An individual who is dis-  
23 qualified under subsection (1)(a), (b), (i), or (k), ~~shall, sub-~~  
24 ~~sequent to~~ AFTER the week in which the disqualifying discharge  
25 occurred, SHALL requalify by earning in employment for an  
26 employer liable under this act or the unemployment compensation  
27 act of another state an amount equal to, or in excess of, 7 times

1 the individual's potential weekly benefit rate, calculated on the  
2 basis of employment with the employer involved in the disqualifi-  
3 cation, or by earning in employment for an employer liable under  
4 this act or the unemployment compensation act of another state an  
5 amount equal to, or in excess of, 40 times the state minimum  
6 hourly wage times 7, whichever is the lesser amount. Any bene-  
7 fits ~~which may~~ THAT become payable to an individual disquali-  
8 fied under subsection (1)(a), (b), (i), or (k) shall not be  
9 charged to the account of the employer with whom the individual  
10 was involved in the disqualification. The benefits paid shall be  
11 charged to the nonchargeable benefits account.

12 (4) Subject to the conditions provided in this subsection,  
13 an individual's maximum amount of benefits otherwise available to  
14 the individual ~~—~~ under section 27(d), based on wages and credit  
15 weeks earned before an act or discharge with the employer  
16 involved ~~therein~~ IN AN ACT as the result of which the individ-  
17 ual was disqualified under subsection (1)(c), (d), (e), (f), or  
18 (g), shall be reduced by an amount equal to the individual's  
19 weekly benefit rate as to that employer multiplied by the number  
20 of requalifying weeks required of the individual under this sub-  
21 section or multiplied by the number of weeks of benefit entitle-  
22 ment remaining with that employer, whichever is less. The reduc-  
23 tions of benefits provided for in this subsection are subject,  
24 however, to the following conditions: if the individual has  
25 insufficient or no potential benefit entitlement remaining with  
26 that employer in the benefit year in existence on the date of the  
27 disqualifying determination, the reduction shall ~~be applicable~~

1 APPLY in a succeeding benefit year with respect to any benefit  
2 entitlement based upon credit weeks earned with the employer  
3 involved in the disqualification before the disqualifying act or  
4 discharge.

5 An individual disqualified under subsection (1)(h), (j),  
6 (l), or (m) ~~shall not be~~ IS NOT entitled to benefits based on  
7 wages and credit weeks earned before the disqualifying act or  
8 discharge with the employer involved in the disqualification.

9 The benefit entitlement of an individual disqualified under  
10 subsection (1)(a), (b), (i), or (k) ~~shall not be~~ IS NOT subject  
11 to reduction as a result of that disqualification.

12 For purposes of this subsection, the denial or reduction of  
13 benefits ~~shall~~ DOES not apply to benefits based upon multiem-  
14 ployer credit weeks.

15 (5) If an individual leaves work to accept permanent  
16 full-time work with another employer ~~and~~ and performs services  
17 for that employer, or LEAVES WORK to accept a recall from a  
18 former employer, the disqualification provisions of subsection  
19 (1) ~~shall~~ DO not apply to that leaving. ~~but~~ HOWEVER, the  
20 wages earned with the employer ~~that~~ WHOM the individual last  
21 left, including wages previously transferred under this  
22 ~~provision~~ SUBSECTION to the last employer, ~~shall~~, for the  
23 purpose of computing and charging benefits, ~~be~~ ARE considered  
24 wages earned from the employer with whom the individual accepted  
25 work or recall, and benefits paid based upon those wages shall be  
26 charged to that employer. When issuing a determination covering  
27 that period of employment, the commission shall advise the

1 chargeable employer of the name and address of the other  
2 employer, the period covered by the employment, and the extent of  
3 the benefits ~~which~~ THAT may be charged to the account of the  
4 chargeable employer.

5 (6) In determining whether or not work is suitable for an  
6 individual, the commission shall consider the degree of risk  
7 involved to the individual's health, safety, and morals, the  
8 individual's physical fitness and prior training, the  
9 individual's experience and prior earnings, the individual's  
10 length of unemployment and prospects for securing local work in  
11 the individual's customary occupation, and the distance of the  
12 available work from the individual's residence.

