

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 2025

By: Toure

AS INTRODUCED

An Act relating to labor; amending 40 O.S. 1991, Sections 2-108 and 2-715, as last amended by Section 3, Chapter 166, O.S.L. 1994 (40 O.S. Supp. 1994, Section 2-715), which relate to the Employment Security Act of 1980; requiring certain individuals in training to produce evidence of certain attendance and progress; authorizing disqualification of benefits under certain conditions; authorizing certain deductions of amounts from unemployment compensation under certain conditions; specifying such deduction; eliminating obsolete language relating to eligibility for extended benefits; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 40 O.S. 1991, Section 2-108, is amended to read as follows:

Section 2-108. BENEFITS - APPROVED TRAINING. A.

Notwithstanding any other provisions of law, no otherwise eligible individual shall be denied benefits for any week because he is in

training with the approval of the Commission, nor shall such individual be denied benefits with respect to any week in which he is in training with the approval of the Commission by reason of the application of provisions of law relating to availability for work, active search for work, failure to apply for, or a refusal to accept, suitable work. Such approval for training shall be determined by consideration of all the following factors:

(1) The individual's skills are obsolete or such that there are minimal opportunities for employment;

(2) Training is for an occupation for which there is a substantial and recurring demand; and

(3) The individual possesses aptitudes or skills which can be supplemented by retraining within a reasonable time; ~~and~~

~~(4) The individual produces satisfactory evidence of continued attendance and satisfactory progress.~~

B. Any individual in training approved by the Commission will produce satisfactory evidence of continued attendance and satisfactory progress. Failure to comply shall result in a disqualification of benefits for each week of occurrence.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-305 of Title 40, unless there is created a duplication in numbering, reads as follows:

DEDUCTION OF INDIVIDUAL INCOME TAX WITHHOLDINGS.

Notwithstanding the provisions of Sections 2-301 and 2-303 of this title, nothing shall be construed to prohibit the deduction of an amount from unemployment compensation, otherwise payable to an individual, to pay the withholding of federal or state individual income tax, if that individual elected to have such a deduction made and that deduction is made under a program approved by the United States Secretary of Labor. For the purposes of this section, if an individual elects to have this deduction taken from his or her weekly benefits, fifteen percent (15%) of the total benefit amount

will be taken to pay federal withholding and three percent (3%) of the total benefit amount will be deducted to pay the state withholding, for a total deduction of eighteen percent (18%) of the weekly benefit amount. This section shall be effective for all benefit payments made after December 31, 1996.

SECTION 3. AMENDATORY 40 O.S. 1991, Section 2-715, as last amended by Section 3, Chapter 166, O.S.L. 1994 (40 O.S. Supp. 1994, Section 2-715), is amended to read as follows:

Section 2-715. ELIGIBILITY FOR EXTENDED BENEFITS. A. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the eligibility period of the individual only if the Commission finds that with respect to such week:

1. The individual is an "exhaustee" as defined in Section 2-712 of this title; and

2. Except as otherwise provided by this section, the individual has satisfied the requirements of the Employment Security Act of 1980, for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification under the Employment Security Act of 1980, Section 1-101 et seq. of this title, for the receipt of benefits.

B. Any payment of extended benefits under the Employment Security Act of 1980 shall not be made to any individual for any week of unemployment in his eligibility period during which he:

1. Fails to accept any offer of suitable work; or

2. Fails to apply for any suitable work to which he was referred by the state employment service; or

3. Fails to actively engage in seeking suitable work.

C. Suitable work shall be defined as any work which is within such individual's capabilities, except that if the individual furnishes satisfactory evidence that the individual's prospects for obtaining work in his or her customary occupation within a

reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the provisions of Section 2-408 of this title with respect to regular benefit claimants.

1. Any work which is within the capabilities of such individual means that the individual has the physical and mental capacity to do the work and that he has the background and experience which would enable him to perform the job.

2. Work for an extended benefit claimant shall not be considered suitable if the gross weekly pay of the job does not exceed the extended weekly benefit amount payable to him for a week of total unemployment plus the amount of any Supplemental Unemployment Benefits (SUB), as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C., Section 501, payable for such week and equal the higher of the federal minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C., Section 206, without regard to any exemption or any applicable state or local minimum wage.

D. If any individual is ineligible for extended benefits for any week by reason of a failure described in subsection B of this section, such individual shall be ineligible to receive extended benefits for the week in which such failure occurred and until the individual has been employed during at least four (4) different weeks which begin after such failure and has earned wages equal to or in excess of four (4) times his weekly benefit amount.

E. 1. Extended benefits shall not be denied to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if the position was not offered to such individual in writing or was not listed with the state employment service.

2. Extended benefits shall not be denied to any individual for any week by reason of a failure to accept an offer of or apply for

suitable work if such failure would not result in a denial of benefits under the provisions of Sections 2-408 and 2-409 of this title and Sections ~~1~~ 2-417 and ~~2~~ 2-418 of this ~~act~~ title to the extent that such provisions are not inconsistent with the provisions of this section.

3. Extended benefits shall not be denied to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if the work failed to meet any of the requirements of Section 2-409 of this title.

F. An individual shall be treated as actively engaged in seeking work during any week if such individual has engaged in a systematic and sustained effort to obtain work during such week, and such individual provides tangible evidence to the state employment service that he has engaged in such an effort during such week.

G. An individual filing an interstate claim shall not be eligible for extended benefits after the first two (2) weeks of extended benefits that are payable if no extended benefit period is in effect for such week in the state where the claim is filed.

H. The state employment service shall refer any claimant entitled to extended benefits to any suitable work which meets the criteria prescribed in this section.

~~I. Subsections B, C, D, E, F, and H of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995.~~

SECTION 4. Sections 1 and 3 of this act shall become effective July 1, 1995.

SECTION 5. Section 2 of this act shall become effective January 1, 1997.

SECTION 6. 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.

45-1-6425

MCD