

# HOUSE BILL No. 5387

January 16, 1990, Introduced by Reps. Profit, Watkins, Emerson, Perry Bullard, Harrison, Kosteva and Hertel 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. 164 of the Public Acts of 1983, being section 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. 164 of the  
3 Public Acts of 1983, being section 421.29 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5       Sec. 29. (1) An individual shall be disqualified for bene-  
6 fits in the following cases in which the individual:

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, such leaving shall not be disqualifying.

3 (b) Was discharged for misconduct connected with the  
4 individual's work, or for intoxication while at work unless the  
5 discharge was subsequently reduced to a disciplinary layoff or  
6 suspension.

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

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

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

19 (f) Lost his or her job by reason of being absent from work  
20 as a result of a violation of law for which the individual was  
21 convicted, and sentenced to jail or prison. This subdivision  
22 shall not apply if conviction of a person results in a sentence  
23 to county jail under conditions of day parole as provided in Act  
24 No. 60 of the Public Acts of 1962, being sections 801.251 to  
25 801.258 of the Michigan Compiled Laws, or when the conviction was  
26 for a traffic violation that resulted in an absence of less than

1 10 consecutive work days from the individual's place of  
2 employment.

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

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

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

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

17 (k) Was discharged for ~~wilful~~ WILLFUL destruction of prop-  
18 erty connected with the individual's work resulting in loss or  
19 damage of \$25.00 or less.

20 (l) Was discharged for ~~wilful~~ WILLFUL destruction of prop-  
21 erty connected with the individual's work resulting in loss or  
22 damage of more than \$25.00.

23 (m) Committed a theft which occurred subsequent to a notice  
24 of layoff or discharge, but prior to the effective date of layoff  
25 or discharge, resulting in loss or damage of more than \$25.00 to  
26 the employer who would otherwise be chargeable for the benefits,

1 notwithstanding that the original layoff or discharge was under  
2 nondisqualifying circumstances.

3       (2) A disqualification provided in subsection (1) shall  
4 begin with the week in which the act or discharge occurred which  
5 caused the disqualification and shall continue until the disqual-  
6 ified individual regualifies under subsection (3). Except with  
7 respect to multiemployer credit weeks, the disqualification shall  
8 not prevent the payment of benefits if there are credit weeks  
9 subsequent to the most recent disqualifying act or discharge.

10       (3) Subsequent to the week in which the disqualifying act or  
11 discharge occurred, an individual shall complete 6 regualifying  
12 weeks if disqualified under subsection (1)(c), (d), (e), (f), or  
13 (g), or shall complete 13 regualifying weeks if disqualified  
14 under subsection (1)(h), (j), (l), or (m), for each week in which  
15 the individual earns or receives remuneration in an amount at  
16 least equal to an amount needed to earn a credit week, as defined  
17 in section 50, or would otherwise meet all of the requirements of  
18 this act to receive a benefit payment if the individual were not  
19 disqualified under subsection (1), or receives a benefit payment  
20 based on credit weeks subsequent to the disqualifying act or  
21 discharge. An individual who is disqualified under subsection  
22 (1)(a), (b), (i), or (k) shall, subsequent to the week in which  
23 the disqualifying discharge occurred, regualify by earning in  
24 employment for an employer liable under this act or the unemploy-  
25 ment compensation act of another state an amount equal to, or in  
26 excess of, 7 times the individual's potential weekly benefit  
27 rate, calculated on the basis of employment with the employer

1 involved in the disqualification, or by earning in employment for  
2 an employer liable under this act or the unemployment compensa-  
3 tion act of another state an amount, equal to, or in excess of, 40  
4 times the state minimum hourly wage times 7, whichever is the  
5 lesser amount. Any benefits which may become payable to an indi-  
6 vidual disqualified under subsection (1)(a), (b), (i), or (k)  
7 shall not be charged to the account of the employer with whom the  
8 individual was involved in the disqualification. The benefits  
9 paid shall be charged to the nonchargeable benefits account.

10 (4) Subject to the conditions provided in this subsection,  
11 an individual's maximum amount of benefits otherwise available to  
12 the individual, under section 27(d), based on wages and credit  
13 weeks earned before an act or discharge with the employer  
14 involved therein as the result of which the individual was dis-  
15 qualified under subsection (1)(c), (d), (e), (f), or (g), shall  
16 be reduced by an amount equal to the individual's weekly benefit  
17 rate as to that employer multiplied by the number of requalifying  
18 weeks required of the individual under this subsection or multi-  
19 plied by the number of weeks of benefit entitlement remaining  
20 with that employer, whichever is less. The reductions of bene-  
21 fits provided for in this subsection are subject, however, to the  
22 following conditions: if the individual has insufficient or no  
23 potential benefit entitlement remaining with that employer in the  
24 benefit year in existence on the date of the disqualifying deter-  
25 mination, the reduction shall be applicable in a succeeding bene-  
26 fit year with respect to any benefit entitlement based upon

1 credit weeks earned with the employer involved in the  
2 disqualification before the disqualifying act or discharge.

