

# SENATE BILL NO. 791

December 14, 2021, Introduced by Senators HORN, WOZNIAK, POLEHANKI, MACDONALD, HOLLIER, BUMSTEAD, LASATA, BARRETT and SCHMIDT and referred to the Committee on Economic and Small Business Development.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 28 (MCL 421.28), as amended by 2021 PA 66.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 28. (1) An unemployed individual is eligible to receive  
2 benefits with respect to any week only if the unemployment agency  
3 finds all of the following:

4           (a) The individual registered for work pursuant to subsection  
5 (10) after the individual applied for benefits and within the time

1 period prescribed by the unemployment agency, has continued to  
2 report pursuant to unemployment agency rules, and is actively  
3 engaged in seeking work. The requirements that the individual must  
4 report, must register for work, must be available to perform  
5 suitable full-time work, and must seek work may be waived by the  
6 unemployment agency if the individual is laid off and the employer  
7 who laid the individual off notifies the unemployment agency in  
8 writing or by computerized data exchange that the layoff is  
9 temporary and that work is expected to be available for the  
10 individual within a declared number of days, not to exceed 45  
11 calendar days, plus ~~up to an~~ **the** additional ~~90~~ **number of** calendar  
12 days as provided for in subsection (11) **or (13)**, following the last  
13 day the individual worked. Except as otherwise provided in  
14 subsection (12) **or (14)**, this waiver is not effective unless the  
15 notification from the employer is received by the unemployment  
16 agency before the individual has completed his or her first  
17 compensable week following layoff. If the individual is not  
18 recalled within the specified period, the waiver ceases to be  
19 operative with respect to that layoff. Except for a period of  
20 disqualification, the requirement that the individual shall seek  
21 work may be waived by the unemployment agency if it finds that  
22 suitable work is unavailable both in the locality where the  
23 individual resides and in those localities in which the individual  
24 has earned wages during or after the base period. This waiver does  
25 not apply to a claimant enrolled and attending classes as a full-  
26 time student. An individual is considered to have satisfied the  
27 requirement of personal reporting at an employment office, as  
28 applied to a week in a period during which the requirements of  
29 registration and seeking work have been waived by the unemployment

1 agency pursuant to this subdivision, if the individual has  
2 satisfied the personal reporting requirement with respect to a  
3 preceding week in that period and the individual has reported with  
4 respect to the week by mail pursuant to the rules promulgated by  
5 the unemployment agency.

6 (b) The individual has made a claim for benefits pursuant to  
7 section 32 and has provided the unemployment agency with all of the  
8 following:

9 (i) His or her Social Security number.

10 (ii) His or her driver license number, and the state that  
11 issued the license, or state identification card number, and the  
12 state that issued the identification card, or copies of the  
13 acceptable documents as provided in the Form I-9.

14 (iii) If the unemployment agency has requested them, copies of  
15 the acceptable documents as provided in the Form I-9. As used in  
16 this subdivision, "Form I-9" means the employment verification form  
17 that fulfills the employment verification obligations under 8 CFR  
18 274a.2.

19 (c) The individual is able and available to appear at a  
20 location of the unemployment agency's choosing for evaluation of  
21 eligibility for benefits, if required, and to perform suitable  
22 full-time work of a character that the individual is qualified to  
23 perform by past experience or training, which is of a character  
24 generally similar to work for which the individual has previously  
25 received wages, and for which the individual is available, full  
26 time, either at a locality at which the individual earned wages for  
27 insured work during his or her base period or at a locality where  
28 it is found by the unemployment agency that such work is available.  
29 An individual is considered unavailable for work under any of the

1 following circumstances:

2 (i) The individual fails during a benefit year to notify or  
3 update a chargeable employer with telephone, electronic mail, or  
4 other information sufficient to allow the employer to contact the  
5 individual about available work.

6 (ii) The individual fails, without good cause, to respond to  
7 the unemployment agency within 14 calendar days of the later of the  
8 mailing of a notice to the address of record requiring the  
9 individual to contact the unemployment agency or of the leaving of  
10 a telephone message requesting a return call and providing a return  
11 name and telephone number on an automated answering device or with  
12 an individual answering the telephone number of record.

13 (iii) Unless the claimant shows good cause for failure to  
14 respond, mail sent to the individual's address of record is  
15 returned as undeliverable and the telephone number of record has  
16 been disconnected or changed or is otherwise no longer associated  
17 with the individual.

