
By: **Delegate Harrison**

Introduced and read first time: February 11, 1999

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance - Disqualifications**

3 FOR the purpose of prohibiting the Secretary of the Department of Labor, Licensing,
4 and Regulation from charging benefits paid to an unemployment insurance
5 claimant against the earned rating record of an employing unit if the claimant
6 was discharged by the employing unit for misconduct; altering the length of time
7 an individual who leaves employment without good cause is disqualified from
8 receiving unemployment benefits; eliminating a certain distinction; repealing
9 certain disqualification provisions concerning "gross misconduct" and
10 "aggravated misconduct"; altering the length of time an individual who fails to
11 seek work or refuses suitable work is disqualified from receiving unemployment
12 benefits; repealing certain disqualifications that are based on an individual
13 earning a certain amount over the benefit that individual is qualified to receive;
14 making certain technical changes; and generally relating to disqualifications of
15 unemployment benefits and earned rating records of employing units.

16 BY repealing and reenacting, with amendments,
17 Article - Labor and Employment
18 Section 8-611(e), 8-903(c), 8-1001, 8-1003, 8-1004, 8-1005, 8-1104(a), (e), and
19 (f), 8-1206(b)(2), 8-1505, and 8-1604(c)(2)
20 Annotated Code of Maryland
21 (1991 Volume and 1998 Supplement)

22 BY repealing
23 Article - Labor and Employment
24 Section 8-1002 and 8-1002.1
25 Annotated Code of Maryland
26 (1991 Volume and 1998 Supplement)

27 BY renumbering
28 Article - Labor and Employment
29 Section 8-1006 through 8-1009, respectively
30 to be Section 8-1005 through 8-1008, respectively

1 Annotated Code of Maryland
2 (1991 Volume and 1998 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Labor and Employment**

6 8-611.

7 (e) The Secretary may not charge benefits paid to a claimant against the
8 earned rating record of an employing unit if:

9 (1) the claimant left employment voluntarily without good cause
10 attributable to the employing unit;

11 (2) the claimant was discharged by the employing unit for [gross]
12 misconduct as defined in [§ 8-1002 of] this title;

13 [(3) the claimant was discharged by the employing unit for aggravated
14 misconduct as defined in § 8-1002.1 of this title;]

15 [(4)] (3) the claimant left employment voluntarily to accept better
16 employment or enter training approved by the Secretary; or

17 [(5)] (4) the employing unit participates in a work release program that
18 is designed to give an inmate of a correctional institution an opportunity to work
19 while imprisoned and unemployment was the result of the claimant's release from
20 prison.

21 8-903.

22 (c) Notwithstanding any other provision of this section or § 8-904 or §
23 8-907(a) or (b) of this subtitle, an individual who otherwise is eligible to receive
24 benefits and who is in training with the approval of the Secretary may not be denied
25 benefits:

26 (1) for failure to meet the requirements of subsection (a)(1)(ii) and (iii) of
27 this section to be available for work and actively seeking work; or

28 (2) for failure to apply for or refusal to accept suitable work under [§
29 8-1005] § 8-1004 of this title.

30 8-1001.

31 (a) (1) An individual who otherwise is eligible to receive benefits is
32 disqualified from receiving benefits if the Secretary finds that unemployment results
33 from voluntarily leaving work without good cause.

1 (2) A claimant who is otherwise eligible for benefits from the loss of
2 full-time employment may not be disqualified from the benefits attributable to the
3 full-time employment because the claimant voluntarily quit a part-time
4 employment, if the claimant quit the part-time employment before the loss of the
5 full-time employment.

6 (b) The Secretary may find that a cause for voluntarily leaving is good cause
7 only if:

8 (1) the cause is directly attributable to, arising from, or connected with:

9 (i) the conditions of employment; or

10 (ii) the actions of the employing unit; or

11 (2) an individual:

12 (i) is laid off from employment through no fault of the individual;

13 (ii) obtains subsequent employment that pays weekly wages that
14 total less than 50% of the weekly wage earned in the employment from which the
15 individual was laid off; and

16 (iii) leaves the subsequent employment to attend a training
17 program for which the individual has been chosen that:

18 1. is offered under the Maryland Job Training Partnership
19 Act; or

20 2. otherwise is approved by the Secretary.

21 [(c) (1) A circumstance for voluntarily leaving work is valid only if it is:

22 (i) a substantial cause that is directly attributable to, arising from,
23 or connected with conditions of employment or actions of the employing unit; or

24 (ii) of such necessitous or compelling nature that the individual has
25 no reasonable alternative other than leaving the employment.

26 (2) For determination of the application of paragraph (1)(ii) of this
27 subsection to an individual who leaves employment because of the health of the
28 individual or another for whom the individual must care, the individual shall submit
29 a written statement or other documentary evidence of the health problem from a
30 hospital or physician.]

31 [(d)] (C) In addition to other circumstances for which a disqualification may
32 be imposed, [neither] good cause [nor a valid circumstance] DOES NOT exist and a
33 disqualification shall be imposed if an individual leaves employment:

34 (1) to become self-employed;

1 (2) to accompany a spouse to a new location or to join a spouse in a new
2 location; or

3 (3) to attend an educational institution.

