

SENATE BILL NO. 1259

December 10, 2020, Introduced by Senator HORN 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 29 (MCL 421.29), as amended by 2020 PA 229.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 29. (1) Except as provided in subsection (5), an
2 individual is disqualified from receiving benefits if he or she:
3 (a) Left work voluntarily without good cause attributable to
4 the employer or employing unit. An individual who left work is
5 presumed to have left work voluntarily without good cause
6 attributable to the employer or employing unit. An individual who

1 is absent from work for a period of 3 consecutive work days or more
2 without contacting the employer in a manner acceptable to the
3 employer and of which the individual was informed at the time of
4 hire shall be considered to have voluntarily left work without good
5 cause attributable to the employer. An individual who becomes
6 unemployed as a result of negligently losing a requirement for the
7 job of which he or she was informed at the time of hire shall be
8 considered to have voluntarily left work without good cause
9 attributable to the employer. An individual claiming benefits under
10 this act has the burden of proof to establish that he or she left
11 work involuntarily or for good cause that was attributable to the
12 employer or employing unit. An individual claiming to have left
13 work involuntarily for medical reasons must have done all of the
14 following before the leaving: secured a statement from a medical
15 professional that continuing in the individual's current job would
16 be harmful to the individual's physical or mental health,
17 unsuccessfully attempted to secure alternative work with the
18 employer, and unsuccessfully attempted to be placed on a leave of
19 absence with the employer to last until the individual's mental or
20 physical health would no longer be harmed by the current job.
21 Notwithstanding any other provision of this act, with respect to
22 claims for weeks beginning before ~~January 1, 2021,~~ **April 1, 2021,**
23 an individual is considered to have left work involuntarily for
24 medical reasons if he or she leaves work to self-isolate or self-
25 quarantine in response to elevated risk from COVID-19 because he or
26 she is immunocompromised, displayed a commonly recognized principal
27 symptom of COVID-19 that was not otherwise associated with a known
28 medical or physical condition of the individual, had contact in the
29 last 14 days with an individual with a confirmed diagnosis of

1 COVID-19, needed to care for an individual with a confirmed
2 diagnosis of COVID-19, or had a family care responsibility that was
3 the result of a government directive regarding COVID-19.
4 Notwithstanding any other provision of this act, with respect to
5 claims for weeks beginning before ~~January 1, 2021,~~ **April 1, 2021,**
6 the unemployment agency may consider an individual laid off if the
7 individual became unemployed to self-isolate or self-quarantine in
8 response to elevated risk from COVID-19 because he or she is
9 immunocompromised, displayed a commonly recognized principal
10 symptom of COVID-19 that was not otherwise associated with a known
11 medical or physical condition of the individual, had contact in the
12 last 14 days with an individual with a confirmed diagnosis of
13 COVID-19, needed to care for an individual with a confirmed
14 diagnosis of COVID-19, or had a family care responsibility that was
15 the result of a government directive regarding COVID-19. However,
16 if any of the following conditions are met, the leaving does not
17 disqualify the individual:

18 (i) The individual has an established benefit year in effect
19 and during that benefit year leaves unsuitable work within 60 days
20 after the beginning of that work. Benefits paid after a leaving
21 under this subparagraph shall not be charged to the experience
22 account of the employer the individual left, but shall be charged
23 instead to the nonchargeable benefits account.

24 (ii) The individual is the spouse of a full-time member of the
25 United States Armed Forces, and the leaving is due to the military
26 duty reassignment of that member of the United States Armed Forces
27 to a different geographic location. Benefits paid after a leaving
28 under this subparagraph shall not be charged to the experience
29 account of the employer the individual left, but shall be charged

1 instead to the nonchargeable benefits account.

2 (iii) The individual is concurrently working part-time for an
3 employer or employing unit and for another employer or employing
4 unit and voluntarily leaves the part-time work while continuing
5 work with the other employer. The portion of the benefits paid in
6 accordance with this subparagraph that would otherwise be charged
7 to the experience account of the part-time employer that the
8 individual left shall not be charged to the account of that
9 employer but shall be charged instead to the nonchargeable benefits
10 account.

