

1 <sup>H</sup> BILL NO. 429  
 2 INTRODUCED BY Peter Ramirez

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING 82-106, R.C.M.  
 5 1947, TO CHANGE DISQUALIFICATION FOR UNEMPLOYMENT  
 6 COMPENSATION BENEFITS BECAUSE OF UNEMPLOYMENT DUE TO A  
 7 STOPPAGE OF WORK WHICH EXISTS BECAUSE OF A LABOR DISPUTE AT  
 8 AN INDIVIDUAL'S PLACE OF EMPLOYMENT TO DISQUALIFICATION FOR  
 9 UNEMPLOYMENT BENEFITS BECAUSE OF A STRIKE OR LABOR DISPUTE  
 10 AT AN INDIVIDUAL'S PLACE OF EMPLOYMENT."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. Section 87-106, R.C.M. 1947, is amended to  
 14 read as follows:

15 "87-106. Disqualification for benefits. An individual  
 16 shall be disqualified for benefits--

17 (a) If he has left work without good cause  
 18 attributable to the employment for a period of not less than  
 19 two (2) nor more than five (5) weeks (in addition to and  
 20 immediately following the waiting period), as determined by  
 21 the division according to the circumstances in each case;  
 22 but, he shall not be disqualified if the division finds  
 23 that:

24 (1) He left his employment because of personal illness  
 25 or injury not associated with misconduct, or left his

1 employment upon the advice of a licensed and practicing  
 2 physician, and after recovering from his illness or injury  
 3 when recovery is certified by a licensed and practicing  
 4 physician, he returned to his employer and offered his  
 5 service and his regular or comparable suitable work was not  
 6 available, if so found by the division, provided he is  
 7 otherwise eligible.

8 (b) If he has been discharged:

9 (1) For misconduct connected with his work, or  
 10 affecting his employment, for a period of not less than two  
 11 (2) nor more than nine (9) weeks (in addition to and  
 12 immediately following the waiting period), as determined by  
 13 the division in each case according to the seriousness of  
 14 the misconduct.

15 (2) For gross misconduct connected with his work or  
 16 committed on the employer's premises, as determined by the  
 17 division, for a period of twelve (12) months.

18 (c) If he failed, without good cause, either to apply  
 19 for available and suitable work when so directed by the  
 20 employment office or the division or to accept suitable work  
 21 offered to him which he is physically able and mentally  
 22 qualified to perform, or to return to his customary  
 23 self-employment (if any) when so directed by the division.  
 24 Such disqualification shall continue for the week in which  
 25 such failure occurred and for not less than two (2) nor more

INTRODUCED BILL

12409

1 than five (5) weeks in addition to the waiting week which  
2 immediately follow such week as determined by the division  
3 according to the circumstances in each case.

4 (1) In determining whether or not any work is suitable  
5 for an individual, the division shall consider the degree of  
6 risk involved to his health, safety, and morals, his  
7 physical fitness and prior training, his experience and  
8 previous earnings, his length of unemployment and prospects  
9 for securing local work in his customary occupation, and the  
10 distance of the available work from his residence.

11 (2) Notwithstanding any other provisions of this act,  
12 no work shall be deemed suitable and benefits shall not be  
13 denied under this act to any otherwise eligible individual  
14 for refusing to accept new work under any of the following  
15 conditions:

16 (A) If position offered is vacant due directly to a  
17 strike, lockout, or other labor dispute;

18 (B) If the wages, hours, or other conditions of the  
19 work offered are substantially less favorable to the  
20 individual than those prevailing for similar work in the  
21 locality;

22 (C) If as a condition of being employed the individual  
23 would be required to join a company union or to resign from  
24 or refrain from joining any bona fide labor organization.

25 (d) For any week with respect to which the division

1 finds that his total unemployment is due to a ~~stoppage of~~  
2 ~~work which exists because of~~ a strike or labor dispute at  
3 the factory, establishment, or other premises at which he is  
4 or was last employed, provided that this subsection shall  
5 not apply if it is shown to the satisfaction of the division  
6 that—

7 (1) He is not participating in or financing or  
8 directly interested in the strike or labor dispute which  
9 ~~caused the stoppage of work~~; and

10 (2) He does not belong to a grade or class of workers  
11 of which, immediately before the commencement of the  
12 ~~stoppage~~ strike or labor dispute, there were members  
13 employed at the premises at which the ~~stoppage~~ strike or  
14 labor dispute occurs, any of whom are participating in or  
15 financing or directly interested in the strike or labor  
16 dispute;

