



# SENATE BILL No. 1275

September 21, 1994, Introduced by Senators WELBORN and  
CARL 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 162 of the Public Acts of 1994, being sec-  
tion 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 162 of the  
3 Public Acts of 1994, being section 421 29 of the Michigan  
4 Compiled Laws, is amended to read as follows

5 Sec 29 (1) An individual is disqualified for benefits if  
6 he or she

7 (a) Left work voluntarily without good cause attributable to  
8 the employer or employing unit However, if the individual has  
9 an established benefit year in effect and, during that benefit

1 year, has left unsuitable work within 60 days after the beginning of that work, the leaving is not disqualifying

(b) Was discharged for ~~misconduct connected with the individual's work or for intoxication while at work~~ ANY OF THE FOLLOWING, unless the discharge was subsequently reduced to a disciplinary layoff or suspension —

(1) MISCONDUCT CONNECTED WITH THE INDIVIDUAL'S WORK

(11) INTOXICATION WHILE AT WORK

(111) FAILING A TEST FOR THE PRESENCE OF A CONTROLLED SUBSTANCE AS THAT TERM IS DEFINED IN SECTION 7104 OF THE PUBLIC HEALTH CODE, ACT NO 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333 7104 OF THE MICHIGAN COMPILED LAWS, IF ALL OF THE FOLLOWING CONDITIONS ARE MET

(A) THE TEST WAS GIVEN PURSUANT TO AN ESTABLISHED COMPANY POLICY OR LABOR UNION CONTRACT THAT STATES FAILING SUCH A TEST IS GROUNDS FOR DISCHARGE

(B) THE TEST COMPLIED WITH SCIENTIFICALLY ACCEPTED ANALYTICAL METHODS AND PROCEDURES, AND A POSITIVE TEST RESULT WAS CONFIRMED BY GAS CHROMATOGRAPHY, GAS CHROMATOGRAPHY-MASS SPECTROSCOPY, OR OTHER COMPARABLY RELIABLE ANALYTICAL METHOD

(C) THE TEST WAS ADMINISTERED IN A NONDISCRIMINATORY MANNER

(D) THE SAMPLE OF URINE, BLOOD, BREATH, SALIVA, OR HAIR TESTED WAS COLLECTED, STORED, TRANSPORTED, AND TESTED IN A MANNER REASONABLY CALCULATED TO PREVENT A SUBSTITUTION OR INTERFERENCE OF ANY KIND AND TO REASONABLY PRECLUDE THE PROBABILITY OF SAMPLE CONTAMINATION OR ADULTERATION

1 (E) THE INDIVIDUAL WAS GIVEN AN OPPORTUNITY TO PROVIDE  
2 NOTICE TO THE INDIVIDUAL ANALYZING THE SAMPLE OF ANY INFORMATION  
3 THAT MAY BE CONSIDERED RELEVANT TO THE TEST, INCLUDING IDENTIFI-  
4 CATION OF CURRENTLY OR RECENTLY USED PRESCRIPTION OR NONPRESCRIP-  
5 TION DRUGS OR OTHER RELEVANT MEDICAL INFORMATION

6 (c) Failed without good cause to apply for available suit-  
7 able work of which the individual was notified by the employment  
8 office or the commission

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

14 (e) Failed without good cause to accept suitable work when  
15 offered the individual or to return to the individual's customary  
16 self-employment, if any, when directed by the employment office  
17 or the commission

18 (f) Lost his or her job by reason of being absent from work  
19 as a result of a violation of law for which the individual was  
20 convicted and sentenced to jail or prison This subdivision does  
21 not apply if conviction of a person results in a sentence to  
22 county jail under conditions of day parole as provided in Act  
23 No 60 of the Public Acts of 1962, being sections 801 251 to  
24 801 258 of the Michigan Compiled Laws, or when the conviction was  
25 for a traffic violation that resulted in an absence of less than  
26 10 consecutive work days from the individual's place of  
27 employment

