

1 *House* BILL NO. *690*
 2 INTRODUCED BY *Ramirez* *Porte*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CONCERNING UNEMPLOYMENT
 5 COMPENSATION BENEFITS, TO ESTABLISH WAGE CRITERIA IN
 6 DETERMINING SUITABLE WORK; AMENDING SECTION 87-106, R.C.M.
 7 1947."

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 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 87-106, R.C.M. 1947, is amended to
 11 read as follows:

12 "87-106. Disqualification for benefits. An individual
 13 shall be disqualified for benefits--

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

21 (1) He left his employment because of personal illness
 22 or injury not associated with misconduct, or left his
 23 employment upon the advice of a licensed and practicing
 24 physician, and after recovering from his illness or injury
 25 when recovery is certified by a licensed and practicing

1 physician, he returned to his employer and offered his
 2 service and his regular or comparable suitable work was not
 3 available, if so found by the division, provided he is
 4 otherwise eligible.

5 (b) If he has been discharged:

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

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

15 (c) If he failed, without good cause, either to apply
 16 for available and suitable work when so directed by the
 17 employment office or the division or to accept suitable work
 18 offered to him which he is physically able and mentally
 19 qualified to perform, or to return to his customary
 20 self-employment (if any) when so directed by the division.
 21 Such disqualification shall continue for the week in which
 22 such failure occurred and for not less than two (2) nor more
 23 than five (5) weeks in addition to the waiting week which
 24 immediately follow such week as determined by the division
 25 according to the circumstances in each case.

1 (1) In determining whether or not any work is suitable
2 for an individual, the division shall consider the degree of
3 risk involved to his health, safety, and morals, his
4 physical fitness and prior training, his experience and
5 previous earnings, his length of unemployment and prospects
6 for securing local work in his customary occupation, and the
7 distance of the available work from his residence. For up to
8 8 weeks of benefit duration, suitable work is any work
9 meeting the criteria in this subsection that offers wages
10 equal to the wages earned in his customary occupation. From
11 8 to 16 weeks, work is suitable if the wages equal 75% of
12 his customary earnings, and for all subsequent weeks work is
13 suitable if the wages equal the weekly benefit amount.

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

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

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

25 (C) If as a condition of being employed the individual

1 would be required to join a company union or to resign from
2 or refrain from joining any bona fide labor organization.

3 (d) For any week with respect to which the division
4 finds that his total unemployment is due to a stoppage of
5 work which exists because of a labor dispute at the factory,
6 establishment, or other premises at which he is or was last
7 employed, provided that this subsection shall not apply if
8 it is shown to the satisfaction of the division that--

9 (1) He is not participating in or financing or
10 directly interested in the labor dispute which caused the
11 stoppage of work; and

12 (2) He does not belong to a grade or class of workers
13 of which immediately before the commencement of the
14 stoppage, there were members employed at the premises at
15 which the stoppage occurs, any of whom are participating in
16 or financing or directly interested in the 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 labor dispute is caused by the failure or
25 refusal of any employer to conform to the provisions of any

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

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

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

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

23 (3) Benefits under the Railroad Unemployment Insurance
 24 Act or any state unemployment compensation act or similar
 25 laws of any state or of the United States. This

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

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

14 (f) During the school year (within the autumn, winter
 15 and spring seasons of the year) or the vacation periods
 16 within such school year or during any prescribed school term
 17 if claimant is a student regularly attending an established
 18 educational institution. Notwithstanding any other
 19 provisions in this subsection, no otherwise eligible
 20 individuals shall be denied benefits for any week because he
 21 is in training approved by the division, nor shall such
 22 individual be denied benefits with respect to any week in
 23 which he is in training approved by the division by reason
 24 of the application of provisions in subsection (c) of this
 25 section or the application of provisions in section 87-105

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

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

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

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