

1 State of Arkansas *As Engrossed: S3/7/11 S3/10/11 S3/15/11 S3/16/11 H3/21/11*

2 88th General Assembly

# A Bill

3 Regular Session, 2011

SENATE BILL 593

4

5 By: Senators J. Dismang, *G. Baker, Bledsoe, Holland, J. Hutchinson, M. Lamoureux, B. Pritchard,*  
6 *Rapert, J. Taylor, Whitaker, E. Williams, D. Wyatt, Files*

7 By: Representatives Carter, *D. Altes, Baird, Barnett, Bell, Benedict, Biviano, Branscum, J. Burris,*  
8 *Clemmer, Collins-Smith, Dale, Deffenbaugh, English, Eubanks, Garner, Gillam, Harris, Hickerson,*  
9 *Hobbs, Jean, Johnston, Kerr, Lea, Linck, Mauch, Mayberry, D. Meeks, S. Meeks, Perry, Rice, Sanders,*  
10 *Shepherd, Slinkard, Steel, Stubblefield, Summers, Westerman, Woods*

11

12

## For An Act To Be Entitled

13

AN ACT TO SPECIFY MINIMUM AND MAXIMUM UNEMPLOYMENT  
14 BENEFITS; TO AMEND REQUIREMENTS FOR RECEIVING  
15 UNEMPLOYMENT BENEFITS FOR DISCHARGE FOR ABSENTEEISM,  
16 MISCONDUCT, AND FAILURE TO ACCEPT SUITABLE WORK; AND  
17 FOR OTHER PURPOSES.

18

19

20

## Subtitle

21

AN ACT TO SPECIFY MINIMUM AND MAXIMUM  
22 UNEMPLOYMENT BENEFITS AND TO AMEND  
23 REQUIREMENTS FOR RECEIVING UNEMPLOYMENT  
24 BENEFITS FOR DISCHARGE FOR ABSENTEEISM,  
25 MISCONDUCT, AND FAILURE TO ACCEPT  
26 SUITABLE WORK.

27

28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30

31 SECTION 1. Arkansas Code § 11-10-502(b) and (c), concerning weekly  
32 unemployment benefit amounts, are amended to read as follows:

33

*(b)(1) ~~No~~ A weekly benefit amount shall not be less than twelve  
34 percent (12%) of the state average weekly wage for insured employment for the  
35 preceding calendar year for benefit years beginning after June 30, 1987.*

36

*(2) However, effective July 1, 2012, the weekly minimum benefit*



1 amount established in subdivision (b)(1) of this section shall not be greater  
 2 than eighty-one dollars (\$81.00).

3 (c)(1) ~~No~~ A weekly benefit amount shall not be greater than sixty-six  
 4 and two-thirds percent (662/3%) of the state average weekly wage for insured  
 5 employment for the previous calendar year for benefit years beginning after  
 6 June 30, 1985.

7 (2) ~~However, for benefit years beginning July 1, 2003, through~~  
 8 ~~June 30, 2005, the maximum weekly benefit amount shall not exceed three~~  
 9 ~~hundred forty five dollars (\$345)~~

10 However, effective July 1, 2012, the weekly maximum benefit amount  
 11 established in subdivision (c)(1) of this section shall not be greater than  
 12 four hundred fifty-one dollars (\$451).

13  
 14 SECTION 2. Arkansas Code § 11-10-504(a), concerning maximum  
 15 unemployment benefits payable, is amended to read as follows:

16 (a) The maximum potential benefits of any insured worker in a benefit  
 17 year shall be the amount equal to whichever is the lesser of:

18 (1) ~~Twenty-six (26)~~ Twenty-five (25) times his or her weekly  
 19 benefit amount; or

20 (2) One-third (1/3) of his or her wages for insured work in his  
 21 or her base period.

22  
 23 SECTION 3. Arkansas Code § 11-10-507(5)(A) and (B), concerning  
 24 qualifying and requalifying wages for unemployment benefits, is amended to  
 25 read as follows:

26 (5)(A) Qualifying Wages. For any benefit year, he or she has  
 27 during his or her base period been paid wages in at least two (2) quarters of  
 28 his or her base period for insured work, and the total wages paid during his  
 29 or her base period equal not less than ~~twenty-seven (27)~~ thirty-five (35)  
 30 times his or her weekly benefit amount.