13 (7) Work ~~shall not be~~ IS NOT considered suitable and bene-  
14 fits shall not be denied under this act to an otherwise eligible  
15 individual for refusing to accept new work under any of the fol-  
16 lowing conditions:

17 (a) ~~if the~~ THE position offered is vacant due directly to  
18 a strike, lockout, or other labor dispute. ~~→~~

19 (b) ~~if the~~ THE remuneration, hours, or other conditions of  
20 the work offered are substantially less favorable to the individ-  
21 ual than those prevailing for similar work in the locality. ~~→~~

22 (c) ~~if as~~ AS a condition of being employed, the individual  
23 would be required to join a ~~company union~~ LABOR ORGANIZATION or  
24 to resign from or refrain from joining a bona fide labor  
25 organization.

26 (8) An individual ~~shall be~~ IS disqualified for benefits  
27 for a week in which the individual's total or partial

1 unemployment is due to a labor dispute in active progress, OTHER  
2 THAN A LOCKOUT, or to shutdown or start-up operations caused by  
3 that labor dispute ~~—~~ in the establishment in which the individ-  
4 ual is or was last employed, or to a labor dispute, other than a  
5 lockout, in active progress ~~—~~ or to shutdown or start-up opera-  
6 tions caused by that labor dispute ~~—~~ in any other establishment  
7 within the United States which is functionally integrated with  
8 the establishment and is operated by the same employing unit. An  
9 individual's disqualification imposed or imposable under this  
10 subsection ~~shall be~~ IS terminated by the individual's perform-  
11 ing services in employment with an employer in at least 2 consec-  
12 utive weeks falling wholly within the period of the individual's  
13 total or partial unemployment due to the labor dispute, and in  
14 addition by earning wages in each of those weeks in an amount  
15 equal to or in excess of the individual's actual or potential  
16 weekly benefit rate with respect to those weeks based on the  
17 individual's employment with the employer involved in the labor  
18 dispute. An individual ~~shall not be~~ IS NOT disqualified under  
19 this subsection if the individual is not directly involved in the  
20 dispute.

21 (a) For ~~the~~ purposes of this subsection, an individual  
22 ~~shall not be~~ IS NOT considered to be directly involved in a  
23 labor dispute unless it is established that any of the following  
24 occurred:

25 (i) At the time or in the course of a labor dispute in the  
26 establishment in which the individual was then employed, the  
27 individual in concert with 1 or more other employees voluntarily



1 stopped working other than at the direction of the individual's  
2 employing unit.

3 (ii) The individual is participating in, ~~or~~ financing, or  
4 directly interested in the labor dispute ~~which~~ THAT causes the  
5 individual's total or partial unemployment. The payment of regu-  
6 lar union dues, in amounts and for purposes established before  
7 the inception of the labor dispute, shall not be construed as  
8 financing a labor dispute within the meaning of this  
9 subparagraph.

10 (iii) At any time when there ~~is~~ WAS not a labor dispute in  
11 the establishment or department in which the individual was  
12 employed, the individual voluntarily stopped working, other than  
13 at the direction of the individual's employing unit, in sympathy  
14 with employees in some other establishment or department in which  
15 a labor dispute was then in progress.

16 (iv) The individual's total or partial unemployment is due  
17 to a labor dispute ~~which~~ THAT was or is in progress in a  
18 department, ~~or~~ unit, or group of workers in the same  
19 establishment.

20 (b) ~~"Directly interested", as~~ AS used in this subsection,  
21 "DIRECTLY INTERESTED" shall be construed ~~and applied~~ so as not  
22 to disqualify individuals unemployed as a result of a labor dis-  
23 pute the resolution of which may not reasonably be expected to  
24 affect their wages, hours, or other conditions of employment, and  
25 to disqualify individuals whose wages, hours, or conditions of  
26 employment may reasonably be expected to be affected by the  
27 resolution of the labor dispute. A "reasonable expectation" of

1 an effect on an individual's wages, hours, or other conditions of  
2 employment ~~shall be~~ IS considered to exist, in the absence of A  
3 substantial ~~preponderating~~ PREPONDERANCE OF evidence to the  
4 contrary, in any of the following situations:

5       (i) If it is established that there is in the particular  
6 establishment or employing unit a practice, ~~or~~ custom, or con-  
7 tractual obligation to extend within a reasonable period to mem-  
8 bers of the individual's grade or class of workers in the estab-  
9 lishment in which the individual is or was last employed changes  
10 in terms and conditions of employment ~~which~~ THAT are substan-  
11 tially similar or related to some or all of the changes in terms  
12 and conditions of employment ~~which~~ THAT are made for the work-  
13 ers among whom there exists the labor dispute ~~which~~ THAT has  
14 caused the individual's total or partial unemployment.