11 (b) Was suspended or discharged for misconduct connected with
12 the individual's work or for intoxication while at work.

13 (c) Failed without good cause to apply diligently for
14 available suitable work after receiving notice from the
15 unemployment agency of the availability of that work or failed to
16 apply for work with employers that could reasonably be expected to
17 have suitable work available.

18 (d) Failed without good cause while unemployed to report to
19 the individual's former employer or employing unit within a
20 reasonable time after that employer or employing unit provided
21 notice of the availability of an interview concerning available
22 suitable work with the former employer or employing unit.

23 (e) Failed without good cause to accept suitable work offered
24 to the individual or to return to the individual's customary self-
25 employment, if any, when directed by the employment office or the
26 unemployment agency. An employer that receives a monetary
27 determination under section 32 may notify the unemployment agency
28 regarding the availability of suitable work with the employer on
29 the monetary determination or other form provided by the

1 unemployment agency. Upon receipt of the notice of the availability
2 of suitable work, the unemployment agency shall notify the claimant
3 of the availability of suitable work.

4 (f) Lost his or her job due to absence from work resulting
5 from a violation of law for which the individual was convicted and
6 sentenced to jail or prison. This subdivision does not apply if
7 conviction of an individual results in a sentence to county jail
8 under conditions of day parole as provided in 1962 PA 60, MCL
9 801.251 to 801.258, or if the conviction was for a traffic
10 violation that resulted in an absence of less than 10 consecutive
11 work days from the individual's place of employment.

12 (g) Is discharged, whether or not the discharge is
13 subsequently reduced to a disciplinary layoff or suspension, for
14 participation in either of the following:

15 (i) A strike or other concerted action in violation of an
16 applicable collective bargaining agreement that results in
17 curtailment of work or restriction of or interference with
18 production.

19 (ii) A wildcat strike or other concerted action not authorized
20 by the individual's recognized bargaining representative.

21 (h) Was discharged for an act of assault and battery connected
22 with the individual's work.

23 (i) Was discharged for theft connected with the individual's
24 work.

25 (j) Was discharged for willful destruction of property
26 connected with the individual's work.

27 (k) Committed a theft after receiving notice of a layoff or
28 discharge, but before the effective date of the layoff or
29 discharge, resulting in loss or damage to the employer who would

1 otherwise be chargeable for the benefits, regardless of whether the
2 individual qualified for the benefits before the theft.

3 (l) Was employed by a temporary help firm, which as used in
4 this section means an employer whose primary business is to provide
5 a client with the temporary services of 1 or more individuals under
6 contract with the employer, to perform services for a client of
7 that firm if each of the following conditions is met:

8 (i) The temporary help firm provided the employee with a
9 written notice before the employee began performing services for
10 the client stating in substance both of the following:

11 (A) That within 7 days after completing services for a client
12 of the temporary help firm, the employee is under a duty to notify
13 the temporary help firm of the completion of those services.

14 (B) That a failure to provide the temporary help firm with
15 notice of the employee's completion of services pursuant to sub-
16 subparagraph (A) constitutes a voluntary quit that will affect the
17 employee's eligibility for unemployment compensation should the
18 employee seek unemployment compensation following completion of
19 those services.

20 (ii) The employee did not provide the temporary help firm with
21 notice that the employee had completed his or her services for the
22 client within 7 days after completion of his or her services for
23 the client.

24 (m) Was discharged for illegally ingesting, injecting,
25 inhaling, or possessing a controlled substance on the premises of
26 the employer; refusing to submit to a drug test that was required
27 to be administered in a nondiscriminatory manner; or testing
28 positive on a drug test, if the test was administered in a
29 nondiscriminatory manner. If the worker disputes the result of the

1 testing, and if a generally accepted confirmatory test has not been
2 administered on the same sample previously tested, then a generally
3 accepted confirmatory test shall be administered on that sample. If
4 the confirmatory test also indicates a positive result for the
5 presence of a controlled substance, the worker who is discharged as
6 a result of the test result will be disqualified under this
7 subdivision. A report by a drug testing facility showing a positive
8 result for the presence of a controlled substance is conclusive
9 unless there is substantial evidence to the contrary. As used in
10 this subdivision and subdivision (e):

11 (i) "Controlled substance" means that term as defined in
12 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

13 (ii) "Drug test" means a test designed to detect the illegal
14 use of a controlled substance.