1 (g) Is discharged, whether or not the discharge is  
2 subsequently reduced to a disciplinary layoff or suspension, for  
3 participation in a strike or other concerted action resulting in  
4 curtailment of work or restriction of or interference with pro-  
5 duction contrary to an applicable collective bargaining agree-  
6 ment, or for participation in a wildcat strike or other concerted  
7 action not authorized by the individual's recognized bargaining  
8 representative

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

11 (i) Was discharged for theft connected with the individual's  
12 work resulting in a loss or damage of \$25 00 or less

13 (j) Was discharged for theft connected with the individual's  
14 work resulting in a loss or damage of more than \$25 00

15 (k) Was discharged for willful destruction of property con-  
16 nected with the individual's work resulting in loss or damage of  
17 \$25 00 or less

18 (l) Was discharged for willful destruction of property con-  
19 nected with the individual's work resulting in loss or damage of  
20 more than \$25 00

21 (m) Committed a theft that occurred after a notice of layoff  
22 or discharge, but before the effective date of layoff or dis-  
23 charge, resulting in loss or damage of more than \$25 00 to the  
24 employer who would otherwise be chargeable for the benefits, not-  
25 withstanding that the original layoff or discharge was under non-  
26 disqualifying circumstances

1 (2) A disqualification provided in subsection (1) begins  
2 with the week in which the act or discharge occurred that caused  
3 the disqualification and continues until the disqualified indi-  
4 vidual requalifies under subsection (3), except that for benefit  
5 years beginning before the conversion date prescribed in  
6 section 75, with respect to multiemployer credit weeks, the dis-  
7 qualification does not prevent the payment of benefits if there  
8 are credit weeks after the most recent disqualifying act or  
9 discharge

10 (3) For benefit years established before the conversion date  
11 prescribed in section 75, 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, after  
24 the week in which the disqualifying discharge occurred, requalify  
25 by earning in employment for an employer liable under this act or  
26 the unemployment compensation act of another state an amount  
27 equal to, or in excess of, 7 times the individual's potential

1 weekly benefit rate, calculated on the basis of employment with  
2 the employer involved in the disqualification, or by earning in  
3 employment for an employer liable under this act or the unemploy-  
4 ment compensation act of another state an amount equal to, or in  
5 excess of, 40 times the state minimum hourly wage times 7, which-  
6 ever is the lesser amount Any benefits that become payable to  
7 an individual disqualified under subsection (1)(a), (b), (1), or  
8 (k) shall not be charged to the account of the employer with whom  
9 the individual was involved in the disqualification The bene-  
10 fits paid shall be charged to the nonchargeable benefits  
11 account For benefit years beginning after the conversion date  
12 prescribed in section 75, subsequent to the week in which the  
13 disqualifying act or discharge occurred, an individual shall com-  
14 plete 6 requalifying weeks if disqualified under  
15 subsection (1)(c), (d), (e), (f), or (g), or shall complete 13  
16 requalifying weeks if disqualified under subsection (1)(h), (j),  
17 (l) or (m) for each week in which the individual earns or  
18 receives remuneration in an amount equal to at least 1/13 of the  
19 minimum amount needed in a calendar quarter of the base period  
20 for an individual to qualify for benefits, rounded down to the  
21 nearest whole dollar, or would otherwise meet all of the require-  
22 ments of this act to receive a benefit payment if the individual  
23 were not disqualified under subsection (1) An individual who is  
24 disqualified under subsection (1)(a), (b), (1), or (k) shall,  
25 subsequent to the week in which the disqualifying act or dis-  
26 charge occurred, requalify by earning in employment for an  
27 employer liable under this act or the unemployment compensation