15       (ii) If it is established that 1 of the issues in or pur-  
16 poses of the labor dispute is to obtain a change in the terms and  
17 conditions of employment for members of the individual's grade or  
18 class of workers in the establishment in which the individual is  
19 or was last employed.

20       (iii) If the labor dispute exists at a time when the collec-  
21 tive bargaining agreement, which covers the individual's grade or  
22 class of workers in the establishment in which the individual is  
23 or was last employed and the workers in another establishment of  
24 the same employing unit who are actively participating in the  
25 labor dispute, has expired, has been opened by mutual consent or  
26 may by its terms be modified, supplemented, or replaced.

1 (c) In determining the scope of the grade or class of  
2 workers evidence submitted to show ANY OF the following ~~shall~~  
3 ~~be~~ IS relevant:

4 (i) Representation of the workers by the same national or  
5 international organization or by local affiliates ~~thereof~~ OF A  
6 NATIONAL OR INTERNATIONAL ORGANIZATION.

7 (ii) Whether the workers are included in a single, legally  
8 designated, or negotiated bargaining unit.

9 (iii) Whether the workers are, or have within the past 6  
10 months been, covered by a common master collective bargaining  
11 agreement ~~which~~ THAT sets forth all or any part of their terms  
12 and conditions of employment, or by separate agreements ~~which~~  
13 THAT are or have been bargained as a part of the same  
14 negotiations.

15 (iv) Any functional integration of the work performed by  
16 those workers.

17 (v) Whether the resolution of issues of the type involved in  
18 the labor dispute, as to some of the workers, could directly or  
19 indirectly affect the advancement, negotiation, or settlement of  
20 the same or similar issues in respect to the remaining workers.

21 (vi) Whether the workers are currently ~~—~~ or have been ~~—~~  
22 covered by the same or similar demands by their recognized or  
23 certified bargaining agent or agents for changes in their wages,  
24 hours, or other conditions of employment.

25 (vii) Whether issues on the same subject matter as those  
26 involved in the labor dispute have been the subject of proposals

1 or demands made upon the employing unit ~~which~~ THAT would by  
2 their terms have applied to those workers.

3       (9) An individual ~~shall be~~ IS disqualified for benefits  
4 for the duration of the individual's disciplinary layoff or sus-  
5 pension in all cases in which the individual becomes unemployed  
6 because of a disciplinary layoff or suspension based upon miscon-  
7 duct directly or indirectly connected with work, ~~or~~ for partic-  
8 ipation in a strike or other concerted ~~action~~ ACTIVITY result-  
9 ing in a curtailment of work or restriction of or interference  
10 with production contrary to ~~the provisions of~~ an applicable  
11 collective bargaining agreement, ~~or~~ FOR participation in a  
12 wildcat strike or other concerted ~~action~~ ACTIVITY not autho-  
13 rized by the individual's recognized bargaining representative.  
14 This subsection applies only if the individual is not subject to  
15 disqualification under subsection (1)(g) or if a disqualifying  
16 discharge under subsection (1)(b) is determined or redetermined  
17 to be a disciplinary layoff or suspension. If a disqualifying  
18 discharge under subsection (1)(b) is determined or redetermined  
19 to be a suspension, the disqualification provided under this sub-  
20 section ~~shall apply~~ APPLIES from the date of the discharge.

21       (10) Notwithstanding subsections (1) to (9), if the employ-  
22 ing unit submits notice to the commission of possible ineligibil-  
23 ity or disqualification beyond the time limits prescribed by com-  
24 mission rule, the notice ~~shall~~ DOES not form the basis of a  
25 determination of ineligibility or disqualification for a claim  
26 period compensated before the receipt of the notice by the  
27 commission.

1       (11) An individual ~~shall be~~ IS disqualified for benefits  
2 for any week with respect to which or a part of which the indi-  
3 vidual has received, ~~or~~ is receiving, or is seeking unemploy-  
4 ment benefits under an unemployment compensation law of another  
5 state or of the United States. If the appropriate agency of the  
6 other state or of the United States finally determines that the  
7 individual is not entitled to unemployment benefits, this dis-  
8 qualification ~~shall~~ DOES not apply.