

As Introduced

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H. B. No. 46

Representative Ujvagi

Cosponsors: Representatives Pryor, Book, Yuko

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A B I L L

To amend section 4141.29 of the Revised Code to 1
permit persons who quit work to accompany the 2
person's spouse on a military transfer to be 3
eligible for unemployment compensation benefits. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4141.29 of the Revised Code be 5
amended to read as follows: 6

Sec. 4141.29. Each eligible individual shall receive benefits 7
as compensation for loss of remuneration due to involuntary total 8
or partial unemployment in the amounts and subject to the 9
conditions stipulated in this chapter. 10

(A) No individual is entitled to a waiting period or benefits 11
for any week unless the individual: 12

(1) Has filed a valid application for determination of 13
benefit rights in accordance with section 4141.28 of the Revised 14
Code; 15

(2) Has made a claim for benefits in accordance with section 16
4141.28 of the Revised Code; 17

(3) Has registered at an employment office or other 18

registration place maintained or designated by the director of job 19
and family services. Registration shall be made in accordance with 20
the time limits, frequency, and manner prescribed by the director. 21

(4)(a)(i) Is able to work and available for suitable work 22
and, except as provided in division (A)(4)(a)(ii) of this section, 23
is actively seeking suitable work either in a locality in which 24
the individual has earned wages subject to this chapter during the 25
individual's base period, or if the individual leaves that 26
locality, then in a locality where suitable work normally is 27
performed. 28

(ii) The director may waive the requirement that a claimant 29
be actively seeking work when the director finds that the 30
individual has been laid off and the employer who laid the 31
individual off has notified the director within ten days after the 32
layoff, that work is expected to be available for the individual 33
within a specified number of days not to exceed forty-five 34
calendar days following the last day the individual worked. In the 35
event the individual is not recalled within the specified period, 36
this waiver shall cease to be operative with respect to that 37
layoff. 38

(b) The individual shall be instructed as to the efforts that 39
the individual must make in the search for suitable work, except 40
where the active search for work requirement has been waived under 41
division (A)(4)(a) of this section, and shall keep a record of 42
where and when the individual has sought work in complying with 43
those instructions and, upon request, shall produce that record 44
for examination by the director. 45

(c) An individual who is attending a training course approved 46
by the director meets the requirement of this division, if 47
attendance was recommended by the director and the individual is 48
regularly attending the course and is making satisfactory 49
progress. An individual also meets the requirements of this 50

division if the individual is participating and advancing in a 51
training program, as defined in division (P) of section 5709.61 of 52
the Revised Code, and if an enterprise, defined in division (B) of 53
section 5709.61 of the Revised Code, is paying all or part of the 54
cost of the individual's participation in the training program 55
with the intention of hiring the individual for employment as a 56
new employee, as defined in division (L) of section 5709.61 of the 57
Revised Code, for at least ninety days after the individual's 58
completion of the training program. 59

(d) An individual who becomes unemployed while attending a 60
regularly established school and whose base period qualifying 61
weeks were earned in whole or in part while attending that school, 62
meets the availability and active search for work requirements of 63
division (A)(4)(a) of this section if the individual regularly 64
attends the school during weeks with respect to which the 65
individual claims unemployment benefits and makes self available 66
on any shift of hours for suitable employment with the 67
individual's most recent employer or any other employer in the 68
individual's base period, or for any other suitable employment to 69
which the individual is directed, under this chapter. 70

(e) The director shall adopt any rules that the director 71
deems necessary for the administration of division (A)(4) of this 72
section. 73

(f) Notwithstanding any other provisions of this section, no 74
otherwise eligible individual shall be denied benefits for any 75
week because the individual is in training approved under section 76
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 77
2296, nor shall that individual be denied benefits by reason of 78
leaving work to enter such training, provided the work left is not 79
suitable employment, or because of the application to any week in 80
training of provisions in this chapter, or any applicable federal 81
unemployment compensation law, relating to availability for work, 82

active search for work, or refusal to accept work. 83

For the purposes of division (A)(4)(f) of this section, 84
"suitable employment" means with respect to an individual, work of 85
a substantially equal or higher skill level than the individual's 86
past adversely affected employment, as defined for the purposes of 87
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and 88
wages for such work at not less than eighty per cent of the 89
individual's average weekly wage as determined for the purposes of 90
that federal act. 91