31 (B) Requalifying Wages. For all benefit years, ~~no~~ an  
 32 individual ~~may~~ shall not requalify on a succeeding benefit year claim unless  
 33 he or she has been paid wages for insured work equal to not less than ~~twenty-~~  
 34 ~~seven (27)~~ thirty-five (35) times his or her weekly benefit amount and has  
 35 wages paid for insured work in at least two (2) calendar quarters of his or  
 36 her base period and, subsequent to filing the claim which established his or

1 her previous benefit year, he or she has had insured work and was paid wages  
2 for work equal to ~~three (3)~~ eight (8) times his or her weekly benefit amount.

3  
4 SECTION 4. Arkansas Code § 11-10-514 is amended to read as follows:

5 11-10-514. Disqualification – Discharge for misconduct.

6 (a)(1) If so found by the Director of the Department of Workforce  
7 Services, an individual shall be disqualified for benefits if he or she is  
8 discharged from his or her last work for misconduct in connection with the  
9 work.

10 (2)(A) In all cases of discharge for absenteeism, ~~the~~  
11 ~~individual's attendance record for the twelve-month period immediately~~  
12 ~~preceding the discharge and the reasons for the absenteeism shall be taken~~  
13 ~~into consideration for purposes of determining whether the absenteeism~~  
14 ~~constitutes misconduct~~ the individual will be disqualified if the discharge  
15 was pursuant to the terms of a bona fide written attendance policy with  
16 progressive warnings, regardless of whether the policy is a fault or no-fault  
17 policy.

18 (B) The disqualification under subdivision (a)(2)(A) of  
19 this section shall continue until, subsequent to filing a claim, the  
20 individual has had at least thirty (30) days of employment covered by an  
21 unemployment compensation law of this state, another state, or the United  
22 States.

23 (3)(A) ~~Except as otherwise provided in this section, an~~  
24 ~~individual's disqualification for misconduct shall be for eight (8) weeks of~~  
25 ~~unemployment as defined in § 11-10-512.~~

26 (B) ~~However, for a discharge that occurs during the period~~  
27 ~~of July 1, 2009, through June 30, 2011, the disqualification under~~  
28 ~~subdivision (a)(3)(A) of this section~~ An individual's disqualification for  
29 misconduct shall continue until, subsequent to filing a claim, he or she has  
30 had at least thirty (30) days of employment covered by an unemployment  
31 compensation law of this state, another state, or the United States.

32 (B) Misconduct includes violation of any behavioral  
33 policies of the employer as distinguished from deficiencies in meeting  
34 production standards or accomplishing job duties.

35 (b)(1) If he or she is discharged from his or her last work for  
36 misconduct in connection with the work on account of dishonesty, drinking on

1 the job, reporting for work while under the influence of intoxicants,  
2 including a controlled substance, or willful violation of bona fide rules or  
3 customs of the employer pertaining to his or her safety or the safety of  
4 fellow employees, persons, or company property, he or she shall be  
5 disqualified ~~from the date of filing the claim until he or she shall have ten~~  
6 ~~(10) weeks of employment in each of which he or she shall have earned wages~~  
7 ~~equal to at least his or her weekly benefit amount~~ until, subsequent to the  
8 date of the disqualification, the claimant has been paid wages in two (2)  
9 quarters for insured work totaling not less than thirty-five (35) times his  
10 or her weekly benefit amount.

11 (2)(A) If an individual is discharged for testing positive for  
12 an illegal drug pursuant to a United States Department of Transportation-  
13 qualified drug screen conducted in accordance with the employer's bona fide  
14 written drug policy, the individual is disqualified:

15 (i) ~~From the date of filing the claim until he or~~  
16 ~~she shall have ten (10) weeks of employment in each of which he or she shall~~  
17 ~~have earned wages equal to at least his or her weekly benefit amount~~ Until,  
18 subsequent to the date of the disqualification, the claimant has been paid  
19 wages in two (2) quarters for insured work totaling not less than thirty-five  
20 (35) times his or her weekly benefit amount; and

21 (ii) Until he or she passes a United States  
22 Department of Transportation-qualified drug screen by testing negative for  
23 illegal drugs.

