



SENATE BILL No. 150

January 17, 1995, Introduced by Senator HONIGMAN
and referred to the Committee on Human Resources,
Labor and Veteran Affairs.

A bill to amend sections 29 and 50 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
sections 421.29 and 421.50 of the Michigan Compiled Laws; to add
section 72a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 29 and 50 of Act No. 1 of the Public
2 Acts of the Extra Session of 1936, as amended by Act No. 162 of
3 the Public Acts of 1994, being sections 421.29 and 421.50 of the
4 Michigan Compiled Laws, are amended and section 72a is added to
5 read as follows:

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

1 (a) Left work voluntarily without good cause attributable to
2 the employer or employing unit. However, if the individual has
3 an established benefit year in effect and, during that benefit
4 year, has left unsuitable work within 60 days after the beginning
5 of that work, the leaving ~~is~~ DOES not ~~disqualifying~~
6 DISQUALIFY THE INDIVIDUAL.

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

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

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

19 (e) Failed without good cause to accept suitable work when
20 offered the individual or to return to the individual's customary
21 self-employment, if any, when directed by the employment office
22 or the commission.

23 (f) Lost his or her job by reason of being absent from work
24 as a result of a violation of law for which the individual was
25 convicted and sentenced to jail or prison. This subdivision does
26 not apply if conviction of ~~a person~~ AN INDIVIDUAL results in a
27 sentence to county jail under conditions of day parole as

1 provided in Act No. 60 of the Public Acts of 1962, being sections
2 801.251 to 801.258 of the Michigan Compiled Laws, or when the
3 conviction was for a traffic violation that resulted in an
4 absence of less than 10 consecutive work days from the
5 individual's place of employment.

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

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

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

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

20 (k) Was discharged for willful destruction of property con-
21 nected with the individual's work resulting in loss or damage of
22 \$25.00 or less.

23 (l) Was discharged for willful destruction of property con-
24 nected with the individual's work resulting in loss or damage of
25 more than \$25.00.

26 (m) Committed a theft that occurred after a notice of layoff
27 or discharge, but before the effective date of layoff or

1 discharge, resulting in loss or damage of more than \$25.00 to the
2 employer who would otherwise be chargeable for the benefits, not-
3 withstanding that the original layoff or discharge was under non-
4 disqualifying circumstances.

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

14 (3) For benefit years established before the conversion date
15 prescribed in section 75, after the week in which the disqualify-
16 ing act or discharge occurred, an individual shall complete 6
17 requalifying weeks if disqualified under subsection (1)(c), (d),
18 (e), (f), or (g), or shall complete 13 requalifying weeks if dis-
19 qualified under subsection (1)(h), (j), (l), or (m), for each
20 week in which the individual earns or receives remuneration in an
21 amount at least equal to an amount needed to earn a credit week,
22 as defined in section 50, or would otherwise meet all of the
23 requirements of this act to receive a benefit payment if the
24 individual were not disqualified under subsection (1) or
25 receives a benefit payment based on credit weeks ~~subsequent to~~
26 AFTER the disqualifying act or discharge. An individual who is
27 disqualified under subsection (1)(a), (b), (i), or (k), shall

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

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

26 (4) For benefit years established before the conversion date
27 prescribed in section 75, and subject to the conditions provided

1 in this subsection, an individual's maximum amount of benefits
2 otherwise available to the individual under section 27(d), based
3 on wages and credit weeks earned before an act or discharge with
4 the employer involved as the result of which the individual was
5 disqualified under subsection (1)(c), (d), (e), (f), or (g),
6 shall be reduced by an amount equal to the individual's weekly
7 benefit rate as to that employer multiplied by the number of
8 requalifying weeks required of the individual under this subsec-
9 tion or multiplied by the number of weeks of benefit entitlement
10 remaining with that employer, whichever is less. ~~The reductions~~
11 ~~of benefits provided for in this subsection are subject, however,~~
12 ~~to the following conditions: if~~ IF the individual has insuffi-
13 cient or no potential benefit entitlement remaining with that
14 employer in the benefit year in existence on the date of the dis-
15 qualifying determination, the reduction UNDER THIS SUBSECTION
16 shall apply in a succeeding benefit year with respect to any ben-
17 efit entitlement based upon credit weeks earned with the employer
18 involved in the disqualification before the disqualifying act or
19 discharge.

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

24 The benefit entitlement of an individual disqualified under
25 subsection (1)(a), (b), (i), or (k) is not subject to reduction
26 as a result of that disqualification.

1 For purposes of this subsection, the denial or reduction of
2 benefits does not apply to benefits based upon multiemployer
3 credit weeks.