(5) Is unable to obtain suitable work. An individual who is 92
provided temporary work assignments by the individual's employer 93
under agreed terms and conditions of employment, and who is 94
required pursuant to those terms and conditions to inquire with 95
the individual's employer for available work assignments upon the 96
conclusion of each work assignment, is not considered unable to 97
obtain suitable employment if suitable work assignments are 98
available with the employer but the individual fails to contact 99
the employer to inquire about work assignments. 100

(6) Participates in reemployment services, such as job search 101
assistance services, if the individual has been determined to be 102
likely to exhaust benefits under this chapter, including 103
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 104
extended compensation, and needs reemployment services pursuant to 105
the profiling system established by the director under division 106
(K) of this section, unless the director determines that: 107

(a) The individual has completed such services; or 108

(b) There is justifiable cause for the claimant's failure to 109
participate in such services. 110

(B) An individual suffering total or partial unemployment is 111
eligible for benefits for unemployment occurring subsequent to a 112
waiting period of one week and no benefits shall be payable during 113

this required waiting period. Not more than one week of waiting 114
period shall be required of any individual in any benefit year in 115
order to establish the individual's eligibility for total or 116
partial unemployment benefits. 117

(C) The waiting period for total or partial unemployment 118
shall commence on the first day of the first week with respect to 119
which the individual first files a claim for benefits at an 120
employment office or other place of registration maintained or 121
designated by the director or on the first day of the first week 122
with respect to which the individual has otherwise filed a claim 123
for benefits in accordance with the rules of the department of job 124
and family services, provided such claim is allowed by the 125
director. 126

(D) Notwithstanding division (A) of this section, no 127
individual may serve a waiting period or be paid benefits under 128
the following conditions: 129

(1) For any week with respect to which the director finds 130
that: 131

(a) The individual's unemployment was due to a labor dispute 132
other than a lockout at any factory, establishment, or other 133
premises located in this or any other state and owned or operated 134
by the employer by which the individual is or was last employed; 135
and for so long as the individual's unemployment is due to such 136
labor dispute. No individual shall be disqualified under this 137
provision if either of the following applies: 138

(i) The individual's employment was with such employer at any 139
factory, establishment, or premises located in this state, owned 140
or operated by such employer, other than the factory, 141
establishment, or premises at which the labor dispute exists, if 142
it is shown that the individual is not financing, participating 143
in, or directly interested in such labor dispute; 144

(ii) The individual's employment was with an employer not 145
involved in the labor dispute but whose place of business was 146
located within the same premises as the employer engaged in the 147
dispute, unless the individual's employer is a wholly owned 148
subsidiary of the employer engaged in the dispute, or unless the 149
individual actively participates in or voluntarily stops work 150
because of such dispute. If it is established that the claimant 151
was laid off for an indefinite period and not recalled to work 152
prior to the dispute, or was separated by the employer prior to 153
the dispute for reasons other than the labor dispute, or that the 154
individual obtained a bona fide job with another employer while 155
the dispute was still in progress, such labor dispute shall not 156
render the employee ineligible for benefits. 157

(b) The individual has been given a disciplinary layoff for 158
misconduct in connection with the individual's work. 159

(2) For the duration of the individual's unemployment if the 160
director finds that: 161

(a) The individual quit work without just cause or has been 162
discharged for just cause in connection with the individual's 163
work, provided division (D)(2) of this section does not apply to 164
the separation of a person under any of the following 165
circumstances: 166

(i) Separation from employment for the purpose of entering 167
the armed forces of the United States if the individual is 168
inducted into the armed forces within one of the following 169
periods: 170

(I) Thirty days after separation; 171

(II) One hundred eighty days after separation if the 172
individual's date of induction is delayed solely at the discretion 173
of the armed forces. 174

(ii) Separation from employment pursuant to a 175

labor-management contract or agreement, or pursuant to an 176
established employer plan, program, or policy, which permits the 177
employee, because of lack of work, to accept a separation from 178
employment; 179