1 law of another state an amount equal to, or in excess of, 7 times  
2 the individual's weekly benefit rate, or by earning in employment  
3 for an employer liable under this act or the unemployment compen-  
4 sation law of another state an amount equal to, or in excess of,  
5 40 times the state minimum hourly wage times 7, whichever is the  
6 lesser amount Any benefits which may become payable to an indi-  
7 vidual disqualified or separated under disqualifying circum-  
8 stances under subsection (1)(a), (b), (1), or (k) shall not be  
9 charged to the account of the employer with whom the individual  
10 was involved in the separation Those benefits paid shall be  
11 charged to the nonchargeable benefits account Benefits payable  
12 to an individual determined by the commission to be separated  
13 under disqualifying circumstances shall not be charged to the  
14 account of the employer involved in the disqualification for any  
15 period after the employer notifies the commission of the  
16 claimant's possible ineligibility or disqualification If a dis-  
17 qualifying act or discharge occurs during the individual's bene-  
18 fit year, any benefits that may become payable to the individual  
19 in a later benefit year based on employment with the employer  
20 involved in the disqualification shall be charged to the non-  
21 chargeable benefits account

22 (4) For benefit years established before the conversion date  
23 prescribed in section 75, and subject to the conditions provided  
24 in this subsection, an individual's maximum amount of benefits  
25 otherwise available to the individual under section 27(d), based  
26 on wages and credit weeks earned before an act or discharge with  
27 the employer involved as the result of which the individual was

1 disqualified under subsection (1)(c), (d), (e), (f), or (g),  
2 shall be reduced by an amount equal to the individual's weekly  
3 benefit rate as to that employer multiplied by the number of  
4 requalifying weeks required of the individual under this subsec-  
5 tion or multiplied by the number of weeks of benefit entitlement  
6 remaining with that employer, whichever is less The reductions  
7 of benefits provided for in this subsection are subject, however,  
8 to the following conditions if the individual has insufficient  
9 or no potential benefit entitlement remaining with that employer  
10 in the benefit year in existence on the date of the disqualifying  
11 determination, the reduction shall apply in a succeeding benefit  
12 year with respect to any benefit entitlement based upon credit  
13 weeks earned with the employer involved in the disqualification  
14 before the disqualifying act or discharge

15 An individual disqualified under subsection (1)(h), (j),  
16 (l), or (m) is not entitled to benefits based on wages and credit  
17 weeks earned before the disqualifying act or discharge with the  
18 employer involved in the disqualification

19 The benefit entitlement of an individual disqualified under  
20 subsection (1)(a), (b), (i), or (k) is not subject to reduction  
21 as a result of that disqualification

22 For purposes of this subsection, the denial or reduction of  
23 benefits does not apply to benefits based upon multiemployer  
24 credit weeks

25 For benefit years established after the conversion date pre-  
26 scribed in section 75, and subject to the conditions provided in  
27 this subsection, if an individual is disqualified under



1 subsection (1)(c), (d), (e), (f), or (g), the individual's  
2 maximum number of weeks otherwise payable to the individual under  
3 section 27(d), shall be reduced by the number of requalifying  
4 weeks required of the individual under this subsection, or by the  
5 number of weeks of benefit entitlement remaining on the claim,  
6 whichever is less. The benefits of an individual disqualified  
7 under subsection (1)(h), (j), (l), or (m) shall be reduced by 13  
8 weeks and any weekly benefit payments made to the claimant there-  
9 after shall be reduced by the portion of the payment attributable  
10 to base period wages paid by the base period employer involved in  
11 a disqualification under subsection (1)(h), (j), (l), or (m).

12 (5) If an individual leaves work to accept permanent  
13 full-time work with another employer and performs services for  
14 that employer, or leaves work to accept a recall from a former  
15 employer, the disqualification provisions of subsection (1) do  
16 not apply to that leaving. However, the wages earned with the  
17 employer whom the individual last left, including wages previ-  
18 ously transferred under this subsection to the last employer, for  
19 the purpose of computing and charging benefits are considered  
20 wages earned from the employer with whom the individual accepted  
21 work or recall, and benefits paid based upon those wages shall be  
22 charged to that employer. When issuing a determination covering  
23 that period of employment, the commission shall advise the  
24 chargeable employer of the name and address of the other employ-  
25 er, the period covered by the employment, and the extent of the  
26 benefits that may be charged to the account of the chargeable  
27 employer.