4 For benefit years established after the conversion date pre-
5 scribed in section 75, ~~were~~ subject to the conditions provided in
6 this subsection, if an individual is disqualified under
7 subsection (1)(c), (d), (e), (f), or (g), the individual's maxi-
8 mum number of weeks otherwise payable to the individual under
9 section 27(d), shall be reduced by the number of requalifying
10 weeks required of the individual under this subsection, or by the
11 number of weeks of benefit entitlement remaining on the claim,
12 whichever is less. The benefits of an individual disqualified
13 under subsection (1)(h), (j), (l), or (m) shall be reduced by 13
14 weeks and any weekly benefit payments made to the claimant there-
15 after shall be reduced by the portion of the payment attributable
16 to base period wages paid by the base period employer involved in
17 a disqualification under subsection (1)(h), (j), (l), or (m).

18 (5) If an individual leaves work to accept permanent
19 full-time work with another employer and performs services for
20 that employer, or leaves work to accept a recall from a former
21 employer, the disqualification provisions of subsection (1) do
22 not apply to that leaving. However, the wages earned with the
23 employer whom the individual last left, including wages previ-
24 ously transferred under this subsection to the last employer, for
25 the purpose of computing and charging benefits, are considered
26 wages earned from the employer with whom the individual accepted
27 work or recall, and benefits paid based upon those wages shall be

1 charged to that employer. When issuing a determination covering
2 that period of employment, the commission shall advise the
3 chargeable employer of the name and address of the other employ-
4 er, the period covered by the employment, and the extent of the
5 benefits that may be charged to the account of the chargeable
6 employer.

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

15 (7) Work is not considered suitable and benefits shall not
16 be denied under this act to an otherwise eligible individual for
17 refusing to accept new work under any of the following
18 conditions:

19 (a) The position offered is vacant due directly to a strike,
20 lockout, or other labor dispute.

21 (b) The remuneration, hours, or other conditions of the work
22 offered are substantially less favorable to the individual than
23 those prevailing for similar work in the locality.

24 (c) As a condition of ~~being employed~~ EMPLOYMENT, the indi-
25 vidual would be required to join a ~~company union~~ LABOR
26 ORGANIZATION or to resign from or refrain from joining a bona
27 fide labor organization.

1 (8) An individual is disqualified for benefits for a week in
2 which the individual's total or partial unemployment is due to a
3 labor dispute in active progress, or to shutdown or start-up
4 operations caused by that labor dispute, in the establishment in
5 which the individual is or was last employed, or to a labor dis-
6 pute, other than a lockout, in active progress or to shutdown or
7 start-up operations caused by that labor dispute in any other
8 establishment within the United States which is functionally
9 integrated with the establishment and is operated by the same
10 employing unit. An individual's disqualification imposed or
11 imposable under this subsection is terminated by the individual's
12 performing services in employment with an employer in at least 2
13 consecutive weeks falling wholly within the period of the
14 individual's total or partial unemployment due to the labor dis-
15 pute, and in addition by earning wages in each of those weeks in
16 an amount equal to or in excess of the individual's actual or
17 potential weekly benefit rate with respect to those weeks based
18 on the individual's employment with the employer involved in the
19 labor dispute. An individual is not disqualified under this sub-
20 section if the individual is not directly involved in the
21 dispute.

22 (a) For purposes of this subsection, an individual is not
23 considered to be directly involved in a labor dispute unless it
24 is established that any of the following 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, financing, or
4 directly interested in the labor dispute 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 was not a labor dispute in the
11 establishment or department in which the individual was employed,
12 the individual voluntarily stopped working, other than at the
13 direction of the individual's employing unit, in sympathy with
14 employees in some other establishment or department in which a
15 labor dispute was then in progress.

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

19 (b) As used in this subsection, "directly interested" ~~shall~~
20 ~~be construed and applied so as~~ DOES not ~~to~~ disqualify individ-
21 uals unemployed as a result of a labor dispute the resolution of
22 which may not reasonably be expected to affect their wages,
23 hours, or other conditions of employment, and ~~to disqualify~~
24 DISQUALIFIES individuals whose wages, hours, or conditions of
25 employment may reasonably be expected to be affected by the reso-
26 lution of the labor dispute. A "reasonable expectation" of an
27 effect on an individual's wages, hours, or other conditions of

1 employment is considered to exist, in the absence of a
2 substantial preponderance of evidence to the contrary, in any of
3 the following situations:

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

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

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

4 (i) Representation of the workers by the same national or
5 international organization or by local affiliates of that
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 HAVE been, covered by a common master collective bargain-
11 ing agreement that sets forth all or any part of their terms and
12 conditions of employment, or by separate agreements that are or
13 have been bargained as a part of the same negotiations.

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

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

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

24 (vii) Whether issues on the same subject matter as those
25 involved in the labor dispute have been the subject of proposals
26 or demands made upon the employing unit that would by their terms
27 have applied to those workers.