24 (B) If an individual is disqualified under subdivision  
25 (b)(2)(A) of this section, no benefit paid to the individual with respect to  
26 any week of unemployment after the discharge shall be charged to the account  
27 of the employer that discharged the individual if the benefit is based upon  
28 wages paid to the individual for employment before the discharge by the  
29 employer that discharged the individual.

30 (c)(1) If so found by the director, an individual shall be  
31 disqualified for benefits if he or she is suspended from his or her last work  
32 for misconduct in connection with the work.

33 (2) Except as otherwise provided, the disqualification shall be  
34 for the duration of the suspension or eight (8) weeks, whichever is the  
35 lesser.

36 (d)(1) An individual shall not be deemed guilty of misconduct for poor

1 performance in his or her job duties unless the employer can prove that the  
2 poor performance was intentional.

3 (2) An individual's repeated act of commission or omission or  
4 negligence despite progressive discipline shall constitute sufficient proof  
5 of intentional poor performance.

6 (3) An individual who refuses an *alternate suitable job* rather  
7 than being terminated for poor performance shall be disqualified until,  
8 subsequent to filing a claim, he or she has had at least thirty (30) days of  
9 employment covered by an unemployment compensation law of this state, another  
10 state, or the United States.

11  
12 SECTION 5. Arkansas Code § 11-10-515 is amended to read as follows:

13 11-10-515. Disqualification – Failure or refusal to apply for or  
14 accept suitable work.

15 (a)(1)(A) If so found by the Director of the Department of Workforce  
16 Services, an individual shall be disqualified for benefits if he or she has  
17 failed without good cause:

18 (i) To apply for available suitable work when so  
19 directed by a Department of Workforce Services office; or

20 (ii) To accept available suitable work when offered.

21 (B) The disqualification under subdivision (a)(1)(A) of  
22 ~~this section shall be for eight (8) weeks of unemployment as defined in § 11-~~  
23 ~~10-512~~ continue until, subsequent to filing a claim, he or she has had at  
24 least thirty (30) days of employment covered by an unemployment compensation  
25 law of this state, another state, or the United States, and shall begin with  
26 the week in which the failure to apply for or accept available suitable work  
27 occurred.

28 (2)(A) An individual who applies for benefits ~~after July 31,~~  
29 ~~2007,~~ is disqualified for benefits if he or she was rejected for offered  
30 employment as the direct result of a failure:

31 (i) To appear for a United States Department of  
32 Transportation-qualified drug screen after having received a bona fide job  
33 offer of suitable work subject to passage of the drug screen; or

34 (ii) To pass a United States Department of  
35 Transportation-qualified drug screen by testing positive for an illegal drug  
36 after having received a bona fide job offer of suitable work.

1 (B) The disqualification under subdivision (a)(2)(A) of  
2 this section shall continue until:

3 (i) Until, subsequent to the date of the  
4 disqualification, the claimant has been paid wages in two (2) quarters for  
5 insured work totaling not less than thirty-five (35) times his or her weekly  
6 benefit amount; and

7 (ii) the The disqualified individual passes a United  
8 States Department of Transportation-qualified drug screen by testing negative  
9 for illegal drugs.

10  
11 SECTION 6. Arkansas Code § 11-10-610(b), concerning amounts of  
12 unemployment benefits under shared work plans, is amended to read as  
13 follows:

14 (b) An individual may be eligible for shared work unemployment  
15 compensation benefits or unemployment compensation, as appropriate, except  
16 that no individual shall be eligible for combined benefits in any benefit  
17 year in an amount more than the maximum entitlement established for  
18 unemployment compensation, nor shall an individual be paid shared work  
19 unemployment compensation benefits for more than ~~twenty-six (26)~~ twenty-five  
20 (25) weeks, whether or not consecutive, in any benefit year pursuant to a  
21 shared work plan.

22  
23 /s/J. Dismang

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26 **APPROVED: 03/31/2011**