15 (iii) "Nondiscriminatory manner" means administered impartially
16 and objectively in accordance with a collective bargaining
17 agreement, rule, policy, a verbal or written notice, or a labor-
18 management contract.

19 (n) Theft from the employer that resulted in the employee's
20 conviction, within 2 years of the date of the discharge, of theft
21 or a lesser included offense.

22 (2) A disqualification under subsection (1) begins the week in
23 which the act or discharge that caused the disqualification occurs
24 and continues until the disqualified individual requalifies under
25 subsection (3).

26 (3) After the week in which the disqualifying act or discharge
27 described in subsection (1) occurs, an individual who seeks to
28 requalify for benefits is subject to all of the following:

29 (a) For benefit years established before October 1, 2000, the

1 individual shall complete 6 requalifying weeks if he or she was
2 disqualified under subsection (1)(c), (d), (e), (f), (g), or (l), or
3 13 requalifying weeks if he or she was disqualified under
4 subsection (1)(h), (i), (j), (k), or (m). A requalifying week
5 required under this subdivision is each week in which the
6 individual does any of the following:

7 (i) Earns or receives remuneration in an amount at least equal
8 to an amount needed to earn a credit week, as that term is defined
9 in section 50.

10 (ii) Otherwise meets all of the requirements of this act to
11 receive a benefit payment if the individual were not disqualified
12 under subsection (1).

13 (iii) Receives a benefit payment based on credit weeks
14 subsequent to the disqualifying act or discharge.

15 (b) For benefit years established before October 1, 2000, if
16 the individual is disqualified under subsection (1)(a) or (b), he
17 or she shall requalify, after the week in which the disqualifying
18 discharge occurred by earning in employment for an employer liable
19 under this act or the unemployment compensation act of another
20 state an amount equal to, or in excess of, 7 times the individual's
21 potential weekly benefit rate, calculated on the basis of
22 employment with the employer involved in the disqualification, or
23 by earning in employment for an employer liable under this act or
24 the unemployment compensation act of another state an amount equal
25 to, or in excess of, 40 times the state minimum hourly wage times
26 7, whichever is the lesser amount.

27 (c) For benefit years established before October 1, 2000, a
28 benefit payable to an individual disqualified under subsection
29 (1)(a) or (b) shall be charged to the nonchargeable benefits

1 account, and not to the account of the employer with whom the
2 individual was involved in the disqualification.

3 (d) For benefit years beginning on or after October 1, 2000,
4 after the week in which the disqualifying act or discharge
5 occurred, an individual shall complete 13 requalifying weeks if he
6 or she was disqualified under subsection (1)(c), (d), (e), (f),
7 (g), or (l), or 26 requalifying weeks if he or she was disqualified
8 under subsection (1)(h), (i), (j), (k), (m), or (n). A requalifying
9 week required under this subdivision is each week in which the
10 individual does any of the following:

11 (i) Earns or receives remuneration in an amount equal to at
12 least 1/13 of the minimum amount needed in a calendar quarter of
13 the base period for an individual to qualify for benefits, rounded
14 down to the nearest whole dollar.

15 (ii) Otherwise meets all of the requirements of this act to
16 receive a benefit payment if the individual was not disqualified
17 under subsection (1).

18 (e) For benefit years beginning on or after October 1, 2000
19 and beginning before April 26, 2002, if the individual is
20 disqualified under subsection (1)(a) or (b), he or she shall
21 requalify, after the week in which the disqualifying act or
22 discharge occurred by earning in employment for an employer liable
23 under this act or the unemployment compensation law of another
24 state at least the lesser of the following:

25 (i) Seven times the individual's weekly benefit rate.

26 (ii) Forty times the state minimum hourly wage times 7.

