

Lent



Mr. Speaker: I am instructed by the Senate to inform the House of

Representatives that the Senate has taken up and passed

SCS HCS HB 611

entitled:

AN ACT

To repeal sections 285.300, 285.515, 288.030, 288.050, 288.100, and 288.380, RSMo,
and to enact in lieu thereof six new sections relating to employment, with
penalty provisions.

With SA 1, 2.

In which the concurrence of the House is respectfully requested.

Respectfully,

Terry L. Spieler
Secretary of the Senate

MAY 16 2013

SENATE AMENDMENT NO. 1

Offered by Kraus of SM

Amend SCS/HCS/House Bill No. 611, Pages 2-3, Section 285.515, Line _____,

2 by striking all of said section from the bill; and

3 Further amend the title and enacting clause accordingly.

Offered 5/15/13
Adopted "

SENATE AMENDMENT NO. 2

Offered by

Pearce

of

21st.Amend SCS/HCS/House Bill No. 611, Page 7, Section 288.030, Line 166,

2 by inserting immediately after said line the following:

3 "288.040. 1. A claimant who is unemployed and has been
4 determined to be an insured worker shall be eligible for benefits
5 for any week only if the deputy finds that:

6 (1) The claimant has registered for work at and thereafter
7 has continued to report at an employment office in accordance
8 with such regulations as the division may prescribe;

9 (2) The claimant is able to work and is available for work.
10 No person shall be deemed available for work unless such person
11 has been and is actively and earnestly seeking work. Upon the
12 filing of an initial or renewed claim, and prior to the filing of
13 each weekly claim thereafter, the deputy shall notify each
14 claimant of the number of work search contacts required to
15 constitute an active search for work. No person shall be
16 considered not available for work, pursuant to this subdivision,
17 solely because he or she is a substitute teacher or is on jury
18 duty. A claimant shall not be determined to be ineligible
19 pursuant to this subdivision because of not actively and
20 earnestly seeking work if:

21 (a) The claimant is participating in training approved
22 pursuant to Section 236 of the Trade Act of 1974, as amended, (19

Offered 5/15/13
Adopted

1 U.S.C.A. Sec. 2296, as amended);

2 (b) The claimant is temporarily unemployed through no fault
3 of his or her own and has a definite recall date within eight
4 weeks of his or her first day of unemployment; however, upon
5 application of the employer responsible for the claimant's
6 unemployment, such eight-week period may be extended not to
7 exceed a total of sixteen weeks at the discretion of the
8 director;

9 (3) The claimant has reported [in person] to an office of
10 the division as directed by the deputy, but at least once every
11 four weeks, except that a claimant shall be exempted from the
12 reporting requirement of this subdivision if:

13 (a) The claimant is claiming benefits in accordance with
14 division regulations dealing with partial or temporary total
15 unemployment; or

16 (b) The claimant is temporarily unemployed through no fault
17 of his or her own and has a definite recall date within eight
18 weeks of his or her first day of unemployment; or

19 (c) [The claimant resides in a county with an unemployment
20 rate, as published by the division, of ten percent or more and in
21 which the county seat is more than forty miles from the nearest
22 division office;

23 (d)] The director of the division of employment security
24 has determined that the claimant belongs to a group or class of
25 workers whose opportunities for reemployment will not be enhanced
26 by reporting [in person], or is prevented from reporting due to
27 emergency conditions that limit access by the general public to
28 an office that serves the area where the claimant resides, but
29 only during the time such circumstances exist.

1 Ineligibility pursuant to this subdivision shall begin on the
2 first day of the week which the claimant was scheduled to claim
3 and shall end on the last day of the week preceding the week
4 during which the claimant does report [in person] to the
5 division's office;

6 (4) Prior to the first week of a period of total or partial
7 unemployment for which the claimant claims benefits he or she has
8 been totally or partially unemployed for a waiting period of one
9 week. No more than one waiting week will be required in any
10 benefit year. During calendar year 2008 and each calendar year
11 thereafter, the one-week waiting period shall become compensable
12 once his or her remaining balance on the claim is equal to or
13 less than the compensable amount for the waiting period. No week
14 shall be counted as a week of total or partial unemployment for
15 the purposes of this subsection unless it occurs within the
16 benefit year which includes the week with respect to which the
17 claimant claims benefits;

18 (5) The claimant has made a claim for benefits within
19 fourteen days from the last day of the week being claimed. The
20 fourteen-day period may, for good cause, be extended to
21 twenty-eight days;

22 (6) The claimant has reported to an employment office to
23 participate in a reemployment assessment and reemployment
24 services as directed by the deputy or designated staff of an
25 employment office, unless the deputy determines that good cause
26 exists for the claimant's failure to participate in such
27 reemployment assessment and reemployment services. For purposes
28 of this section, "reemployment services" may include, but not be
29 limited to, the following:

- 1 (a) Providing an orientation to employment office services;
- 2 (b) Providing job search assistance; and
- 3 (c) Providing labor market statistics or analysis;

