

FIRST REGULAR SESSION

# HOUSE BILL NO. 1022

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES THOMSON (Sponsor) AND QUINN (7) (Co-sponsor).

Read 1st time March 1, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2434L.02I

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### AN ACT

To repeal section 288.050, RSMo, and to enact in lieu thereof one new section relating to workers' compensation benefits.

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

Section A. Section 288.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.050, to read as follows: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, 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. A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so. 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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

18 (d) As to initial claims filed after December 31, 1988, if the claimant presents evidence  
19 supported by competent medical proof that she was forced to leave her work because of  
20 pregnancy, notified her employer of such necessity as soon as practical under the circumstances,  
21 and returned to that employer and offered her services to that employer as soon as she was  
22 physically able to return to work, as certified by a licensed and practicing physician, but in no  
23 event later than ninety days after the termination of the pregnancy. An employee shall have been  
24 employed for at least one year with the same employer before she may be provided benefits  
25 pursuant to the provisions of this paragraph;

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 a deputy of the division or designated staff of an employment office  
31 as defined in [subsection 16] **subdivision (16) of subsection 1** of section 288.030, or to accept  
32 suitable work when offered the claimant, either through the division or directly by an employer  
33 by whom the individual was formerly employed, or to return to the individual's customary  
34 self-employment, if any, when so directed by the deputy. An offer of work shall be rebuttably  
35 presumed if an employer notifies the claimant in writing of such offer by sending an  
36 acknowledgment via any form of certified mail issued by the United States Postal Service stating  
37 such offer to the claimant at the claimant's last known address. Nothing in this subdivision shall  
38 be construed to limit the means by which the deputy may establish that the claimant has or has  
39 not been sufficiently notified of available work.

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

51 recent employer if similar to that which such individual performed in such individual's last  
52 employment and at wages, hours, and working conditions which are substantially similar to those  
53 prevailing for similar work in such community, or any work which the individual is capable of  
54 performing at the wages prevailing for such work in the locality to which the individual has  
55 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable  
56 for the individual;

57 (b) Notwithstanding any other provisions of this law, no work shall be deemed suitable  
58 and benefits shall not be denied pursuant to this law to any otherwise eligible individual for  
59 refusing to accept new work under any of the following conditions:

60 a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

61 b. If the wages, hours, or other conditions of the work offered are substantially less  
62 favorable to the individual than those prevailing for similar work in the locality;

63 c. If as a condition of being employed the individual would be required to join a  
64 company union or to resign from or refrain from joining any bona fide labor organization.

65 2. If a deputy finds that a claimant has been discharged for misconduct connected with  
66 the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and  
67 no benefits shall be paid nor shall the cost of any benefits be charged against any employer for  
68 any period of employment within the base period until the claimant has earned wages for work  
69 insured under the unemployment laws of this state or any other state as prescribed in this section.  
70 In addition to the disqualification for benefits pursuant to this provision the division may in the  
71 more aggravated cases of misconduct, cancel all or any part of the individual's wage credits,  
72 which were established through the individual's employment by the employer who discharged  
73 such individual, according to the seriousness of the misconduct. A disqualification provided for  
74 pursuant to this subsection shall not apply to any week which occurs after the claimant has  
75 earned wages for work insured pursuant to the unemployment compensation laws of any state  
76 in an amount equal to six times the claimant's weekly benefit amount. Should a claimant be  
77 disqualified on a second or subsequent occasion within the base period or subsequent to the base  
78 period the claimant shall be required to earn wages in an amount equal to or in excess of six  
79 times the claimant's weekly benefit amount for each disqualification.

80 3. Absenteeism or tardiness may constitute a rebuttable presumption of misconduct,  
81 regardless of whether the last incident alone constitutes misconduct, if the discharge was the  
82 result of a violation of the employer's attendance policy, provided the employee had received  
83 knowledge of such policy prior to the occurrence of any absence or tardy upon which the  
84 discharge is based.

85 4. **If a claimant is discharged for providing false information on his or her**  
86 **employment application concerning criminal convictions or qualifications for such**

87 **position, the claimant shall be deemed to have been discharged for misconduct connected**  
88 **with the claimant's work, and the claimant shall be disqualified for waiting week credit**  
89 **and benefits under subsection 2 of this section.**

90 **5.** Notwithstanding the provisions of subsection 1 of this section, a claimant may not be  
91 determined to be disqualified for benefits because the claimant is in training approved pursuant  
92 to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or  
93 because the claimant left work which was not suitable employment to enter such training. For  
94 the purposes of this subsection "suitable employment" means, with respect to a worker, work of  
95 a substantially equal or higher skill level than the worker's past adversely affected employment,  
96 and wages for such work at not less than eighty percent of the worker's average weekly wage as  
97 determined for the purposes of the Trade Act of 1974.

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