27 (f) For benefit years beginning on or after April 26, 2002, if
28 the individual is disqualified under subsection (1)(a), he or she
29 shall requalify, after the week in which the disqualifying act or

1 discharge occurred by earning in employment for an employer liable
2 under this act or the unemployment compensation law of another
3 state at least 12 times the individual's weekly benefit rate.

4 (g) For benefit years beginning on or after April 26, 2002, if
5 the individual is disqualified under subsection (1)(b), he or she
6 shall requalify, after the week in which the disqualifying act or
7 discharge occurred by earning in employment for an employer liable
8 under this act or the unemployment compensation law of another
9 state at least 17 times the individual's weekly benefit rate.

10 (h) A benefit payable to the individual disqualified or
11 separated under disqualifying circumstances under subsection (1)(a)
12 or (b) shall be charged to the nonchargeable benefits account, and
13 not to the account of the employer with whom the individual was
14 involved in the separation. Benefits payable to an individual
15 determined by the unemployment agency to be separated under
16 disqualifying circumstances shall not be charged to the account of
17 the employer involved in the disqualification for any period after
18 the employer notifies the unemployment agency of the claimant's
19 possible ineligibility or disqualification. However, an individual
20 filing a new claim for benefits who reports the reason for
21 separation from a base period employer as a voluntary leaving shall
22 be presumed to have voluntarily left without good cause
23 attributable to the employer and shall be disqualified unless the
24 individual provides substantial evidence to rebut the presumption.
25 If a disqualifying act or discharge occurs during the individual's
26 benefit year, any benefits that may become payable to the
27 individual in a later benefit year based on employment with the
28 employer involved in the disqualification shall be charged to the
29 nonchargeable benefits account.

1 (4) The maximum amount of benefits otherwise available under
2 section 27(d) to an individual disqualified under subsection (1) is
3 subject to all of the following conditions:

4 (a) For benefit years established before October 1, 2000, if
5 the individual is disqualified under subsection (1)(c), (d), (e),
6 (f), (g), or (l) and the maximum amount of benefits is based on
7 wages and credit weeks earned from an employer before an act or
8 discharge involving that employer, the amount shall be reduced by
9 an amount equal to the individual's weekly benefit rate as to that
10 employer multiplied by the lesser of either of the following:

11 (i) The number of requalifying weeks required of the individual
12 under this section.

13 (ii) The number of weeks of benefit entitlement remaining with
14 that employer.

15 (b) If the individual has insufficient or no potential benefit
16 entitlement remaining with the employer involved in the
17 disqualification in the benefit year in existence on the date of
18 the disqualifying determination, a reduction of benefits described
19 in this subsection applies in a succeeding benefit year with
20 respect to any benefit entitlement based upon credit weeks earned
21 with the employer before the disqualifying act or discharge.

22 (c) For benefit years established before October 1, 2000, an
23 individual disqualified under subsection (1)(h), (i), (j), (k), or
24 (m) is not entitled to benefits based on wages and credit weeks
25 earned before the disqualifying act or discharge with the employer
26 involved in the disqualification.

27 (d) The benefit entitlement of an individual disqualified
28 under subsection (1)(a) or (b) is not subject to reduction as a
29 result of that disqualification.

1 (e) A denial or reduction of benefits under this subsection
2 does not apply to benefits based upon multiemployer credit weeks.

3 (f) For benefit years established on or after October 1, 2000,
4 if the individual is disqualified under subsection (1)(c), (d),
5 (e), (f), (g), or (l), the maximum number of weeks otherwise
6 applicable in calculating benefits for the individual under section
7 27(d) shall be reduced by the lesser of the following:

8 (i) The number of requalifying weeks required of the individual
9 under this section.

10 (ii) The number of weeks of benefit entitlement remaining on
11 the claim.

12 (g) For benefit years beginning on or after October 1, 2000,
13 the benefits of an individual disqualified under subsection (1)(h),
14 (i), (j), (k), (m), or (n) shall be reduced by 13 weeks and any
15 weekly benefit payments made to the claimant thereafter shall be
16 reduced by the portion of the payment attributable to base period
17 wages paid by the base period employer involved in a
18 disqualification under subsection (1)(h), (i), (j), (k), (m), or
19 (n).