17 Provided, that if in any case separate branches of work  
18 which are commonly conducted as separate businesses in  
19 separate premises are conducted in separate departments of  
20 the same premises, each such department shall, for the  
21 purpose of this subsection, be deemed to be a separate  
22 factory, establishment, or other premises; provided,  
23 further, that if the division, upon investigation, shall  
24 find that such strike or labor dispute is caused by the  
25 failure or refusal of any employer to conform to the

1 provisions of any law of the state wherein the strike or  
 2 labor dispute occurs or of the United States pertaining to  
 3 collective bargaining, hours, wages or other conditions of  
 4 work, such strike or labor dispute shall not render the  
 5 workers ineligible for benefits.

6 (e) For any week with respect to which he is receiving  
 7 or has received payment in the form of--

8 (1) Wages in lieu of notice or separation or  
 9 termination allowance;

10 (2) Compensation for disability under the Workmen's  
 11 Compensation Law or the Occupational Disease Law of this or  
 12 any other state or under a similar law of the United States,  
 13 provided, however, that when an injured claimant has ceased  
 14 to draw compensation benefits and shall have returned to the  
 15 labor market, he shall then be entitled to receive  
 16 unemployment compensation benefits under this title, if he  
 17 shall be otherwise qualified. Provided further, that  
 18 compensation which is received as a payment for a permanent  
 19 partial disability shall not be computed to be spread over a  
 20 period of weeks in advance so as to bar the recipient from  
 21 receiving unemployment compensation benefits under this  
 22 title, provided the recipient has returned to the labor  
 23 market and is otherwise qualified;

24 (3) Benefits under the Railroad Unemployment Insurance  
 25 Act or any state unemployment compensation act or similar

1 laws of any state or of the United States. This  
 2 disqualification does not apply to any week with respect to  
 3 which an individual is receiving or has received benefits  
 4 under an unemployment compensation law of another state or  
 5 of the United States, if such benefits are paid pursuant to  
 6 section 87-129.

7 Receipt of any wages, compensation or benefits as set  
 8 forth in subsection (1), (2), or (3) above, after payment of  
 9 unemployment benefits, and with respect to the same week for  
 10 which unemployment benefits were received, will thereupon  
 11 require such individual to repay such unemployment benefits  
 12 and the division may collect such unemployment benefits in  
 13 the same manner as provided for collection of benefits under  
 14 section 87-145 (d).

15 (f) During the school year (within the autumn, winter  
 16 and spring seasons of the year) or the vacation periods  
 17 within such school year or during any prescribed school term  
 18 if claimant is a student regularly attending an established  
 19 educational institution. Notwithstanding any other  
 20 provisions in this subsection, no otherwise eligible  
 21 individuals shall be denied benefits for any week because he  
 22 is in training approved by the division, nor shall such  
 23 individual be denied benefits with respect to any week in  
 24 which he is in training approved by the division by reason  
 25 of the application of provisions in subsection (f) of this

1 section or the application of provisions in section 87-105  
2 (c).

3 (g) Where retired and receiving retirement  
4 compensation paid in whole or in part from funds furnished  
5 by an employing unit, which when prorated on a weekly basis,  
6 exceeds two (2) times the average weekly benefit amount paid  
7 during the last fiscal year, such disqualification to be  
8 applied as follows: All wages earned by such individual in  
9 the employment from which he has been retired shall not be  
10 considered or included in determining his wage credits or  
11 weekly benefit amount under sections 87-103 and 87-105. This  
12 disqualification does not apply to retired federal  
13 personnel, and does not extend to the receipt of benefits  
14 under the Federal Social Security Act, as amended.

15 (h) For any week wherein claimant leaves her most  
16 recent employment during pregnancy, and due to such  
17 pregnancy, and such disqualifications shall continue through  
18 the period of pregnancy unless claimant presents evidence of  
19 her physical ability to work at such employment. At any time  
20 after the seventh month of pregnancy a claimant, to  
21 establish eligibility, must present evidence of physical  
22 ability to work at such employment. Further, at any time  
23 during the first two (2) months following childbirth, a  
24 claimant, to establish eligibility, must present evidence of  
25 her physical ability to work at such employment. In any of

1 the cases set forth hereinbefore, such evidence of  
2 eligibility must be in the form of certificate of a duly  
3 licensed physician that such claimant is physically able to  
4 work at her most recent employment, and such evidence must  
5 be presented as often as requested by the division.\*

-End-

Committee on Labor & Employment Relations

Objection Raised to Adverse Committee Report

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HB 429

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