4 [(e)] (D) A disqualification under this section:

5 (1) shall begin with the first week for which unemployment is caused by
6 voluntarily leaving without good cause; and

7 (2) SHALL CONTINUE FOR A TOTAL OF AT LEAST 5 BUT NOT MORE THAN
8 10 WEEKS, AS DETERMINED BY THE SECRETARY BASED ON THE SERIOUSNESS OF
9 THE CIRCUMSTANCE.

10 [(2) subject to subsection (c) of this section, shall continue:

11 (i) if a valid circumstance exists, for a total of at least 5 but not
12 more than 10 weeks, as determined by the Secretary based on the seriousness of the
13 circumstance; or

14 (ii) if a valid circumstance does not exist, until the individual is
15 reemployed and has earned wages for covered employment that equal at least 15
16 times the weekly benefit amount of the individual.]

17 [8-1002.

18 (a) In this section "gross misconduct":

19 (1) means conduct of an employee that is:

20 (i) deliberate and willful disregard of standards of behavior that an
21 employing unit rightfully expects and that shows gross indifference to the interests of
22 the employing unit; or

23 (ii) repeated violations of employment rules that prove a regular
24 and wanton disregard of the employee's obligations; and

25 (2) does not include:

26 (i) aggravated misconduct, as defined under § 8-1002.1 of this
27 subtitle; or

28 (ii) other misconduct, as defined under § 8-1003 of this subtitle.

29 (b) An individual who otherwise is eligible to receive benefits is disqualified
30 from receiving benefits if unemployment results from discharge or suspension as a
31 disciplinary measure for behavior that the Secretary finds is gross misconduct in
32 connection with employment.

33 (c) A disqualification under this section shall:

1 (1) begin with the first week for which unemployment is caused by
2 discharge or suspension for gross misconduct as determined under this section; and

3 (2) continue until the individual is reemployed and has earned wages in
4 covered employment that equal at least 20 times the weekly benefit amount of the
5 individual.]

6 [8-1002.1.

7 (a) (1) In this section, "aggravated misconduct" means behavior committed
8 with actual malice and deliberate disregard for the property, safety, or life of others
9 that:

10 (i) affects the employer, fellow employees, subcontractors, invitees
11 of the employer, members of the public, or the ultimate consumer of the employer's
12 product or services; and

13 (ii) consists of either physical assault or property loss or damage so
14 serious that the penalties of misconduct or gross misconduct are not sufficient.

15 (2) In this section, "aggravated misconduct" does not include:

16 (i) gross misconduct, as defined under § 8-1002 of this title; or

17 (ii) misconduct, as defined under § 8-1003 of this title.

18 (b) An individual who otherwise is eligible to receive benefits is disqualified
19 from receiving benefits if unemployment results from discharge or suspension as a
20 disciplinary measure for behavior that the Secretary finds is aggravated misconduct
21 in connection with employment.

22 (c) A disqualification under this section shall:

23 (1) begin with the first week for which unemployment is caused by
24 discharge or suspension for aggravated misconduct as determined under this section;
25 and

26 (2) continue until the individual is reemployed and has earned wages in
27 covered employment that equal at least 30 times the weekly benefit amount of the
28 individual.]

29 [8-1003.] 8-1002.

30 (a) An individual who otherwise is eligible to receive benefits is disqualified
31 from receiving benefits if the Secretary finds that unemployment results from
32 discharge or suspension as a disciplinary measure for behavior that the Secretary
33 finds is misconduct in connection with employment [but that is not:

34 (1) aggravated misconduct, under § 8-1002.1 of this subtitle; or

35 (2) gross misconduct under § 8-1002 of this subtitle].

1 (b) A disqualification under this section shall:

2 (1) begin with the first week for which unemployment is caused by
3 discharge or suspension for misconduct; and

4 (2) continue for a total of at least 5 but not more than 10 weeks, as
5 determined by the Secretary, based on the seriousness of the misconduct.

6 [8-1004.] 8-1003.

7 (a) Except as provided in subsection (b) of this section:

8 (1) an individual who otherwise is eligible to receive benefits is
9 disqualified from receiving benefits for each week for which the Secretary finds that
10 unemployment results from a stoppage of work, other than a lockout, that exists
11 because of a labor dispute at the premises where the individual last was employed;
12 and

13 (2) if separate branches of work that usually are conducted as separate
14 businesses in separate premises are conducted in separate departments on the same
15 premises, each department shall be considered a separate premises for the purposes
16 of this subsection.

17 (b) A disqualification under this section does not apply to an individual who
18 satisfies the Secretary that the individual:

19 (1) is not participating in, financing, or directly interested in the labor
20 dispute that caused the stoppage of work; and

21 (2) does not belong to a class or grade of workers that, immediately
22 before the stoppage, had any members:

23 (i) employed at the premises; and

24 (ii) participating in, financing, or directly interested in the labor
25 dispute.

26 [8-1005.] 8-1004.