(iii) The individual has left employment to accept a recall 180
from a prior employer or, except as provided in division 181
(D)(2)(a)(iv) of this section, to accept other employment as 182
provided under section 4141.291 of the Revised Code, or left or 183
was separated from employment that was concurrent employment at 184
the time of the most recent separation or within six weeks prior 185
to the most recent separation where the remuneration, hours, or 186
other conditions of such concurrent employment were substantially 187
less favorable than the individual's most recent employment and 188
where such employment, if offered as new work, would be considered 189
not suitable under the provisions of divisions (E) and (F) of this 190
section. Any benefits that would otherwise be chargeable to the 191
account of the employer from whom an individual has left 192
employment or was separated from employment that was concurrent 193
employment under conditions described in division (D)(2)(a)(iii) 194
of this section, shall instead be charged to the mutualized 195
account created by division (B) of section 4141.25 of the Revised 196
Code, except that any benefits chargeable to the account of a 197
reimbursing employer under division (D)(2)(a)(iii) of this section 198
shall be charged to the account of the reimbursing employer and 199
not to the mutualized account, except as provided in division 200
(D)(2) of section 4141.24 of the Revised Code. 201

(iv) When an individual has been issued a definite layoff 202
date by the individual's employer and before the layoff date, the 203
individual quits to accept other employment, the provisions of 204
division (D)(2)(a)(iii) of this section apply and no 205
disqualification shall be imposed under division (D) of this 206
section. However, if the individual fails to meet the employment 207

and earnings requirements of division (A)(2) of section 4141.291 208
of the Revised Code, then the individual, pursuant to division 209
(A)(5) of this section, shall be ineligible for benefits for any 210
week of unemployment that occurs prior to the layoff date. 211

(v) The individual's spouse is a member of the armed services 212
of the United States, the spouse is the subject of a military 213
transfer, and the individual left employment to accompany the 214
individual's spouse. 215

(b) The individual has refused without good cause to accept 216
an offer of suitable work when made by an employer either in 217
person or to the individual's last known address, or has refused 218
or failed to investigate a referral to suitable work when directed 219
to do so by a local employment office of this state or another 220
state, provided that this division shall not cause a 221
disqualification for a waiting week or benefits under the 222
following circumstances: 223

(i) When work is offered by the individual's employer and the 224
individual is not required to accept the offer pursuant to the 225
terms of the labor-management contract or agreement; or 226

(ii) When the individual is attending a training course 227
pursuant to division (A)(4) of this section except, in the event 228
of a refusal to accept an offer of suitable work or a refusal or 229
failure to investigate a referral, benefits thereafter paid to 230
such individual shall not be charged to the account of any 231
employer and, except as provided in division (B)(1)(b) of section 232
4141.241 of the Revised Code, shall be charged to the mutualized 233
account as provided in division (B) of section 4141.25 of the 234
Revised Code. 235

(c) Such individual quit work to marry or because of marital, 236
parental, filial, or other domestic obligations. 237

(d) The individual became unemployed by reason of commitment 238

to any correctional institution. 239

(e) The individual became unemployed because of dishonesty in 240
connection with the individual's most recent or any base period 241
work. Remuneration earned in such work shall be excluded from the 242
individual's total base period remuneration and qualifying weeks 243
that otherwise would be credited to the individual for such work 244
in the individual's base period shall not be credited for the 245
purpose of determining the total benefits to which the individual 246
is eligible and the weekly benefit amount to be paid under section 247
4141.30 of the Revised Code. Such excluded remuneration and 248
noncredited qualifying weeks shall be excluded from the 249
calculation of the maximum amount to be charged, under division 250
(D) of section 4141.24 and section 4141.33 of the Revised Code, 251
against the accounts of the individual's base period employers. In 252
addition, no benefits shall thereafter be paid to the individual 253
based upon such excluded remuneration or noncredited qualifying 254
weeks. 255

For purposes of division (D)(2)(e) of this section, 256
"dishonesty" means the commission of substantive theft, fraud, or 257
deceitful acts. 258

(E) No individual otherwise qualified to receive benefits 259
shall lose the right to benefits by reason of a refusal to accept 260
new work if: 261

(1) As a condition of being so employed the individual would 262
be required to join a company union, or to resign from or refrain 263
from joining any bona fide labor organization, or would be denied 264
the right to retain membership in and observe the lawful rules of 265
any such organization. 266

(2) The position offered is vacant due directly to a strike, 267
lockout, or other labor dispute. 268

(3) The work is at an unreasonable distance from the 269

individual's residence, having regard to the character of the work 270
the individual has been accustomed to do, and travel to the place 271
of work involves expenses substantially greater than that required 272
for the individual's former work, unless the expense is provided 273
for. 274

(4) The remuneration, hours, or other conditions of the work 275
offered are substantially less favorable to the individual than 276
those prevailing for similar work in the locality. 277

