

SS SB 28 -- UNEMPLOYMENT BENEFITS

SPONSOR: Kraus (Cierpiot)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Workforce Development and Workplace Safety by a vote of 8 to 4.

This substitute revises the definition of "misconduct" as it relates to employee disqualification from unemployment benefits. Currently, "misconduct" includes a wanton or willful disregard of the employer's interest and a disregard of standards of behavior the employer has the right to expect. The substitute changes that standard to a knowing disregard of the employer's interest and a knowing violation of the standards the employer expects. Currently, an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer also qualifies as misconduct. The substitute changes that standard to a knowing disregard of the interests, duties and obligations. Currently, a deliberate violation of the employer's rules constitutes misconduct. Under the substitute, a violation of an employer's rule is misconduct unless the employee demonstrates that he or she did not know and could not reasonably know the requirement, or the rule is unlawful.

Misconduct also includes a violation of a no-call, no-show policy; chronic absenteeism; tardiness; unapproved absences following a written warning; and a knowing violation of a state standard or regulation by an employee that would cause a licensed employer to be sanctioned.

The misconduct standard must apply when the conduct is reasonably related to the job environment and the job performance, regardless of whether it occurs at the workplace or during work hours.

Currently, an employee is disqualified from benefits if he or she voluntarily leaves work without good cause. The substitute defines "good cause" as a cause that would compel a reasonable employee to cease working or that would require separation from work due to illness or disability.

PROPOSERS: Supporters say that the current definition for "misconduct" sets such a high bar that the courts are liberally interpreting the law; otherwise, egregious misconduct still allows for the awarding of unemployment benefits.

Testifying for the bill were Senator Kraus; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; National Federation of Independent Business; Missouri Forest Products Association; LeadingAge Missouri; Craig Faith, John Knox Village;

and Don McGinnis, McGinnis Wood Products, Inc.

OPPONENTS: Those who oppose the bill say there is nothing in it that has any effect on the process to determine the awarding of benefits and the appeal of an award. The language of the bill appears to go too far in authorizing investigations into an employee's out of office activities.

Testifying against the bill were Missouri National Education Association; Missouri-Kansas Conference of Teamsters; United Steel Workers District 11; Missouri AFL-CIO; and Mark Parrish.

OTHERS: Others testifying on the bill say the Missouri Department of Labor and Industrial Relations opposed the bill initially because of concerns with compliance issues from the United States' Department of Labor, but this issue was addressed in the Senate by floor amendment, alleviating all concerns.

Testifying on the bill was Department of Labor and Industrial Relations.