3 An individual disqualified under subsection (1)(h), (j),  
4 (l), or (m) shall not be entitled to benefits based on wages and  
5 credit weeks earned before the disqualifying act or discharge  
6 with the employer involved in the disqualification.

7 The benefit entitlement of an individual disqualified under  
8 subsection (1)(a), (b), (i), or (k) shall not be subject to  
9 reduction as a result of that disqualification.

10 For purposes of this subsection, the denial or reduction of  
11 benefits shall not apply to benefits based upon multiemployer  
12 credit weeks.

13 (5) If an individual leaves work to accept permanent  
14 full-time work with another employer, and performs services for  
15 that employer; or to accept a recall from a former employer, the  
16 disqualification provisions of subsection (1) shall not apply to  
17 that leaving; but the wages earned with the employer that the  
18 individual last left, including wages previously transferred  
19 under this provision to the last employer, shall, for the purpose  
20 of computing and charging benefits, be considered wages earned  
21 from the employer with whom the individual accepted work or  
22 recall, and benefits paid based upon those wages shall be charged  
23 to that employer. When issuing a determination covering that  
24 period of employment, the commission shall advise the chargeable  
25 employer of the name and address of the other employer, the  
26 period covered by the employment, and the extent of the benefits  
27 which may be charged to the account of the chargeable 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 shall not be considered suitable and benefits shall  
10 not be denied under this act to an otherwise eligible individual  
11 for refusing to accept new work under any of the following  
12 conditions: (a) if the position offered is vacant due directly  
13 to a strike, lockout, or other labor dispute; (b) if the remuner-  
14 ation, hours, or other conditions of the work offered are sub-  
15 stantially less favorable to the individual than those prevailing  
16 for similar work in the locality; (c) if as a condition of being  
17 employed, the individual would be required to join a company  
18 union or to resign from or refrain from joining a bona fide labor  
19 organization.

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

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

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

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

22 (ii) The individual is participating in or financing or  
23 directly interested in the labor dispute which causes the  
24 individual's total or partial unemployment. The payment of regu-  
25 lar union dues, in amounts and for purposes established before  
26 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 is 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  
0 to a labor dispute which was or is in progress in a department or  
1 unit or group of workers in the same establishment.

2 (b) "Directly interested", as used in this subsection, shall  
3 be construed and applied so as not to disqualify individuals  
4 unemployed as a result of a labor dispute the resolution of which  
5 may not reasonably be expected to affect their wages, hours, or  
6 other conditions of employment, and to disqualify individuals  
7 whose wages, hours, or conditions of employment may reasonably be  
8 expected to be affected by the resolution of the labor dispute.  
9 A "reasonable expectation" of an effect on an individual's wages,  
10 hours, or other conditions of employment shall be considered to  
11 exist, in the absence of substantial preponderating evidence to  
12 the contrary, in any of the following situations:

13 (i) If it is established that there is in the particular  
14 establishment or employing unit a practice or custom or contrac-  
15 tual obligation to extend within a reasonable period to members  
16 of the individual's grade or class of workers in the  
17 establishment in which the individual is or was last employed

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

6       (ii) 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       (iii) 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 the following shall be relevant:

20       (i) Representation of the workers by the same national or  
21 international organization or by local affiliates thereof.

22       (ii) Whether the workers are included in a single, legally  
23 designated, or negotiated bargaining unit.

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

1 conditions of employment, or by separate agreements which 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, cov-  
10 ered by the same or similar demands by their recognized or certi-  
11 fied bargaining agent or agents for changes in their wages,  
12 hours, or 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 which would by their  
16 terms have applied to those workers.

17 (9) An individual shall be disqualified for benefits for the  
18 duration of the individual's disciplinary layoff or suspension in  
19 all 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 or for participation in a  
22 strike or other concerted action resulting in a curtailment of  
23 work or restriction of or interference with production contrary  
24 to the provisions of an applicable collective bargaining agree-  
25 ment; or participation in a wildcat strike or other concerted  
26 action not authorized by the individual's recognized bargaining  
27 representative. This subsection applies only if the individual

1 is not subject to disqualification under subsection (1)(g) or if  
2 a disqualifying discharge under subsection (1)(b) is determined  
3 or redetermined to be a disciplinary layoff or suspension. If a  
4 disqualifying discharge under subsection (1)(b) is determined or  
5 redetermined to be a suspension, the disqualification provided  
6 under this subsection shall apply from the date of the  
7 discharge.

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

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