

FIRST REGULAR SESSION

SENATE BILL NO. 34

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

0301S.011

AN ACT

To repeal section 288.050, RSMo, and to enact in lieu thereof one new section relating to unemployment benefits for members of the armed forces.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 288.050, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 288.050, to read as follows:

288.050. 1. Notwithstanding the other provisions of this law, a claimant
2 shall be disqualified for waiting week credit or benefits until after the claimant
3 has earned wages for work insured pursuant to the unemployment compensation
4 laws of any state equal to ten times the claimant's weekly benefit amount if the
5 deputy finds:

6 (1) That the claimant has left work voluntarily without good cause
7 attributable to such work or to the claimant's employer, **except that the spouse**
8 **of an active member of the United States Armed Forces shall be deemed**
9 **to have good cause to leave his or her employment to accompany the**
10 **military spouse in the event of a military transfer.** A temporary employee
11 of a temporary help firm will be deemed to have voluntarily quit employment if
12 the employee does not contact the temporary help firm for reassignment prior to
13 filing for benefits. Failure to contact the temporary help firm will not be deemed
14 a voluntary quit unless the claimant has been advised of the obligation to contact
15 the firm upon completion of assignments and that unemployment benefits may
16 be denied for failure to do so. The claimant shall not be disqualified:

17 (a) If the deputy finds the claimant quit such work for the purpose of
18 accepting a more remunerative job which the claimant did accept and earn some
19 wages therein;

20 (b) If the claimant quit temporary work to return to such claimant's

21 regular employer; or

22 (c) If the deputy finds the individual quit work, which would have been
23 determined not suitable in accordance with paragraphs (a) and (b) of subdivision
24 (3) of this subsection, within twenty-eight calendar days of the first day worked;

25 (d) As to initial claims filed after December 31, 1988, if the claimant
26 presents evidence supported by competent medical proof that she was forced to
27 leave her work because of pregnancy, notified her employer of such necessity as
28 soon as practical under the circumstances, and returned to that employer and
29 offered her services to that employer as soon as she was physically able to return
30 to work, as certified by a licensed and practicing physician, but in no event later
31 than ninety days after the termination of the pregnancy. An employee shall have
32 been employed for at least one year with the same employer before she may be
33 provided benefits pursuant to the provisions of this paragraph;

34 (2) That the claimant has retired pursuant to the terms of a labor
35 agreement between the claimant's employer and a union duly elected by the
36 employees as their official representative or in accordance with an established
37 policy of the claimant's employer; or

38 (3) That the claimant failed without good cause either to apply for
39 available suitable work when so directed by a deputy of the division or designated
40 staff of an employment office as defined in subsection 16 of section 288.030, or to
41 accept suitable work when offered the claimant, either through the division or
42 directly by an employer by whom the individual was formerly employed, or to
43 return to the individual's customary self-employment, if any, when so directed by
44 the deputy. An offer of work shall be rebuttably presumed if an employer notifies
45 the claimant in writing of such offer by sending an acknowledgment via any form
46 of certified mail issued by the United States Postal Service stating such offer to
47 the claimant at the claimant's last known address. Nothing in this subdivision
48 shall be construed to limit the means by which the deputy may establish that the
49 claimant has or has not been sufficiently notified of available work.

50 (a) In determining whether or not any work is suitable for an individual,
51 the division shall consider, among other factors and in addition to those
52 enumerated in paragraph (b) of this subdivision, the degree of risk involved to the
53 individual's health, safety and morals, the individual's physical fitness and prior
54 training, the individual's experience and prior earnings, the individual's length
55 of unemployment, the individual's prospects for securing work in the individual's
56 customary occupation, the distance of available work from the individual's

57 residence and the individual's prospect of obtaining local work; except that, if an
58 individual has moved from the locality in which the individual actually resided
59 when such individual was last employed to a place where there is less probability
60 of the individual's employment at such individual's usual type of work and which
61 is more distant from or otherwise less accessible to the community in which the
62 individual was last employed, work offered by the individual's most recent
63 employer if similar to that which such individual performed in such individual's
64 last employment and at wages, hours, and working conditions which are
65 substantially similar to those prevailing for similar work in such community, or
66 any work which the individual is capable of performing at the wages prevailing
67 for such work in the locality to which the individual has moved, if not hazardous
68 to such individual's health, safety or morals, shall be deemed suitable for the
69 individual;

70 (b) Notwithstanding any other provisions of this law, no work shall be
71 deemed suitable and benefits shall not be denied pursuant to this law to any
72 otherwise eligible individual for refusing to accept new work under any of the
73 following conditions:

74 a. If the position offered is vacant due directly to a strike, lockout, or
75 other labor dispute;

76 b. If the wages, hours, or other conditions of the work offered are
77 substantially less favorable to the individual than those prevailing for similar
78 work in the locality;

79 c. If as a condition of being employed the individual would be required to
80 join a company union or to resign from or refrain from joining any bona fide labor
81 organization.

82 2. If a deputy finds that a claimant has been discharged for misconduct
83 connected with the claimant's work, such claimant shall be disqualified for
84 waiting week credit and benefits, and no benefits shall be paid nor shall the cost
85 of any benefits be charged against any employer for any period of employment
86 within the base period until the claimant has earned wages for work insured
87 under the unemployment laws of this state or any other state as prescribed in
88 this section. In addition to the disqualification for benefits pursuant to this
89 provision the division may in the more aggravated cases of misconduct, cancel all
90 or any part of the individual's wage credits, which were established through the
91 individual's employment by the employer who discharged such individual,
92 according to the seriousness of the misconduct. A disqualification provided for

93 pursuant to this subsection shall not apply to any week which occurs after the
94 claimant has earned wages for work insured pursuant to the unemployment
95 compensation laws of any state in an amount equal to six times the claimant's
96 weekly benefit amount. Should a claimant be disqualified on a second or
97 subsequent occasion within the base period or subsequent to the base period the
98 claimant shall be required to earn wages in an amount equal to or in excess of six
99 times the claimant's weekly benefit amount for each disqualification.

100 3. Absenteeism or tardiness may constitute a rebuttable presumption of
101 misconduct, regardless of whether the last incident alone constitutes misconduct,
102 if the discharge was the result of a violation of the employer's attendance policy,
103 provided the employee had received knowledge of such policy prior to the
104 occurrence of any absence or tardy upon which the discharge is based.

105 4. Notwithstanding the provisions of subsection 1 of this section, a
106 claimant may not be determined to be disqualified for benefits because the
107 claimant is in training approved pursuant to Section 236 of the Trade Act of 1974,
108 as amended, (19 U.S.C.A. Sec. 2296, as amended), or because the claimant left
109 work which was not suitable employment to enter such training. For the
110 purposes of this subsection "suitable employment" means, with respect to a
111 worker, work of a substantially equal or higher skill level than the worker's past
112 adversely affected employment, and wages for such work at not less than eighty
113 percent of the worker's average weekly wage as determined for the purposes of
114 the Trade Act of 1974.

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