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

9       (7) Work is not considered suitable and benefits shall not  
10 be denied under this act to an otherwise eligible individual for  
11 refusing to accept new work under any of the following  
12 conditions

13       (a) The position offered is vacant due directly to a strike,  
14 lockout, or other labor dispute

15       (b) The remuneration, hours, or other conditions of the work  
16 offered are substantially less favorable to the individual than  
17 those prevailing for similar work in the locality

18       (c) As a condition of being employed, the individual would  
19 be required to join a company union or to resign from or refrain  
20 from joining a bona fide labor organization

21       (8) An individual is disqualified for benefits for a week in  
22 which the individual's total or partial unemployment is due to a  
23 labor dispute in active progress, or to shutdown or start-up  
24 operations caused by that labor dispute, in the establishment in  
25 which the individual is or was last employed, or to a labor dis-  
26 pute, other than a lockout, in active progress or to shutdown or  
27 start-up operations caused by that labor dispute in any other

1 establishment within the United States which is functionally  
2 integrated with the establishment and is operated by the same  
3 employing unit. An individual's disqualification imposed or  
4 imposable under this subsection is terminated by the individual's  
5 performing services in employment with an employer in at least 2  
6 consecutive weeks falling wholly within the period of the  
7 individual's total or partial unemployment due to the labor dis-  
8 pute, and in addition by earning wages in each of those weeks in  
9 an amount equal to or in excess of the individual's actual or  
10 potential weekly benefit rate with respect to those weeks based  
11 on the individual's employment with the employer involved in the  
12 labor dispute. An individual is not disqualified under this sub-  
13 section if the individual is not directly involved in the  
14 dispute.

15 (a) For purposes of this subsection, an individual is not  
16 considered to be directly involved in a labor dispute unless it  
17 is established that any of the following occurred:

18 (1) At the time or in the course of a labor dispute in the  
19 establishment in which the individual was then employed, the  
20 individual in concert with 1 or more other employees voluntarily  
21 stopped working other than at the direction of the individual's  
22 employing unit.

23 (11) The individual is participating in, financing, or  
24 directly interested in the labor dispute that causes the  
25 individual's total or partial unemployment. The payment of regu-  
26 lar union dues, in amounts and for purposes established before  
27 the inception of the labor dispute, shall not be construed as

1 financing a labor dispute within the meaning of this  
2 subparagraph

3 (iii) At any time when there was not a labor dispute in the  
4 establishment or department in which the individual was employed,  
5 the individual voluntarily stopped working, other than at the  
6 direction of the individual's employing unit, in sympathy with  
7 employees in some other establishment or department in which a  
8 labor dispute was then in progress

9 (iv) The individual's total or partial unemployment is due  
10 to a labor dispute that was or is in progress in a department,  
11 unit, or group of workers in the same establishment

12 (b) As used in this subsection, "directly interested" shall  
13 be construed and applied so as not to disqualify individuals  
14 unemployed as a result of a labor dispute the resolution of which  
15 may not reasonably be expected to affect their wages, hours, or  
16 other conditions of employment, and to disqualify individuals  
17 whose wages, hours or conditions of employment may reasonably be  
18 expected to be affected by the resolution of the labor dispute  
19 A "reasonable expectation" of an effect on an individual's wages,  
20 hours, or other conditions of employment is considered to exist,  
21 in the absence of a substantial preponderance of evidence to the  
22 contrary, in any of the following situations

23 (1) If it is established that there is in the particular  
24 establishment or employing unit a practice, custom, or contrac-  
25 tual obligation to extend within a reasonable period to members  
26 of the individual's grade or class of workers in the  
27 establishment in which the individual is or was last employed