18 (d) In the event of the death of an individual's immediate  
19 family member, the eligibility requirements of availability and  
20 reporting are waived for the day of the death and for 4 consecutive  
21 calendar days thereafter. As used in this subdivision, "immediate  
22 family member" means a spouse, child, stepchild, adopted child,  
23 grandchild, parent, grandparent, brother, or sister of the  
24 individual or his or her spouse. It shall also include the spouse  
25 of any of the persons specified in the previous sentence.

26 (e) The individual participates in reemployment services, such  
27 as job search assistance services, if the individual has been  
28 determined or redetermined by the unemployment agency to be likely  
29 to exhaust regular benefits and need reemployment services pursuant

1 to a profiling system established by the unemployment agency.

2 (2) The unemployment agency may authorize an individual with  
3 an unexpired benefit year to pursue vocational training or  
4 retraining only if the unemployment agency finds all of the  
5 following:

6 (a) Reasonable opportunities for employment in occupations for  
7 which the individual is fitted by training and experience do not  
8 exist in the locality in which the individual is claiming benefits.

9 (b) The vocational training course relates to an occupation or  
10 skill for which there are, or are expected to be in the immediate  
11 future, reasonable employment opportunities.

12 (c) The training course has been approved by a local advisory  
13 council on which both management and labor are represented, or if  
14 there is no local advisory council, by the unemployment agency.

15 (d) The individual has the required qualifications and  
16 aptitudes to complete the course successfully.

17 (e) The vocational training course has been approved by the  
18 state board of education and is maintained by a public or private  
19 school or by the unemployment agency.

20 (3) Notwithstanding any other provision of this act, an  
21 otherwise eligible individual is not ineligible for benefits  
22 because he or she is participating in training with the approval of  
23 the unemployment agency. For each week that the unemployment agency  
24 finds that an individual who is claiming benefits under this act  
25 and who is participating in training with the approval of the  
26 unemployment agency, is satisfactorily pursuing an approved course  
27 of vocational training, it shall waive the requirements that he or  
28 she be available for work and be seeking work as prescribed in  
29 subsection (1)(a) and (c), and it shall find good cause for his or

1 her failure to apply for suitable work, report to a former employer  
2 for an interview concerning suitable work, or accept suitable work  
3 as required in section 29(1)(c), (d), and (e).

4 (4) Notwithstanding any other provisions of this act, an  
5 otherwise eligible individual must not be denied benefits solely  
6 because the individual is in training approved under section  
7 236(a)(1) of the trade act of 1974, 19 USC 2296, nor shall the  
8 individual be denied benefits by reason of leaving work to enter  
9 such training if the work left is not suitable employment.  
10 Furthermore, an otherwise eligible individual must not be denied  
11 benefits because of the application to any such week in training of  
12 provisions of this act, or any applicable federal unemployment  
13 compensation law, relating to availability for work, active search  
14 for work, or refusal to accept work. For purposes of this  
15 subsection, "suitable employment" means, with respect to an  
16 individual, work of a substantially equal or higher skill level  
17 than the individual's past adversely affected employment, as  
18 defined for purposes of the trade act of 1974, 19 USC 2101 to  
19 2497b, and wages for that work at not less than 80% of the  
20 individual's average weekly wage as determined for the purposes of  
21 the trade act of 1974, 19 USC 2101 to 2497b.

22 (5) Except as otherwise provided in subsection (6), for  
23 purposes of this section, for benefit years beginning on or after  
24 January 1, 2013, to be actively engaged in seeking work, an  
25 individual must conduct a systematic and sustained search for work  
26 in each week the individual is claiming benefits, using any of the  
27 following methods to report the details of the work search:

28 (a) Reporting at monthly intervals on the unemployment  
29 agency's online reporting system the name of each employer and

1 physical or online location of each employer where work was sought  
2 and the date and method by which work was sought with each  
3 employer.

4 (b) Filing a written report with the unemployment agency by  
5 mail or facsimile transmission not later than the end of the fourth  
6 calendar week after the end of the week in which the individual  
7 engaged in the work search, on a form approved by the unemployment  
8 agency, indicating the name of each employer and physical or online  
9 location of each employer where work was sought and the date and  
10 method by which work was sought with each employer.

11 (c) Appearing at least monthly in person at a Michigan works  
12 agency office to report the name and physical or online location of  
13 each employer where the individual sought work during the previous  
14 month and the date and method by which work was sought with each  
15 employer.