20 (5) Subject to subsection (11), if an individual leaves work
21 to accept permanent full-time work with another employer or to
22 accept a referral to another employer from the individual's union
23 hiring hall and performs services for that employer, or if an
24 individual leaves work to accept a recall from a former employer,
25 all of the following apply:

26 (a) Subsection (1) does not apply.

27 (b) Wages earned with the employer whom the individual last
28 left, including wages previously transferred under this subsection
29 to the last employer, for the purpose of computing and charging

1 benefits, are wages earned from the employer with whom the
2 individual accepted work or recall, and benefits paid based upon
3 those wages shall be charged to that employer.

4 (c) When issuing a determination covering the period of
5 employment with a new or former employer described in this
6 subsection, the unemployment agency shall advise the chargeable
7 employer of the name and address of the other employer, the period
8 covered by the employment, and the extent of the benefits that may
9 be charged to the account of the chargeable employer.

10 (6) In determining whether work is suitable for an individual,
11 the unemployment agency shall consider the degree of risk involved
12 to the individual's health, safety, and morals, the individual's
13 physical fitness and prior training, the individual's length of
14 unemployment and prospects for securing local work in the
15 individual's customary occupation, and the distance of the
16 available work from the individual's residence. Additionally, the
17 unemployment agency shall consider the individual's experience and
18 prior earnings, but an unemployed individual who refuses an offer
19 of work determined to be suitable under this section shall be
20 denied benefits if the pay rate for that work is at least 70% of
21 the gross pay rate he or she received immediately before becoming
22 unemployed. Beginning January 15, 2012, after an individual has
23 received benefits for 50% of the benefit weeks in the individual's
24 benefit year, work shall not be considered unsuitable because it is
25 outside of the individual's training or experience or unsuitable as
26 to pay rate if the pay rate for that work meets or exceeds the
27 minimum wage; is at least the prevailing mean wage for similar work
28 in the locality for the most recent full calendar year for which
29 data are available as published by the department of technology,

1 management, and budget as "wages by job title", by standard
2 metropolitan statistical area; and is 120% or more of the
3 individual's weekly benefit amount.

4 (7) Work is not suitable and benefits shall not be denied
5 under this act to an otherwise eligible individual for refusing to
6 accept new work under any of the following conditions:

7 (a) If the position offered is vacant due directly to a
8 strike, lockout, or other labor dispute.

9 (b) If the remuneration, hours, or other conditions of the
10 work offered are substantially less favorable to the individual
11 than those prevailing for similar work in the locality.

12 (c) If as a condition of being employed, the individual would
13 be required to join a company union or to resign from or refrain
14 from joining a bona fide labor organization.

15 (8) All of the following apply to an individual who seeks
16 benefits under this act:

17 (a) An individual is disqualified from receiving benefits for
18 a week in which the individual's total or partial unemployment is
19 due to either of the following:

20 (i) A labor dispute in active progress at the place at which
21 the individual is or was last employed, or a shutdown or start-up
22 operation caused by that labor dispute.

23 (ii) A labor dispute, other than a lockout, in active progress
24 or a shutdown or start-up operation caused by that labor dispute in
25 any other establishment within the United States that is both
26 functionally integrated with the establishment described in
27 subparagraph (i) and operated by the same employing unit.

28 (b) An individual's disqualification imposed or imposable
29 under this subsection is terminated if the individual performs

1 services in employment with an employer in at least 2 consecutive
2 weeks falling wholly within the period of the individual's total or
3 partial unemployment due to the labor dispute, and in addition
4 earns wages in each of those weeks in an amount equal to or greater
5 than the individual's actual or potential weekly benefit rate.

6 (c) An individual is not disqualified under this subsection if
7 the individual is not directly involved in the labor dispute. An
8 individual is not directly involved in a labor dispute unless any
9 of the following are established:

10 (i) At the time or in the course of a labor dispute in the
11 establishment in which the individual was then employed, the
12 individual in concert with 1 or more other employees voluntarily
13 stopped working other than at the direction of the individual's
14 employing unit.

