

FIRST REGULAR SESSION

HOUSE BILL NO. 413

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HEGEMAN.

Read 1st time January 17, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1229L.011

AN ACT

To repeal section 288.050, RSMo 2000, relating to denial of unemployment benefits, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 288.050, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 288.050, to read as follows:

288.050. 1. Notwithstanding the other provisions of this [law] **chapter**, a claimant shall be disqualified for waiting week credit or benefits until after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state equal to ten times the claimant's weekly benefit amount if the deputy finds:

(1) That the claimant has left work voluntarily without good cause attributable to such work or to the claimant's employer; except that the claimant shall not be disqualified:

(a) If the deputy finds the claimant quit such work for the purpose of accepting a more remunerative job which the claimant did accept and earn some wages therein;

(b) If the claimant quit temporary work to return to such claimant's regular employer; or

(c) If the deputy finds the individual quit work, which would have been determined not suitable [in accordance with] **pursuant to** paragraphs (a) and (b) of subdivision (3) of this subsection, within twenty-eight calendar days of the first day worked; or

(d) As to initial claims filed after [December 31, 1988] **the effective date of this section**, if the claimant presents evidence supported by competent medical proof that she was forced to leave her work because of pregnancy, notified her employer of such necessity as soon as practical under the circumstances, and returned to that employer and offered her services to that employer

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 as soon as she was physically able to return to work, as certified by a licensed and practicing
18 physician, but in no event later than ninety days after the termination of the pregnancy. An
19 employee shall have been employed for at least one year with the same employer before she may
20 be provided benefits pursuant to the provisions of this paragraph.

21

22 **If a claimant withdraws or has previously withdrawn his or her name from a list of**
23 **available substitute teachers for a school district, the deputy shall find that the claimant**
24 **has, for purposes of the position of substitute teacher within such school district, left work**
25 **voluntarily pursuant to this subdivision;**

26 (2) That the claimant has retired pursuant to the terms of a labor agreement between the
27 claimant's employer and a union duly elected by the employees as their official representative
28 or in accordance with an established policy of the claimant's employer; or

29 (3) That the claimant failed without good cause either to apply for available suitable
30 work when so directed by the deputy, or to accept suitable work when offered the claimant, either
31 through the division or directly by an employer by whom the individual was formerly employed,
32 or to return to the individual's customary self-employment, if any, when so directed by the
33 deputy.

34 (a) In determining whether or not any work is suitable for an individual, the division
35 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this
36 subdivision, the degree of risk involved to the individual's health, safety and morals, the
37 individual's physical fitness and prior training, the individual's experience and prior earnings, the
38 individual's length of unemployment, the individual's prospects for securing work in the
39 individual's customary occupation, the distance of available work from the individual's residence
40 and the individual's prospect of obtaining local work; except that, if an individual has moved
41 from the locality in which the individual actually resided when such individual was last
42 employed to a place where there is less probability of the individual's employment at such
43 individual's usual type of work and which is more distant from or otherwise less accessible to
44 the community in which the individual was last employed, work offered by the individual's most
45 recent employer if similar to that which such individual performed in such individual's last
46 employment and at wages, hours, and working conditions which are substantially similar to those
47 prevailing for similar work in such community, or any work which the individual is capable of
48 performing at the wages prevailing for such work in the locality to which the individual has
49 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable
50 for the individual;

51 (b) Notwithstanding any other provisions of this law, no work shall be deemed suitable
52 and benefits shall not be denied pursuant to this law to any otherwise eligible individual for

53 refusing to accept new work under any of the following conditions:

- 54 a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
55 b. If the wages, hours, or other conditions of the work offered are substantially less
56 favorable to the individual than those prevailing for similar work in the locality;
57 c. If as a condition of being employed the individual would be required to join a
58 company union or to resign from or refrain from joining any bona fide labor organization.

59 2. Notwithstanding the other provisions of this law, if a deputy finds that a claimant has
60 been discharged for misconduct connected with the claimant's work, such claimant, depending
61 upon the seriousness of the misconduct as determined by the deputy according to the
62 circumstances in each case, shall be disqualified for waiting week credit or benefits for not less
63 than four nor more than sixteen weeks for which the claimant claims benefits and is otherwise
64 eligible. In addition to the disqualification for benefits pursuant to this provision the division
65 may in the more aggravated cases of misconduct, cancel all or any part of the individual's wage
66 credits, which were established through the individual's employment by the employer who
67 discharged such individual, according to the seriousness of the misconduct. A disqualification
68 provided for pursuant to this subsection shall not apply to any week which occurs after the
69 claimant has earned wages for work insured pursuant to the unemployment compensation laws
70 of any state in an amount equal to eight times the claimant's weekly benefit amount.

71 3. A pattern of absenteeism or tardiness may constitute misconduct regardless of whether
72 the last incident alone which results in the discharge constitutes misconduct.

73 4. Notwithstanding the provisions of subsection 1 of this section, a claimant [may] **shall**
74 not be determined to be disqualified for benefits because the claimant is in training approved
75 pursuant to section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as
76 amended), or because the claimant left work which was not "suitable employment" to enter such
77 training. For the purposes of this subsection "suitable employment" means, with respect to a
78 worker, work of a substantially equal or higher skill level than the worker's past adversely
79 affected employment, and wages for such work at not less than eighty percent of the worker's
80 average weekly wage as determined for the purposes of the Trade Act of 1974.