4 Ineligibility under this subdivision shall begin on the first day
5 of the week which the claimant was scheduled to report for the
6 reemployment assessment or reemployment services and shall end on
7 the last day of the week preceding the week during which the
8 claimant does report in person to the employment office for such
9 reemployment assessment or reemployment services;

10 (7) The claimant is participating in reemployment services,
11 such as job search assistance services, as directed by the deputy
12 if the claimant has been determined to be likely to exhaust
13 regular benefits and to need reemployment services pursuant to a
14 profiling system established by the division, unless the deputy
15 determines that:

16 (a) The individual has completed such reemployment
17 services; or

18 (b) There is justifiable cause for the claimant's failure
19 to participate in such reemployment services.

20 2. A claimant shall be ineligible for waiting week credit
21 or benefits for any week for which the deputy finds he or she is
22 or has been suspended by his or her most recent employer for
23 misconduct connected with his or her work. Suspensions of four
24 weeks or more shall be treated as discharges.

25 3. (1) Benefits based on "service in employment",
26 [defined] described in subsections 7 and 8 of section 288.034,
27 shall be payable in the same amount, on the same terms and
28 subject to the same conditions as compensation payable on the
29 basis of other service subject to this law; except that:

1 (a) With respect to service performed in an instructional,
2 research, or principal administrative capacity for an educational
3 institution, benefits shall not be paid based on such services
4 for any week of unemployment commencing during the period between
5 two successive academic years or terms, or during a similar
6 period between two regular but not successive terms, or during a
7 period of paid sabbatical leave provided for in the individual's
8 contract, to any individual if such individual performs such
9 services in the first of such academic years (or terms) and if
10 there is a contract or a reasonable assurance that such
11 individual will perform services in any such capacity for any
12 educational institution in the second of such academic years or
13 terms;

14 (b) With respect to services performed in any capacity
15 (other than instructional, research, or principal administrative
16 capacity) for an educational institution, benefits shall not be
17 paid on the basis of such services to any individual for any week
18 which commences during a period between two successive academic
19 years or terms if such individual performs such services in the
20 first of such academic years or terms and there is a contract or
21 a reasonable assurance that such individual will perform such
22 services in the second of such academic years or terms;

23 (c) With respect to services described in paragraphs (a)
24 and (b) of this subdivision, benefits shall not be paid on the
25 basis of such services to any individual for any week which
26 commences during an established and customary vacation period or
27 holiday recess if such individual performed such services in the
28 period immediately before such vacation period or holiday recess,
29 and there is reasonable assurance that such individual will

1 perform such services immediately following such vacation period
2 or holiday recess;

3 (d) With respect to services described in paragraphs (a)
4 and (b) of this subdivision, benefits payable on the basis of
5 services in any such capacity shall be denied as specified in
6 paragraphs (a), (b), and (c) of this subdivision to any
7 individual who performed such services at an educational
8 institution while in the employ of an educational service agency,
9 and for this purpose the term "educational service agency" means
10 a governmental agency or governmental entity which is established
11 and operated exclusively for the purpose of providing such
12 services to one or more educational institutions.

13 (2) If compensation is denied for any week pursuant to
14 paragraph (b) or (d) of subdivision (1) of this subsection to any
15 individual performing services at an educational institution in
16 any capacity (other than instructional, research or principal
17 administrative capacity), and such individual was not offered an
18 opportunity to perform such services for the second of such
19 academic years or terms, such individual shall be entitled to a
20 retroactive payment of the compensation for each week for which
21 the individual filed a timely claim for compensation and for
22 which compensation was denied solely by reason of paragraph (b)
23 or (d) of subdivision (1) of this subsection.

24 4. (1) A claimant shall be ineligible for waiting week
25 credit, benefits or shared work benefits for any week for which
26 he or she is receiving or has received remuneration exceeding his
27 or her weekly benefit amount or shared work benefit amount in the
28 form of:

29 (a) Compensation for temporary partial disability pursuant

1 to the workers' compensation law of any state or pursuant to a
2 similar law of the United States;

3 (b) A governmental or other pension, retirement or retired
4 pay, annuity, or other similar periodic payment which is based on
5 the previous work of such claimant to the extent that such
6 payment is provided from funds provided by a base period or
7 chargeable employer pursuant to a plan maintained or contributed
8 to by such employer; but, except for such payments made pursuant
9 to the Social Security Act or the Railroad Retirement Act of 1974
10 (or the corresponding provisions of prior law), the provisions of
11 this paragraph shall not apply if the services performed for such
12 employer by the claimant after the beginning of the base period
13 (or remuneration for such services) do not affect eligibility for
14 or increase the amount of such pension, retirement or retired
15 pay, annuity or similar payment.

16 (2) If the remuneration referred to in this subsection is
17 less than the benefits which would otherwise be due, the claimant
18 shall be entitled to receive for such week, if otherwise
19 eligible, benefits reduced by the amount of such remuneration,
20 and, if such benefit is not a multiple of one dollar, such amount
21 shall be lowered to the next multiple of one dollar.

