

# HOUSE BILL No. 4240

February 12, 2013, Introduced by Reps. Goike, Kelly, Johnson, Pscholka, Jacobsen, Zorn, Hooker and Lauwers and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 28 (MCL 421.28), as amended by 2011 PA 269.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 28. (1) An unemployed individual is eligible to receive  
2 benefits with respect to any week only if the unemployment agency  
3 finds all of the following:

4           (a) For benefit years established before October 1, 2000, the  
5 individual has registered for work at and thereafter has continued  
6 to report at an employment office in accordance with unemployment  
7 agency rules and is seeking work. The **UNEMPLOYMENT AGENCY MAY WAIVE**  
8 **ANY OF THE** requirements that the individual ~~must~~ report at an  
9 employment office, ~~must~~ register for work, ~~must~~ be available to

1 perform suitable full-time work, ~~and must OR~~ seek work, ~~may be~~  
2 ~~waived by the unemployment agency~~ if the individual is laid off and  
3 the employer who laid the individual off notifies the unemployment  
4 agency in writing or by computerized data exchange that the layoff  
5 is temporary and that work is expected to be available for the  
6 individual within a declared number of days, not to exceed 45  
7 calendar days following the last day the individual worked. This  
8 ~~waiver shall not be~~ **IS NOT** effective unless the **UNEMPLOYMENT AGENCY**  
9 **RECEIVES** notification from the employer ~~has been received by the~~  
10 ~~unemployment agency~~ before the individual has completed his or her  
11 first compensable week following layoff. If the individual is not  
12 recalled within the specified period, the waiver ~~shall cease to be~~  
13 ~~operative with respect~~ **IS NO LONGER EFFECTIVE AS** to that layoff.  
14 Except for a period of disqualification, **THE UNEMPLOYMENT AGENCY**  
15 **MAY WAIVE** the requirement that the individual ~~shall seek work may~~  
16 ~~be waived by the unemployment agency where~~ **IF** it finds that  
17 suitable work is unavailable both in the locality where the  
18 individual resides and in those localities in which the individual  
19 has earned base period credit weeks. This waiver ~~shall~~ **DOES** not  
20 apply, for weeks of unemployment beginning on or after March 1,  
21 1981, to a claimant enrolled and attending classes as a full-time  
22 student. An individual has satisfied the requirement of personal  
23 reporting at an employment office, as applied to a week in a period  
24 during which the **UNEMPLOYMENT AGENCY HAS WAIVED THE** requirements of  
25 registration and seeking work, ~~have been waived by the unemployment~~  
26 ~~agency pursuant to this subdivision,~~ if the individual has  
27 satisfied the personal reporting requirement with respect to a

1 preceding week in that period and the individual has reported with  
2 respect to the week by mail in accordance with ~~the~~ **UNEMPLOYMENT**  
3 **AGENCY** rules. ~~promulgated by the unemployment agency.~~ For benefit  
4 years established on or after October 1, 2000, the individual has  
5 registered for work, ~~and~~ has continued to report in accordance with  
6 unemployment agency rules, and is actively engaged in seeking work.  
7 The **UNEMPLOYMENT AGENCY MAY WAIVE ANY OF THE** requirements that the  
8 individual ~~must~~ report, ~~must~~ register for work, ~~must~~ be available  
9 to perform suitable full-time work, ~~and must~~ **OR** seek work, ~~may be~~  
10 ~~waived by the unemployment agency~~ if the individual is laid off and  
11 the employer who laid the individual off notifies the unemployment  
12 agency in writing or by computerized data exchange that the layoff  
13 is temporary and that work is expected to be available for the  
14 individual within a declared number of days, not to exceed 45  
15 calendar days following the last day the individual worked. This  
16 waiver ~~shall not be~~ **IS NOT** effective unless the **UNEMPLOYMENT AGENCY**  
17 **RECEIVES** notification from the employer ~~has been received by the~~  
18 ~~unemployment agency~~ before the individual has completed his or her  
19 first compensable week following layoff. If the individual is not  
20 recalled within the specified period, the waiver ~~shall cease to be~~  
21 ~~operative with respect~~ **IS NO LONGER EFFECTIVE AS** to that layoff.  
22 Except for a period of disqualification, the **UNEMPLOYMENT AGENCY**  
23 **MAY WAIVE THE** requirement that the individual ~~shall~~ seek work ~~may~~  
24 ~~be waived by the unemployment agency~~ if it finds that suitable work  
25 is unavailable both in the locality where the individual resides  
26 and in those localities in which the individual has earned wages  
27 during or after the base period. This waiver does not apply to a