27 (a) Subject to subsection (d) of this section, an individual who otherwise is
28 eligible to receive benefits is disqualified from receiving benefits if the Secretary
29 finds that the individual, without good cause, failed to:

30 (1) apply for work that is available and suitable when directed to do so
31 by the Secretary;

32 (2) accept suitable work when offered; or

33 (3) return to the individual's usual self-employment when directed to do
34 so by the Secretary.

1 (b) (1) In determining whether work is suitable for an individual, the
2 Secretary shall consider:

3 (i) the degree of risk involved to the health, morals, and safety of
4 the individual;

5 (ii) the experience, previous earnings, previous training, and
6 physical fitness of the individual;

7 (iii) the length of unemployment of the individual and the prospects
8 for securing local work in the usual occupation of the individual; and

9 (iv) the distance of available work from the residence of the
10 individual.

11 (2) Notwithstanding any other provisions of this title, the Secretary may
12 not consider work to be suitable and thus deny benefits to an otherwise eligible
13 individual for refusal to accept the new work if:

14 (i) the position offered is vacant as a direct result of a strike,
15 lockout, or other labor dispute;

16 (ii) hours, wages, or other conditions of work offered are
17 substantially less favorable to the individual than those prevailing for similar work in
18 the locality; or

19 (iii) as a condition of being employed, the individual would be
20 required to join a company union or resign from or refrain from joining any bona fide
21 labor organization.

22 (c) A disqualification under this section:

23 (1) shall be effective beginning with the latest week in which the
24 individual:

25 (i) was to have applied for work at the direction of the Secretary;

26 (ii) was notified that suitable work had become available to the
27 individual; or

28 (iii) was to return to the usual self-employment of the individual at
29 the direction of the Secretary; and

30 (2) shall continue[:

31 (i)] for a total of at least 5 but not more than 10 weeks[: or

32 (ii) until the individual is reemployed and has earned wages for
33 covered employment that equal at least 10 times the weekly benefit amount of the
34 individual].

1 (d) (1) In this subsection, the terms "affected employee" and "work sharing
2 employer" have the meanings stated in § 8-1201 of this title.

3 (2) An affected employee who refuses to apply for or accept suitable work
4 from a person other than the work sharing employer may not be denied benefits
5 under this section.

6 8-1104.

7 (a) (1) In this subsection "suitable work" means work:

8 (i) that is within the capabilities of an individual;

9 (ii) for which the gross average weekly compensation exceeds the
10 sum of the individual's weekly extended benefit amount plus any supplemental
11 unemployment compensation benefits as defined in § 501(c)(17)(d) of the Internal
12 Revenue Code that are payable to the individual for the week;

13 (iii) for which wages equal or exceed the higher of:

14 1. the minimum wage under § 6(a)(1) of the Federal Fair
15 Labor Standards Act, without regard to exemptions; or

16 2. an applicable State or local minimum wage;

17 (iv) that is listed with the Office of Employment Services or offered
18 in writing to the individual; and

19 (v) that is suitable under [§ 8-1005] § 8-1004 of this title to the
20 extent that [§ 8-1005] § 8-1004 is not inconsistent with items (i) through (iv) of this
21 paragraph.

22 (e) If an individual is disqualified from regular benefits for a specified period
23 of weeks under § 8-1001, [§ 8-1003] § 8-1002, or [§ 8-1005] § 8-1004 of this title, the
24 individual may not receive extended benefits unless:

25 (1) the period of disqualification has ended; and

26 (2) the individual has been employed after the date of the
27 disqualification.

28 (f) (1) An individual shall:

29 (i) make a sustained and systematic effort throughout the week to
30 find work; and

31 (ii) submit tangible evidence of the effort to the Secretary.

32 (2) Except as provided in paragraph (3) of this subsection, an individual
33 is disqualified for extended benefits for any week of unemployment during the

1 individual's eligibility period during which the individual fails to accept an offer of
2 suitable work or apply for suitable work referred by the Secretary.

3 (3) If an individual provides evidence that satisfies the Secretary that
4 the individual has good prospects for obtaining work in the individual's usual
5 occupation within a reasonably short period, suitability of the work shall be
6 determined in accordance with [§ 8-1005] § 8-1004 rather than paragraph (1) of this
7 subsection.

8 8-1206.

9 (b) (2) An affected employee may not be disqualified under [§ 8-1005] §
10 8-1004 of this title for refusal to apply for or accept suitable work from a person other
11 than the work sharing employer.

12 8-1505.

13 A former servicemember who otherwise is eligible for additional benefits may
14 not be denied benefits under § 8-1504 of this subtitle or [§ 8-1005] § 8-1004 of this
15 title because the former servicemember is in training with the approval of the
16 Secretary.

17 8-1604.

18 (c) A self-employment assistance allowance is payable on the same terms and
19 subject to the same conditions as regular unemployment insurance benefits except
20 that:

21 (2) the requirements of [§ 8-1005] § 8-1004 of this title relating to
22 refusal to accept referrals or offers of suitable work are not applicable to the
23 individual;

24 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-1006
25 through 8-1009, respectively, of Article - Labor and Employment of the Annotated
26 Code of Maryland be renumbered to be Section(s) 8-1005 through 8-1008,
27 respectively.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 1999.