

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1702

By: Brooks

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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 last amended by Section  
9 3, Chapter 220, O.S.L. 2014 (40 O.S. Supp. 2019,  
10 Section 2-406), which relates to discharge for  
11 misconduct; deleting language; 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 last amended by Section 3, Chapter 220, O.S.L. 2014 (40 O.S. Supp.  
16 2019, 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  
25 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. Acts which constitute misconduct under this section shall be  
10 limited to the following:

11 1. Any intentional act or omission by an employee which  
12 constitutes a material or substantial breach of the employee's job  
13 duties or responsibilities or obligations pursuant to his or her  
14 employment or contract of employment;

15 2. Unapproved or excessive absenteeism or tardiness;

16 3. Indifference to, breach of, or neglect of the duties  
17 required which result in a material or substantial breach of the  
18 employee's job duties or responsibilities;

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

21 5. Dishonesty;

22 6. Wrongdoing;

23 7. Violation of a law; or  
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1 8. A violation of a policy or rule enacted to ensure orderly  
2 and proper job performance or for the safety of self or others.

3 C. Any misconduct violation as defined in subsection B of this  
4 section shall not require a prior warning from the employer. As  
5 long as the employee knew, ~~or should have reasonably known,~~ that a  
6 rule or policy of the employer was violated, the employee shall not  
7 be eligible for benefits.

8 D. Any finding by a state or federal agency of any failure by  
9 the employee to meet the applicable civil, criminal or professional  
10 standards of the employee's profession shall create a rebuttable  
11 presumption of such misconduct, and benefits shall be denied, unless  
12 the employee can show, with clear and convincing evidence, that such  
13 misconduct did not occur, or the Commission determines that such  
14 failure did not constitute misconduct as defined herein.

15 SECTION 2. This act shall become effective November 1, 2020.

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