

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1480

By: Adair

AS INTRODUCED

An Act relating to labor; requiring certain

unemployed individuals to be able and available to accept certain employment; disallowing certain actions relating to work to be considered evidence; amending 40 O.S. 1991, Sections 2-405 and 2-406, which relate to good cause for voluntarily leaving work and misconduct; disallowing certain actions to constitute good cause; defining misconduct; requiring discharged individual to prove innocence if discharged for misconduct; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-205B of Title 40, unless there is created a duplication in numbering, reads as follows:

A. The unemployed individual must be able to perform work duties in keeping with his work experience during the preceding twelve (12) months. Not having work experience during such months, he must be able to perform work duties in keeping with his education, prior training and experience.

B. The unemployed individual:

1. Must be available to seek and accept work at any time, may not be engaged in any activity that would normally restrict his seeking or accepting employment in keeping with his prior work experience during the preceding twelve (12) months; and

2. May not remove himself to an area in which his occupation does not exist, or to which public or private transportation is not readily available for seeking and accepting immediate employment.

C. Mere registration, reporting to a local employment office, or the expectation that a local employment office, or an employer, will offer employment shall not in every case be evidence of ability to work, availability for work, or desire and willingness to work. In those cases where appropriate, the Commission shall direct and require the claimant to do those things which a reasonably prudent individual could be reasonably expected to do to secure work.

SECTION 2. AMENDATORY 40 O.S. 1991, Section 2-405, is amended to read as follows:

Section 2-405. DETERMINING GOOD CAUSE. Good cause for voluntarily leaving work under Section 2-404 of this title may include, among other factors, a job working condition that had changed to such a degree it was so harmful, detrimental, or adverse to the individual's health, safety, or morals, that leaving such work was justified or if the claimant, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits waiver of his right to retain the employment when there is a temporary layoff because of lack of work, has elected to be separated for a temporary period and the employer has consented thereto. Voluntarily leaving work due to illness or injury, incurred off the job, shall not constitute good cause.

SECTION 3. AMENDATORY 40 O.S. 1991, Section 2-406, is amended to read as follows:

Section 2-406. DISCHARGE FOR MISCONDUCT. An individual shall be disqualified for benefits if he has been discharged for

misconduct connected with his last work, if so found by the Commission. Disqualification under this section shall continue for the full period of unemployment next ensuing after he has been discharged for misconduct connected with his work and until such individual has become reemployed and has earned wages equal to or in excess of ten (10) times his weekly benefit amount.

For purposes of determining misconduct pursuant to this section, the following forms of behavior, while in no way exclusive, shall be considered misconduct and result in the individual being disqualified for benefits if he has been discharged as a result of committing or engaging in any of these forms of behavior:

1. Theft or unauthorized removal or illegal or unauthorized possession of company property or the property of others;
2. Intentional falsification of, or misrepresentation of, any company record or document;
3. Working under the influence of alcohol or illegal controlled substances;
4. Being discharged pursuant to any state or federal law allowing for the individual's termination as a result of a positive test for alcohol or illegal controlled substances;
5. Possession, distribution, sale, transfer, or use of alcohol or illegal controlled substances on company premises, or in the course of employment, or while operating employer-owned vehicles or equipment;
6. Fighting, instigating a fight or threatening violence in the workplace;
7. Conduct leading to the damage of employer-owned or customer-owned property;
8. Insubordination or other disrespectful conduct, including the refusal to perform assigned work;
9. Sexual or other unlawful harassment;
10. Violation of safety or health rules;

11. Possession of dangerous or unauthorized materials on company premises, including but not limited to weapons, explosives, or firearms;

12. Excessive absenteeism, tardiness or any absence without notice;

13. Unauthorized disclosure of business secrets or other confidential information; or

14. Being convicted of a felony.

If an individual has been denied benefits as a result of misconduct, the burden of proof is on that individual to prove that the act constituting misconduct did not occur for the denial to be overturned.

SECTION 4. This act shall become effective July 1, 1993.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-5546

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