

Act No. 227  
Public Act of 1989  
December 28, 1989  
Filed by the Secretary of State  
December 28, 1989

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Reps. Niederstadt, Perry Bullard, Varga, Ciaramitaro, Emerson, Sikkema, Ouwinga, Muxlow, Miller, DeLange, Giese, Bankes, Hoekman, Jaye, Watkins, London, DeBeaussaert, Martin, DeMars, O'Connor, Jonker, Berman and Hertel

## **ENROLLED HOUSE BILL No. 5224**

AN ACT to amend section 28 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make an appropriation for carrying out the provisions of this act; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended by Act No. 197 of the Public Acts of 1985, being section 421.28 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 28 of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended by Act No. 197 of the Public Acts of 1985, being section 421.28 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 28. (1) An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that:

(a) The individual has registered for work at and thereafter has continued to report at an employment office in accordance with such rules as the commission may prescribe and is seeking work. (1) The requirements that the individual must report at an employment office, must register for work, must be available to perform suitable full-time work, and must seek work may be waived by the commission if the individual is laid off and the employer who laid the individual off notifies the commission in writing or by computerized data exchange that the layoff is temporary and that work is expected to be available for the individual within a declared

number of days, not to exceed 45 calendar days following the last day the individual worked. This waiver shall not be effective unless the notification from the employer has been received by the commission before the individual has completed his or her first compensable week following layoff. If the individual is not recalled within the specified period, the waiver shall cease to be operative with respect to that layoff. (2) Except for a period of disqualification, the requirement that the individual shall seek work may be waived by the commission where it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned base period credit weeks. This waiver shall not apply, for weeks of unemployment beginning on or after March 1, 1981, to a claimant enrolled and attending classes as a full-time student. (3) An individual shall be deemed to have satisfied the requirement of personal reporting at an employment office, as applied to a week in a period during which the requirements of registration and seeking work have been waived by the commission under subparagraph (1), if (i) the individual has satisfied the personal reporting requirement with respect to a preceding week in that period and (ii) the individual has reported with respect to the week by mail in accordance with the rules promulgated by the commission.

(b) The individual has made a claim for benefits in accordance with the provisions of section 32 and has provided the commission with his or her social security number.

(c) The individual is able and available to perform suitable full-time work of a character which the individual is qualified to perform by past experience or training, which is of a character generally similar to work for which the individual has previously received wages, and for which the individual is available, full time, either at a locality at which the individual earned wages for insured work during his or her base period or at a locality where it is found by the commission that such work is available.

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

(2) The commission may authorize an individual with an unexpired benefit year to pursue vocational training or retraining only if the commission finds that:

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

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

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

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

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

(3) Notwithstanding any other provision of this act, an otherwise eligible individual shall not be ineligible for benefits because he or she is participating in training with the approval of the commission. For each week that the commission finds that an individual who is claiming benefits under this act and who is participating in training with the approval of the commission, is satisfactorily pursuing an approved course of vocational training, it shall waive the requirements that he or she be available for work and be seeking work as prescribed in subsection (1)(a) and (c), and it shall find good cause for his or her failure to apply for suitable work, report to a former employer for an interview concerning suitable work, or accept suitable work as required in section 29(1)(c), (d), and (e).

(4) The waiver of the requirement that a claimant seek work, as provided in subsection (1)(a)(1) and (a)(2), shall not be applicable to weeks of unemployment for which the claimant is claiming extended benefits if section 64(8)(a)(ii) is in effect, unless the individual is participating in training approved by the commission.

(5) Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be denied benefits for any week beginning after October 30, 1982 solely because the individual is in training approved under section 236(a)(1) of the trade act of 1974, as amended, 19 U.S.C. 2296, nor shall the individual be denied benefits by reason of leaving work to enter such training if the work left is not suitable employment. Furthermore, an otherwise eligible individual shall not be denied benefits because of the application to any such week in training of provisions of this act, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the trade act of 1974, 19 U.S.C. 2101 to 2495, and wages for that work at not less than 80% of the individual's average weekly wage as determined for the purposes of the trade act of 1974.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) House Bill No. 4815.
- (b) Senate Bill No. 466.
- (c) Senate Bill No. 68.
- (d) Senate Bill No. 640.
- (e) Senate Bill No. 641.
- (f) House Bill No. 5222.
- (g) House Bill No. 5229.
- (h) House Bill No. 5226.
- (i) Senate Bill No. 644.
- (j) Senate Bill No. 645.
- (k) Senate Bill No. 646.
- (l) House Bill No. 5223.
- (m) House Bill No. 5227.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.