16 (6) For purposes of this section, beginning on April 2, 2020,  
17 to be actively engaged in seeking work, an individual must conduct  
18 a systematic and sustained search for work in each week the  
19 individual is claiming benefits and must report to the unemployment  
20 agency the details of the work search at least once every 2 weeks  
21 or, if the unemployment agency prescribes a shorter reporting  
22 period, the reporting period prescribed by the unemployment agency.  
23 An individual may conduct a systematic and sustained search for  
24 work by doing any of the following:

25 (a) Using resources available at a Michigan works agency  
26 office to do any of the following:

27 (i) Participate in reemployment services and eligibility  
28 assessment activities.

29 (ii) Identify the skills the individual possesses that are

1 consistent with target or demand occupations in the local workforce  
2 development area.

3 (iii) Obtain job postings and seek employment for suitable  
4 positions needed by local employers.

5 (b) Attending job search seminars or other employment  
6 workshops that offer instruction in improving an individual's  
7 skills for finding and obtaining employment.

8 (c) Creating a user profile on a professional networking site  
9 or using an online career tool. Creating duplicate user profiles or  
10 resubmitting or reuploading the same resume to the same  
11 professional networking site does not satisfy the requirements of  
12 this subdivision.

13 (d) Applying for an available position with, submitting a  
14 resume to, or interviewing with employers. Applying for the same  
15 position within a 4-week period or contacting an employer to  
16 determine whether a position is available does not satisfy the  
17 requirements of this subdivision, unless the individual uses his or  
18 her union hiring hall to conduct a search for work.

19 (e) Registering for work with a private employment agency or,  
20 if it is available to the individual in his or her occupation or  
21 profession, the placement facility of a school, college, or  
22 university.

23 (f) Taking an examination that is required for a position in  
24 the state civil service.

25 (7) The work search conducted by the claimant is subject to  
26 audit by the unemployment agency.

27 (8) The unemployment agency shall request but shall not  
28 require an individual who is applying for benefits to submit his or  
29 her base period employer's unemployment agency account number and



1 federal employer identification number.

2 (9) The unemployment agency shall use all of the documentation  
3 and information provided by an individual applying for benefits to  
4 verify the identity of the individual before making an initial  
5 payment on the individual's claim.

6 (10) An individual must register for work as required under  
7 subsection (1)(a) by registering with a Michigan works agency.

8 (11) The unemployment agency may extend a waiver described in  
9 subsection (1)(a) beyond 45 calendar days, but not for more than an  
10 additional 90 calendar days, if, before the end of the specified  
11 period of the waiver, the employer notifies the unemployment agency  
12 in writing or by computerized data exchange that the layoff is an  
13 extended layoff and is the result of 1 or more of the following:

14 (a) The retooling of the employer's equipment.

15 (b) A parts shortage. **This subdivision does not apply**  
16 **beginning on the effective date of the amendatory act that added**  
17 **this sentence.**

18 (c) A temporary production volume adjustment.

19 (12) If an individual is laid off because of an extended  
20 layoff described in subsection (11) that existed on May 31, 2021,  
21 the requirements that the individual must report, must register for  
22 work, must be available to perform suitable full-time work, and  
23 must seek work may be waived by the unemployment agency as  
24 described in subsection (1)(a) if, before July 16, 2021, the  
25 individual's employer notifies the unemployment agency pursuant to  
26 subsection (11) that the individual was laid off because of an  
27 extended layoff described in subsection (11). The specified period  
28 of a waiver granted under this subsection begins on May 31, 2021.

29 **(13) Subject to this subsection, the unemployment agency may**

1 extend a waiver described in subsection (1)(a), including a waiver  
2 that has been extended under this subsection, beyond 45 calendar  
3 days if, before the end of the specified period of the waiver or  
4 extension, the employer notifies the unemployment agency in writing  
5 or by computerized data exchange that the layoff is an extended  
6 layoff and is the result of a parts shortage. Both of the following  
7 apply to each extension of a waiver granted under this subsection:

8 (a) The extension must not be for more than 45 calendar days.

9 (b) The end of the specified period of the extension must not  
10 be a date after December 31, 2022.

11 (14) If an individual is laid off because of an extended  
12 layoff described in subsection (13) that existed on May 31, 2021,  
13 the requirements that the individual must report, must register for  
14 work, must be available to perform suitable full-time work, and  
15 must seek work may be waived by the unemployment agency as  
16 described in subsection (1)(a) if, before May 31, 2021, the  
17 individual's employer notified the unemployment agency in the  
18 manner as provided for in subsection (13) that the individual was  
19 laid off because of an extended layoff described in subsection  
20 (13). The specified period of a waiver granted under this  
21 subsection begins on May 31, 2021.