1 claimant enrolled and attending classes as a full-time student. An  
2 individual is considered to have satisfied the requirement of  
3 personal reporting at an employment office, as applied to a week in  
4 a period during which the **UNEMPLOYMENT AGENCY HAS WAIVED THE**  
5 requirements of registration and seeking work, ~~have been waived by~~  
6 ~~the unemployment agency pursuant to this subdivision,~~ if the  
7 individual has satisfied the personal reporting requirement with  
8 respect to a preceding week in that period and the individual has  
9 reported with respect to the week by mail in accordance with ~~the~~  
10 **UNEMPLOYMENT AGENCY** rules. ~~promulgated by the unemployment agency.~~

11 (b) The individual has made a claim for benefits in accordance  
12 with section 32 and has provided the unemployment agency with his  
13 or her social security number.

14 (c) The individual is able and available to appear at a  
15 location of the unemployment agency's choosing for evaluation of  
16 eligibility for benefits, if required, and to perform suitable  
17 full-time work of a character ~~which~~ **THAT** the individual is  
18 qualified to perform by past experience or training, ~~which is~~ of a  
19 character generally similar to work for which the individual has  
20 previously received wages, and ~~for which the individual is~~  
21 ~~available, full time, either at a locality~~ **EITHER** at which the  
22 individual earned wages for insured work during his or her base  
23 period or at a ~~locality where it is found by the unemployment~~  
24 ~~agency~~ **WHICH THE UNEMPLOYMENT AGENCY FINDS** that such work is  
25 available. An individual is considered unavailable for work under  
26 any of the following circumstances:

27 (i) The individual fails during a benefit year to notify or

1 update a chargeable employer with telephone, electronic mail, or  
2 other information sufficient to allow the employer to contact the  
3 individual about available work.

4 (ii) The individual fails, without good cause, to respond to  
5 the unemployment agency within 14 calendar days ~~of the later of the~~  
6 ~~mailing of~~ **AFTER THE AGENCY MAILS** a notice to the address of record  
7 requiring the individual to contact the unemployment agency or ~~of~~  
8 ~~the leaving of~~ **14 CALENDAR DAYS AFTER THE AGENCY LEAVES** a telephone  
9 message requesting a return call and providing a return name and  
10 telephone number **EITHER** on an automated answering device or with an  
11 individual answering the telephone number of record, **WHICHEVER IS**  
12 **LATER.**

13 (iii) Unless the claimant shows good cause for failure to  
14 respond, mail sent to the individual's address of record is  
15 returned as undeliverable and the telephone number of record has  
16 been disconnected or changed or is otherwise no longer associated  
17 with the individual.

18 (iv) **UNLESS THE INDIVIDUAL SHOWS GOOD CAUSE, THE INDIVIDUAL**  
19 **FAILS OR REFUSES TO TAKE A DRUG TEST THAT IS REQUIRED OF THE**  
20 **INDIVIDUAL AS PART OF AN EMPLOYMENT APPLICATION.**

21 (d) ~~In the event of the death of an~~ **IF THE** individual's  
22 immediate family member **DIES**, the eligibility requirements of  
23 availability and reporting ~~shall be~~ **IN THIS SUBSECTION ARE** waived  
24 for **THAT INDIVIDUAL FOR** the day of the death and for 4 consecutive  
25 calendar days thereafter. As used in this subdivision, "immediate  
26 family member" means a spouse, child, stepchild, adopted child,  
27 grandchild, parent, grandparent, brother, or sister of the

1 individual or his or her spouse. ~~It shall also include~~ **IMMEDIATE**  
2 **FAMILY MEMBER ALSO INCLUDES** the spouse of any of the persons  
3 specified in the previous sentence.

