

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1808

By: Newberry of the Senate

and

_____ of the House

COMMITTEE SUBSTITUTE

An Act relating to unemployment benefits; amending 40 O.S. 2011, Section 2-203, as amended by Section 1, Chapter 148, O.S.L. 2013, and Section 2-406, as amended by Section 2, Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013, Sections 2-203 and 2-406), which relates to claims and misconduct; providing for certification statements to be available on-line and by form; requiring the Review Board to conduct certain random sample reviews; setting certain percentage of cases to be sampled for review; providing for Review Board to affirm or reverse decisions; prohibiting certain detrimental rate for case decision reversals; clarifying denial of benefits for misconduct; establishing misconduct without warnings; providing for certain professional standards misconduct; providing for codification; and providing an effective date

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

SECTION 1. AMENDATORY 40 O.S. 2011, Section 2-203, as amended by Section 1, Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013, Section 2-203), is amended to read as follows:

1 Section 2-203. CLAIM.

2 A. An unemployed individual must file an initial claim for
3 unemployment benefits by calling an Oklahoma Employment Security
4 Commission claims representative in a Commission Call Center, by
5 completing the required forms through the Internet Claims service
6 provided by the Commission, or by completing all forms necessary to
7 process an initial claim in a local office of the Commission or any
8 alternate site designated by the Commission to take unemployment
9 benefit claims. The Commission may obtain additional information
10 regarding an individual's claim through any form of
11 telecommunication, writing, or interview. An unemployed individual
12 must file a claim in writing or by telecommunication for benefits
13 with respect to each week in accordance with such rule as the
14 Commission may prescribe.

15 B. 1. During the process of filing an initial claim for
16 unemployment benefits, the claimant shall be made aware of the
17 definition of misconduct set out in Section 2-406 of this title, and
18 the claimant shall affirmatively certify that the answers given to
19 all questions in the initial claim process are true and correct to
20 the best of the claimant's knowledge and that no information has
21 been intentionally withheld or misrepresented in an attempt by the
22 claimant to receive benefits to which he or she is not entitled.

23 2. The certification statement required in paragraph 1 of this
24 subsection shall be available through the Internet Claims service

1 provided by the Commission and by a form to be completed by the
2 claimant in a local office of the Commission or at any alternate
3 site designated by the Commission to take unemployment benefit
4 claims.

5 C. With respect to each week, he or she must provide the
6 Commission with a true and correct statement of all material facts
7 relating to: his or her unemployment; ability to work; availability
8 for work; activities or conditions which could restrict the
9 individual from seeking or accepting full-time employment
10 immediately; applications for or receipt of workers' compensation
11 benefits; employment and earnings; and the reporting of other income
12 from retirement, pension, disability, self-employment, education or
13 training allowances.

14 D. No claim will be allowed or paid unless the claimant resides
15 within a state or foreign country with which the State of Oklahoma
16 has entered into a reciprocal or cooperative arrangement pursuant to
17 Part 7 of Article IV of the Employment Security Act of 1980.

18 E. The Commission may require the individual to produce
19 documents or information relevant to the claim for benefits. If the
20 individual has the ability to produce the documents or information
21 and fails to produce it, the individual's claim for unemployment
22 benefits may be disqualified indefinitely by the Commission until
23 the information is produced. The Commission may require the
24 individual to personally appear at a location for a purpose relevant

1 to the individual's unemployment claim or job search. If the
2 individual fails to appear, the individual's claim for unemployment
3 benefits may be disqualified indefinitely by the Commission until
4 the individual makes a personal appearance as directed. An
5 individual that has been disqualified indefinitely by the provisions
6 of this subsection may receive payment for any week between the
7 initial failure and the compliance with this subsection if the
8 claimant is otherwise eligible and has made a timely filing for each
9 intervening week.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-406B of Title 40, unless there
12 is created a duplication in numbering, reads as follows:

13 The Board of Review in the Oklahoma Employment Security Commission
14 shall cause an automatic review by random sample to be made of
15 thirty percent (30%) of its unemployment benefit cases where
16 misconduct was alleged and decided either in favor of or against the
17 employer. The Board of Review shall either affirm or reverse the
18 decision on each case subject to an automated review. If the Board
19 of Review reverses the decision in any case subject to an automatic
20 review, the employer shall not be subject to a detrimental rate
21 change regarding such case.

22 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-406, as
23 amended by Section 2, Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013,
24 Section 2-406), is amended to read as follows:

1 Section 2-406. DISCHARGE FOR MISCONDUCT. A. An individual
2 shall be disqualified for benefits if he or she has been discharged
3 for misconduct connected with his or her last work. If discharged
4 for misconduct, the employer shall have the burden to prove that the
5 employee engaged in misconduct as defined by this section. Such
6 burden of proof is satisfied by the employer, or its designated
7 representative, providing a signed affidavit, or presenting such
8 other evidence which properly demonstrates the misconduct which
9 resulted in the discharge. Once this burden is met, the burden then
10 shifts to the discharged employee to prove that the facts are
11 inaccurate or that the facts as stated do not constitute misconduct
12 as defined by this section. Disqualification under this section
13 shall continue for the full period of unemployment next ensuing
14 after he or she has been discharged for misconduct connected with
15 his or her work and until such individual has become reemployed and
16 has earned wages equal to or in excess of ten (10) times the weekly
17 benefit amount.

18 B. "Misconduct" shall include, but not be limited to, the
19 following:

- 20 1. Unexplained absenteeism or tardiness;
- 21 2. Willful or wanton indifference to or neglect of the duties
22 required;
- 23 3. Willful or wanton breach of any duty required by the
24 employer;

1 4. The mismanagement of a position of employment by action or
2 inaction;

3 5. Actions or omissions that place in jeopardy the health,
4 life, or property of self or others;

5 6. Dishonesty;

6 7. Wrongdoing;

7 8. Violation of a law; or

8 9. A violation of a policy or rule adopted to ensure orderly
9 work or the safety of self or others.

10 C. Any misconduct violation as defined in subsection B of this
11 section shall not require a prior warning from the employer. Any
12 employee terminated for such misconduct, even if it is the
13 employee's first misconduct violation, shall not be eligible for
14 benefits.

15 D. Any finding by a state or federal agency of any failure by
16 the employee to meet the applicable civil, criminal or professional
17 standards of the employee's profession shall serve as conclusive
18 proof of such misconduct, and benefits shall be denied.

19 SECTION 4. This act shall become effective November 1, 2014.

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