(F) Subject to the special exceptions contained in division 278
(A)(4)(f) of this section and section 4141.301 of the Revised 279
Code, in determining whether any work is suitable for a claimant 280
in the administration of this chapter, the director, in addition 281
to the determination required under division (E) of this section, 282
shall consider the degree of risk to the claimant's health, 283
safety, and morals, the individual's physical fitness for the 284
work, the individual's prior training and experience, the length 285
of the individual's unemployment, the distance of the available 286
work from the individual's residence, and the individual's 287
prospects for obtaining local work. 288

(G) The "duration of unemployment" as used in this section 289
means the full period of unemployment next ensuing after a 290
separation from any base period or subsequent work and until an 291
individual has become reemployed in employment subject to this 292
chapter, or the unemployment compensation act of another state, or 293
of the United States, and until such individual has worked six 294
weeks and for those weeks has earned or been paid remuneration 295
equal to six times an average weekly wage of not less than: 296
eighty-five dollars and ten cents per week beginning on June 26, 297
1990; and beginning on and after January 1, 1992, twenty-seven and 298
one-half per cent of the statewide average weekly wage as computed 299
each first day of January under division (B)(3) of section 4141.30 300
of the Revised Code, rounded down to the nearest dollar, except 301

for purposes of division (D)(2)(c) of this section, such term 302
means the full period of unemployment next ensuing after a 303
separation from such work and until such individual has become 304
reemployed subject to the terms set forth above, and has earned 305
wages equal to one-half of the individual's average weekly wage or 306
sixty dollars, whichever is less. 307

(H) If a claimant is disqualified under division (D)(2)(a), 308
(c), or (d) of this section or found to be qualified under the 309
exceptions provided in division (D)(2)(a)(i), (iii), ~~or~~ (iv), or 310
(v) of this section or division (A)(2) of section 4141.291 of the 311
Revised Code, then benefits that may become payable to such 312
claimant, which are chargeable to the account of the employer from 313
whom the individual was separated under such conditions, shall be 314
charged to the mutualized account provided in section 4141.25 of 315
the Revised Code, provided that no charge shall be made to the 316
mutualized account for benefits chargeable to a reimbursing 317
employer, except as provided in division (D)(2) of section 4141.24 318
of the Revised Code. In the case of a reimbursing employer, the 319
director shall refund or credit to the account of the reimbursing 320
employer any over-paid benefits that are recovered under division 321
(B) of section 4141.35 of the Revised Code. Amounts chargeable to 322
other states, the United States, or Canada that are subject to 323
agreements and arrangements that are established pursuant to 324
section 4141.43 of the Revised Code shall be credited or 325
reimbursed according to the agreements and arrangements to which 326
the chargeable amounts are subject. 327

(I)(1) Benefits based on service in employment as provided in 328
divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code 329
shall be payable in the same amount, on the same terms, and 330
subject to the same conditions as benefits payable on the basis of 331
other service subject to this chapter; except that after December 332
31, 1977: 333

(a) Benefits based on service in an instructional, research, 334
or principal administrative capacity in an institution of higher 335
education, as defined in division (Y) of section 4141.01 of the 336
Revised Code; or for an educational institution as defined in 337
division (CC) of section 4141.01 of the Revised Code, shall not be 338
paid to any individual for any week of unemployment that begins 339
during the period between two successive academic years or terms, 340
or during a similar period between two regular but not successive 341
terms or during a period of paid sabbatical leave provided for in 342
the individual's contract, if the individual performs such 343
services in the first of those academic years or terms and has a 344
contract or a reasonable assurance that the individual will 345
perform services in any such capacity for any such institution in 346
the second of those academic years or terms. 347

(b) Benefits based on service for an educational institution 348
or an institution of higher education in other than an 349
instructional, research, or principal administrative capacity, 350
shall not be paid to any individual for any week of unemployment 351
which begins during the period between two successive academic 352
years or terms of the employing educational institution or 353
institution of higher education, provided the individual performed 354
those services for the educational institution or institution of 355
higher education during the first such academic year or term and, 356
there is a reasonable assurance that such individual will perform 357
those services for any educational institution or institution of 358
higher education in the second of such academic years or terms. 359

