

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1808

By: Newberry

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5
6 AS INTRODUCED

7 An Act relating to unemployment benefits; amending 40
8 O.S. 2011, Section 2-406, as amended by Section 2,
9 Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013, Section
10 2-406), which relates to misconduct; clarifying
11 denial of benefits for misconduct; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 40 O.S. 2011, Section 2-406, as
15 amended by Section 2, Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013,
16 Section 2-406), is amended to read as follows:

17 Section 2-406. DISCHARGE FOR MISCONDUCT.

18 A. An individual shall be disqualified for benefits if he or
19 she has been discharged for misconduct connected with his or her
20 last work. If discharged for misconduct, the employer shall have
21 the burden to prove that the employee engaged in misconduct as
22 defined by this section. Such burden of proof is satisfied by the
23 employer, or its designated representative, providing a signed
24 affidavit, or presenting such other evidence which properly
demonstrates the misconduct which resulted in the discharge. Once

1 this burden is met, the burden then shifts to the discharged
2 employee to prove that the facts are inaccurate or that the facts as
3 stated do not constitute misconduct as defined by this section.
4 Disqualification under this section shall continue for the full
5 period of unemployment next ensuing after he or she has been
6 discharged for misconduct connected with his or her work and until
7 such individual has become reemployed and has earned wages equal to
8 or in excess of ten (10) times the weekly benefit amount.

9 B. "Misconduct" shall include, but not be limited to, the
10 following:

- 11 1. Unexplained absenteeism or tardiness;
- 12 2. Willful or wanton indifference to or neglect of the duties
13 required;
- 14 3. Willful or wanton breach of any duty required by the
15 employer;
- 16 4. The mismanagement of a position of employment by action or
17 inaction;
- 18 5. Actions or omissions that place in jeopardy the health,
19 life, or property of self or others;
- 20 6. Dishonesty;
- 21 7. Wrongdoing;
- 22 8. Violation of a law; or
- 23 9. A violation of a policy or rule adopted to ensure orderly
24 work or the safety of self or others.

1 C. Any misconduct violation as defined in subsection B of this
2 section shall not require a prior warning from the employer. Any
3 employee terminated for such misconduct, even if it is the
4 employee's first misconduct violation, shall not be eligible for
5 benefits.

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

10 SECTION 2. This act shall become effective November 1, 2014.

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