1 changes in terms and conditions of employment that are  
2 substantially similar or related to some or all of the changes in  
3 terms and conditions of employment that are made for the workers  
4 among whom there exists the labor dispute that has caused the  
5 individual's total or partial unemployment

6 (11) If it is established that 1 of the issues in or pur-  
7 poses of the labor dispute is to obtain a change in the terms and  
8 conditions of employment for members of the individual's grade or  
9 class of workers in the establishment in which the individual is  
10 or was last employed

11 (111) If the labor dispute exists at a time when the collec-  
12 tive bargaining agreement which covers the individual's grade or  
13 class of workers in the establishment in which the individual is  
14 or was last employed and the workers in another establishment of  
15 the same employing unit who are actively participating in the  
16 labor dispute has expired, has been opened by mutual consent, or  
17 may by its terms be modified, supplemented, or replaced

18 (c) In determining the scope of the grade or class of work-  
19 ers evidence submitted to show any of the following is relevant

20 (1) Representation of the workers by the same national or  
21 international organization or by local affiliates of that  
22 national or international organization

23 (11) Whether the workers are included in a single, legally  
24 designated, or negotiated bargaining unit

25 (111) Whether the workers are, or have within the past 6  
26 months been, covered by a common master collective bargaining  
27 agreement that sets forth all or any part of their terms and

1 conditions of employment, or by separate agreements that are or  
2 have been bargained as a part of the same negotiations

3 (iv) Any functional integration of the work performed by  
4 those workers

5 (v) Whether the resolution of issues of the type involved in  
6 the labor dispute, as to some of the workers, could directly or  
7 indirectly affect the advancement, negotiation, or settlement of  
8 the same or similar issues in respect to the remaining workers

9 (vi) Whether the workers are currently or have been covered  
10 by the same or similar demands by their recognized or certified  
11 bargaining agent or agents for changes in their wages, hours, or  
12 other conditions of employment

13 (vii) Whether issues on the same subject matter as those  
14 involved in the labor dispute have been the subject of proposals  
15 or demands made upon the employing unit that would by their terms  
16 have applied to those workers

17 (9) An individual is disqualified for benefits for the dura-  
18 tion of the individual's disciplinary layoff or suspension in all  
19 cases in which the individual becomes unemployed because of a  
20 disciplinary layoff or suspension based upon misconduct directly  
21 or indirectly connected with work, for participation in a strike  
22 or other concerted activity resulting in a curtailment of work or  
23 restriction of or interference with production contrary to an  
24 applicable collective bargaining agreement, or for participation  
25 in a wildcat strike or other concerted activity not authorized by  
26 the individual's recognized bargaining representative This  
27 subsection applies only if the individual is not subject to

1 disqualification under subsection (1)(g) or if a disqualifying  
2 discharge under subsection (1)(b) is determined or redetermined  
3 to be a disciplinary layoff or suspension If a disqualifying  
4 discharge under subsection (1)(b) is determined or redetermined  
5 to be a suspension, the disqualification provided under this sub-  
6 section applies from the date of the discharge

7 (10) Notwithstanding subsections (1) to (9), if the employ-  
8 ing unit submits notice to the commission of possible ineligibil-  
9 ity or disqualification beyond the time limits prescribed by com-  
10 mission rule, the notice shall not form the basis of a determina-  
11 tion of ineligibility or disqualification for a claim period com-  
12 pensated before the receipt of the notice by the commission

13 (11) An individual is disqualified for benefits for any week  
14 with respect to which or a part of which the individual has  
15 received, is receiving, or is seeking unemployment benefits under  
16 an unemployment compensation law of another state or of the  
17 United States If the appropriate agency of the other state or  
18 of the United States finally determines that the individual is  
19 not entitled to unemployment benefits, this disqualification does  
20 not apply