4 (e) The individual participates in reemployment services, such  
5 as job search assistance services, if the ~~individual has been~~  
6 ~~determined or redetermined by the unemployment agency to be~~  
7 **UNEMPLOYMENT AGENCY DETERMINES OR REDETERMINES USING A PROFILING**  
8 **SYSTEM IT HAS ESTABLISHED THAT THE INDIVIDUAL IS** likely to exhaust  
9 regular benefits and need reemployment services. ~~pursuant to a~~  
10 ~~profiling system established by the unemployment agency.~~

11 (2) The unemployment agency may authorize an individual with  
12 an unexpired benefit year to pursue vocational training or  
13 retraining only if the unemployment agency finds ~~that~~ **ALL OF THE**  
14 **FOLLOWING:**

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

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

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

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

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

1 school or by the unemployment agency.

2 (3) Notwithstanding any other provision of this act, an  
3 otherwise eligible individual ~~shall not be~~ **IS NOT** ineligible for  
4 benefits because he or she is participating in training with the  
5 approval of the unemployment agency. For each week that the  
6 unemployment agency finds that an individual who is claiming  
7 benefits under this act and who is participating in training with  
8 the approval of the unemployment agency, is satisfactorily pursuing  
9 an approved course of vocational training, it shall waive the  
10 requirements that he or she be available for work and be seeking  
11 work as prescribed in subsection (1)(a) and (c), and it shall find  
12 good cause for his or her failure to apply for suitable work,  
13 report to a former employer for an interview concerning suitable  
14 work, or accept suitable work as required in section 29(1)(c), (d),  
15 and (e).

16 (4) The waiver of the requirement that a claimant seek work,  
17 as provided in subsection (1)(a), ~~shall not be~~ **IS NOT** applicable to  
18 weeks of unemployment for which the claimant is claiming extended  
19 benefits if section ~~64(8)(a)(ii) is in effect~~ **64(7)(A)(i) APPLIES**,  
20 unless the individual is participating in training approved by the  
21 unemployment agency.

22 (5) Notwithstanding any other provisions of this act, an  
23 otherwise eligible individual shall not be denied benefits for any  
24 week beginning after October 30, 1982 solely because the individual  
25 is in training approved under section 236(a)(1) of the trade act of  
26 1974, ~~as amended, 19 USC 2296, nor shall the individual~~ **AND SHALL**  
27 **NOT** be denied benefits ~~by reason of~~ **FOR** leaving work to enter such

1 **THAT** training if the work left is not suitable employment.  
2 Furthermore, an otherwise eligible individual shall not be denied  
3 benefits ~~because of the application to~~ **FOR** any such week in  
4 training ~~of~~ **UNDER** provisions of this act ~~,~~ or **OF** any applicable  
5 federal unemployment compensation law ~~,~~ ~~relating~~ **THAT RELATE** to  
6 availability for work, active search for work, or refusal to accept  
7 work. For purposes of this subsection, "suitable employment" means,  
8 with respect to an individual, work of a substantially equal or  
9 higher skill level than the individual's past adversely affected  
10 employment, as defined for purposes of the trade act of 1974, 19  
11 USC 2101 to ~~2495-2497B~~, and wages for that work at not less than  
12 80% of the individual's average weekly wage as determined for the  
13 purposes of ~~the trade act of 1974.~~ **THAT ACT.**

14 (6) For purposes of this section, for benefit years beginning  
15 on or after January 1, 2013, to be actively engaged in seeking  
16 work, an individual must conduct a systematic and sustained search  
17 for work in each week the individual is claiming benefits, using  
18 any of the following methods to report the details of the work  
19 search:

20 (a) Reporting at monthly intervals on the unemployment  
21 agency's online reporting system the name of each employer and  
22 physical or online location of each employer where work was sought  
23 and the date and method by which work was sought with each  
24 employer.

25 (b) Filing a written report with the unemployment agency by  
26 mail or facsimile transmission not later than the end of the fourth  
27 calendar week after the end of the week in which the individual

1 engaged in the work search, on a form approved by the unemployment  
2 agency, indicating the name of each employer and physical or online  
3 location of each employer where work was sought and the date and  
4 method by which work was sought with each employer.

5 (c) Appearing at least monthly in person at a Michigan works  
6 agency office to report the name and physical or online location of  
7 each employer where the individual sought work during the previous  
8 month and the date and method by which work was sought with each  
9 employer.

10 (7) The work search conducted by the claimant is subject to  
11 random audit by the unemployment agency.