15 (ii) The individual is participating in, financing, or directly
16 interested in the labor dispute that causes the individual's total
17 or partial unemployment. The payment of regular union dues, in
18 amounts and for purposes established before the inception of the
19 labor dispute, is not financing a labor dispute within the meaning
20 of this subparagraph.

21 (iii) At any time a labor dispute in the establishment or
22 department in which the individual was employed does not exist, and
23 the individual voluntarily stops working, other than at the
24 direction of the individual's employing unit, in sympathy with
25 employees in some other establishment or department in which a
26 labor dispute is in progress.

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

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

12 (i) If it is established that there is in the particular
13 establishment or employing unit a practice, custom, or contractual
14 obligation to extend within a reasonable period to members of the
15 individual's grade or class of workers in the establishment in
16 which the individual is or was last employed changes in terms and
17 conditions of employment that are substantially similar or related
18 to some or all of the changes in terms and conditions of employment
19 that are made for the workers among whom there exists the labor
20 dispute that has caused the individual's total or partial
21 unemployment.

22 (ii) If it is established that 1 of the issues in or purposes
23 of the labor dispute is to obtain a change in the terms and
24 conditions of employment for members of the individual's grade or
25 class of workers in the establishment in which the individual is or
26 was last employed.

27 (iii) If a collective bargaining agreement covers both the
28 individual's grade or class of workers in the establishment in
29 which the individual is or was last employed and the workers in

1 another establishment of the same employing unit who are actively
2 participating in the labor dispute, and that collective bargaining
3 agreement is subject by its terms to modification, supplementation,
4 or replacement, or has expired or been opened by mutual consent at
5 the time of the labor dispute.

6 (e) In determining the scope of the grade or class of workers,
7 evidence of the following is relevant:

8 (i) Representation of the workers by the same national or
9 international organization or by local affiliates of that national
10 or international organization.

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

13 (iii) Whether the workers are or within the past 6 months have
14 been covered by a common master collective bargaining agreement
15 that sets forth all or any part of the terms and conditions of the
16 workers' employment, or by separate agreements that are or have
17 been bargained as a part of the same negotiations.

18 (iv) Any functional integration of the work performed by those
19 workers.

20 (v) Whether the resolution of those issues involved in the
21 labor dispute as to some of the workers could directly or
22 indirectly affect the advancement, negotiation, or settlement of
23 the same or similar issues in respect to the remaining workers.

24 (vi) Whether the workers are currently or have been covered by
25 the same or similar demands by their recognized or certified
26 bargaining agent or agents for changes in their wages, hours, or
27 other conditions of employment.

28 (vii) Whether issues on the same subject matter as those
29 involved in the labor dispute have been the subject of proposals or

1 demands made upon the employing unit that would by their terms have
2 applied to those workers.

3 (9) Notwithstanding subsections (1) to (8), if the employing
4 unit submits notice to the unemployment agency of possible
5 ineligibility or disqualification beyond the time limits prescribed
6 by unemployment agency rule and the unemployment agency concludes
7 that benefits should not have been paid, the claimant shall repay
8 the benefits paid during the entire period of ineligibility or
9 disqualification. The unemployment agency shall not charge interest
10 on repayments required under this subsection.

11 (10) An individual is disqualified from receiving benefits for
12 any week or part of a week in which the individual has received, is
13 receiving, or is seeking unemployment benefits under an
14 unemployment compensation law of another state or of the United
15 States. If the appropriate agency of the other state or of the
16 United States finally determines that the individual is not
17 entitled to unemployment benefits, the disqualification described
18 in this subsection does not apply.

19 (11) Beginning on May 1, 2020, and until the effective date of
20 the amendatory act that added this subsection, if an individual
21 leaves work to accept permanent full-time work with another
22 employer, the individual is considered to have met the requirements
23 of subsection (5) regardless of whether the individual actually
24 performed services for the other employer or whether the work was
25 permanent full-time work. Benefits payable to the individual must
26 be charged to the nonchargeable benefits account.