If compensation is denied to any individual for any week 360
under division (I)(1)(b) of this section and the individual was 361
not offered an opportunity to perform those services for an 362
institution of higher education or for an educational institution 363
for the second of such academic years or terms, the individual is 364
entitled to a retroactive payment of compensation for each week 365

for which the individual timely filed a claim for compensation and 366
for which compensation was denied solely by reason of division 367
(I)(1)(b) of this section. An application for retroactive benefits 368
shall be timely filed if received by the director or the 369
director's deputy within or prior to the end of the fourth full 370
calendar week after the end of the period for which benefits were 371
denied because of reasonable assurance of employment. The 372
provision for the payment of retroactive benefits under division 373
(I)(1)(b) of this section is applicable to weeks of unemployment 374
beginning on and after November 18, 1983. The provisions under 375
division (I)(1)(b) of this section shall be retroactive to 376
September 5, 1982, only if, as a condition for full tax credit 377
against the tax imposed by the "Federal Unemployment Tax Act," 53 378
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 379
secretary of labor determines that retroactivity is required by 380
federal law. 381

(c) With respect to weeks of unemployment beginning after 382
December 31, 1977, benefits shall be denied to any individual for 383
any week which commences during an established and customary 384
vacation period or holiday recess, if the individual performs any 385
services described in divisions (I)(1)(a) and (b) of this section 386
in the period immediately before the vacation period or holiday 387
recess, and there is a reasonable assurance that the individual 388
will perform any such services in the period immediately following 389
the vacation period or holiday recess. 390

(d) With respect to any services described in division 391
(I)(1)(a), (b), or (c) of this section, benefits payable on the 392
basis of services in any such capacity shall be denied as 393
specified in division (I)(1)(a), (b), or (c) of this section to 394
any individual who performs such services in an educational 395
institution or institution of higher education while in the employ 396
of an educational service agency. For this purpose, the term 397

"educational service agency" means a governmental agency or 398
governmental entity that is established and operated exclusively 399
for the purpose of providing services to one or more educational 400
institutions or one or more institutions of higher education. 401

(e) Any individual employed by a public school district or a 402
county board of mental retardation shall be notified by the 403
thirtieth day of April each year if the individual is not to be 404
reemployed the following academic year. 405

(2) No disqualification will be imposed, between academic 406
years or terms or during a vacation period or holiday recess under 407
this division, unless the director or the director's deputy has 408
received a statement in writing from the educational institution 409
or institution of higher education that the claimant has a 410
contract for, or a reasonable assurance of, reemployment for the 411
ensuing academic year or term. 412

(3) If an individual has employment with an educational 413
institution or an institution of higher education and employment 414
with a noneducational employer, during the base period of the 415
individual's benefit year, then the individual may become eligible 416
for benefits during the between-term, or vacation or holiday 417
recess, disqualification period, based on employment performed for 418
the noneducational employer, provided that the employment is 419
sufficient to qualify the individual for benefit rights separately 420
from the benefit rights based on school employment. The weekly 421
benefit amount and maximum benefits payable during a 422
disqualification period shall be computed based solely on the 423
nonschool employment. 424

(J) Benefits shall not be paid on the basis of employment 425
performed by an alien, unless the alien had been lawfully admitted 426
to the United States for permanent residence at the time the 427
services were performed, was lawfully present for purposes of 428
performing the services, or was otherwise permanently residing in 429

the United States under color of law at the time the services were 430
performed, under section 212(d)(5) of the "Immigration and 431
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 432

(1) Any data or information required of individuals applying 433
for benefits to determine whether benefits are not payable to them 434
because of their alien status shall be uniformly required from all 435
applicants for benefits. 436

(2) In the case of an individual whose application for 437
benefits would otherwise be approved, no determination that 438
benefits to the individual are not payable because of the 439
individual's alien status shall be made except upon a 440
preponderance of the evidence that the individual had not, in 441
fact, been lawfully admitted to the United States. 442

(K) The director shall establish and utilize a system of 443
profiling all new claimants under this chapter that: 444

(1) Identifies which claimants will be likely to exhaust 445
regular compensation and will need job search assistance services 446
to make a successful transition to new employment; 447

(2) Refers claimants identified pursuant to division (K)(1) 448
of this section to reemployment services, such as job search 449
assistance services, available under any state or federal law; 450

(3) Collects follow-up information relating to the services 451
received by such claimants and the employment outcomes for such 452
claimant's subsequent to receiving such services and utilizes such 453
information in making identifications pursuant to division (K)(1) 454
of this section; and 455

(4) Meets such other requirements as the United States 456
secretary of labor determines are appropriate. 457

Section 2. That existing section 4141.29 of the Revised Code 458
is hereby repealed. 459