22 (3) Notwithstanding the provisions of subdivisions (1) and
23 (2) of this subsection, if a claimant has contributed in any way
24 to the Social Security Act or the Railroad Retirement Act of
25 1974, or the corresponding provisions of prior law, no part of
26 the payments received pursuant to such federal law shall be
27 deductible from the amount of benefits received pursuant to this
28 chapter.

29 5. A claimant shall be ineligible for waiting week credit

1 or benefits for any week for which or a part of which he or she
2 has received or is seeking unemployment benefits pursuant to an
3 unemployment insurance law of another state or the United States;
4 provided, that if it be finally determined that the claimant is
5 not entitled to such unemployment benefits, such ineligibility
6 shall not apply.

7 6. (1) A claimant shall be ineligible for waiting week
8 credit or benefits for any week for which the deputy finds that
9 such claimant's total or partial unemployment is due to a
10 stoppage of work which exists because of a labor dispute in the
11 factory, establishment or other premises in which such claimant
12 is or was last employed. In the event the claimant secures other
13 employment from which he or she is separated during the existence
14 of the labor dispute, the claimant must have obtained bona fide
15 employment as a permanent employee for at least the major part of
16 each of two weeks in such subsequent employment to terminate his
17 or her ineligibility. If, in any case, separate branches of work
18 which are commonly conducted as separate businesses at separate
19 premises are conducted in separate departments of the same
20 premises, each such department shall for the purposes of this
21 subsection be deemed to be a separate factory, establishment or
22 other premises. This subsection shall not apply if it is shown
23 to the satisfaction of the deputy that:

24 (a) The claimant is not participating in or financing or
25 directly interested in the labor dispute which caused the
26 stoppage of work; and

27 (b) The claimant does not belong to a grade or class of
28 workers of which, immediately preceding the commencement of the
29 stoppage, there were members employed at the premises at which

1 the stoppage occurs, any of whom are participating in or
2 financing or directly interested in the dispute.

3 (2) "Stoppage of work" as used in this subsection means a
4 substantial diminution of the activities, production or services
5 at the establishment, plant, factory or premises of the employing
6 unit. This definition shall not apply to a strike where the
7 employees in the bargaining unit who initiated the strike are
8 participating in the strike. Such employees shall not be
9 eligible for waiting week credit or benefits during the period
10 when the strike is in effect, regardless of diminution, unless
11 the employer has been found guilty of an unfair labor practice by
12 the National Labor Relations Board or a federal court of law for
13 an act or actions preceding or during the strike.

14 7. On or after January 1, 1978, benefits shall not be paid
15 to any individual on the basis of any services, substantially all
16 of which consist of participating in sports or athletic events or
17 training or preparing to so participate, for any week which
18 commences during the period between two successive sport seasons
19 (or similar periods) if such individual performed such services
20 in the first of such seasons (or similar periods) and there is a
21 reasonable assurance that such individual will perform such
22 services in the later of such seasons (or similar periods).

23 8. Benefits shall not be payable on the basis of services
24 performed by an alien, unless such alien is an individual who was
25 lawfully admitted for permanent residence at the time such
26 services were performed, was lawfully present for purposes of
27 performing such services, or was permanently residing in the
28 United States under color of law at the time such services were
29 performed (including an alien who was lawfully present in the

1 United States as a result of the application of the provisions of
2 Section 212(d)(5) of the Immigration and Nationality Act).

3 (1) Any data or information required of individuals
4 applying for benefits to determine whether benefits are not
5 payable to them because of their alien status shall be uniformly
6 required from all applicants for benefits.

7 (2) In the case of an individual whose application for
8 benefits would otherwise be approved, no determination that
9 benefits to such individual are not payable because of such
10 individual's alien status shall be made except upon a
11 preponderance of the evidence.

12 9. A claimant shall be ineligible for waiting week credit
13 or benefits for any week such claimant has an outstanding penalty
14 which was assessed based upon an overpayment of benefits, as
15 provided for in subsection 9 of section 288.380.

16 10. The directors of the division of employment security
17 and the division of workforce development shall submit to the
18 governor, the speaker of the house of representatives, and the
19 president pro tem of the senate no later than October 15, 2006, a
20 report outlining their recommendations for how to improve work
21 search verification and claimant reemployment activities. The
22 recommendations shall include, but not limited to how to best
23 utilize "greathires.org", and how to reduce the average duration
24 of unemployment insurance claims. Each calendar year thereafter,
25 the directors shall submit a report containing their
26 recommendations on these issues by December thirty-first of each
27 year.

28 11. For purposes of this section, a claimant may satisfy
29 reporting requirements provided under this section by reporting

1 by internet communication or any other means deemed acceptable by
2 the division of employment security."; and

3 Further amend the title and enacting clause accordingly.
4