1 (9) An individual is disqualified for benefits for the
2 duration of the individual's disciplinary layoff or suspension in
3 all cases in which the individual becomes unemployed because of a
4 disciplinary layoff or suspension based upon misconduct directly
5 or indirectly connected with work, for participation in a strike
6 or other concerted activity resulting in a curtailment of work or
7 restriction of or interference with production contrary to an
8 applicable collective bargaining agreement, or for participation
9 in a wildcat strike or other concerted activity not authorized by
10 the individual's recognized bargaining representative. This sub-
11 section applies only if the individual is not subject to disqual-
12 ification under subsection (1)(g) or if a disqualifying discharge
13 under subsection (1)(b) is determined or redetermined to be a
14 disciplinary layoff or suspension. If a disqualifying discharge
15 under subsection (1)(b) is determined or redetermined to be a
16 suspension, the disqualification provided under this subsection
17 applies from the date of the discharge.

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

25 (11) An individual is disqualified for benefits for any week
26 with respect to which or a part of which the individual has
27 received, is receiving, or is seeking unemployment benefits under

1 an unemployment compensation law of another state or of the
2 United States. If the appropriate agency of the other state or
3 of the United States finally determines that the individual is
4 not entitled to unemployment benefits, this disqualification does
5 not apply.

6 Sec. 50. (a) "Week" means calendar week, ending at midnight
7 Saturday, but all work performed and wages earned during a work-
8 ing shift which starts before midnight Saturday shall be included
9 in the week in which that shift begins.

10 (b) With respect to benefit years established before the
11 conversion date prescribed in section 75, "credit week" means a
12 calendar week of an individual's base period during which the
13 individual earned wages equal to or greater than ~~20~~ 30 times
14 the ~~state~~ FEDERAL minimum hourly wage in effect on the first
15 day of the calendar week in which the individual filed an appli-
16 cation for benefits subject to the following:

17 (1) If an individual earns wages from more than 1 employer
18 in a credit week, that week shall be counted as 1 multiemployer
19 credit week and shall be governed by the provisions of section
20 20(e), unless the individual has earned sufficient wages in the
21 base period with only 1 of the employers for whom the individual
22 performed services in the week of concurrent employment to enti-
23 tle the individual to a maximum weekly benefit rate, in which
24 case, the week shall be a credit week with respect to that
25 employer only and not a multiemployer credit week.

26 (2) Not more than 35 uncanceled and uncharged credit weeks
27 shall be counted as credit weeks. In determining the 35 credit

1 weeks to be used for computing and paying benefits, credit weeks
2 shall be counted in the following sequence:

3 (a) First, all credit weeks which are not multiemployer
4 credit weeks and which were earned with employers not involved in
5 a disqualifying act or discharge under section 29(1), and all
6 credit weeks earned with an employer involved in such a disquali-
7 fying act or discharge which were earned subsequent to the last
8 act or discharge in which the employer was involved, shall be
9 counted in inverse order of most recent employment with each
10 employer.

11 (b) Second, if the credit weeks counted under subparagraph
12 (a) total less than 35, all credit weeks which are not multiem-
13 ployer credit weeks and which were earned with each employer
14 before a disqualifying act or discharge shall be counted, in
15 inverse order to that in which the most recent disqualifying act
16 or discharge with each employer occurred, to the extent necessary
17 to use all available credit weeks with respect to the employers,
18 or a total of 35 credit weeks, whichever is less.

19 (c) Third, if the credit weeks counted under subparagraphs
20 (a) and (b) total less than 35, all multiemployer credit weeks
21 shall be counted, in inverse chronological order of their occur-
22 rence, to the extent necessary to count all available credit
23 weeks, or a total of 35 credit weeks, whichever is less.

24 (3) As used in this subsection:

25 (a) "Uncharged credit week" means a credit week which has
26 not been used as a basis for a benefit payment, a reduction of

1 benefits under section 29(4), or a penalty disqualification under
2 section 62(b).

3 (b) "Uncanceled credit week" means a credit week which is
4 not canceled in accordance with section 62(b).

5 (4) There shall not be counted toward the wages required to
6 establish a credit week under this subsection payments in the
7 form of termination, separation, severance, or dismissal allow-
8 ances; or any payments for a vacation or a holiday unless the
9 payment has been made, or the right to receive it has irrevocably
10 vested, within 14 days following the vacation or holiday.

11 SEC. 72A. THE 1995 AMENDATORY ACT THAT ADDED THIS SECTION
12 SHALL TAKE EFFECT FOR WEEKS OF UNEMPLOYMENT BEGINNING ON OR AFTER
13 MAY 2, 1995.

14 Section 2. Section 46a of Act No. 1 of the Public Acts of
15 the Extra Session of 1936, being section 421.46a of the Michigan
16 Compiled Laws, is repealed.