

SENATE BILL NO. 128

INTRODUCED BY E. BUTTREY

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A BILL FOR AN ACT ENTITLED: "AN ACT ~~REVISING WHEN~~ PROVIDING THAT THE ACCOUNT OF AN EMPLOYER WITH AN EXPERIENCE RATING MAY NOT BE CHARGED WITH RESPECT TO UNEMPLOYMENT BENEFITS PAID WHEN AN EMPLOYEE LEAVES FOR GOOD CAUSE; AMENDING SECTION 39-51-1214, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 39-51-1214, MCA, is amended to read:

**"39-51-1214. Benefit payments chargeable to employer experience rating accounts -- DEFINITION.**

(1) Except for cost reimbursement, benefits paid must be charged to the account of each of the claimant's base period employers. The benefit charged must be based on the percentage of wages paid by the employer as compared to the total wages paid by all employers in the claimant's base period.

(2) The account of an employer with an experience rating as provided in 39-51-1213 may not be charged with respect to benefits paid under the following situations:

(a) if paid to a worker who terminated services voluntarily ~~without good cause attributable to~~ with a covered employer or who had been discharged for misconduct in connection with services; WITHOUT GOOD CAUSE.

THE DEPARTMENT SHALL DETERMINE A CLAIMANT LEFT WORK WITH GOOD CAUSE ATTRIBUTABLE TO EMPLOYMENT WHEN:

(I) THE CLAIMANT HAD COMPELLING REASONS ARISING FROM THE WORK ENVIRONMENT THAT CAUSED THE CLAIMANT TO LEAVE AND THE CLAIMANT:

(A) ATTEMPTED TO CORRECT THE PROBLEM IN THE WORK ENVIRONMENT; AND

(B) INFORMED THE EMPLOYER OF THE PROBLEM AND GAVE THE EMPLOYER REASONABLE OPPORTUNITY TO CORRECT THE PROBLEM;

(II) THE CLAIMANT LEFT WORK THAT THE DEPARTMENT DETERMINES TO BE UNSUITABLE; OR

(III) THE CLAIMANT LEFT WORK WITHIN 30 DAYS OF RETURNING TO STATE-APPROVED TRAINING.

(b) if paid in accordance with the extended benefit program triggered by either national or state indicators;

(c) if the base period employer continues to provide employment with no reduction in hours or wages;



- 1 (d) if benefits are paid to claimants who are in training approved under 39-51-2307;
- 2 (e) if the base period employer is ordered to military service, as defined in 10-1-1003;
- 3 (f) if benefits are paid to an employee laid off as the result of the return to work of a permanent employee
- 4 who:
- 5 (i) was called to military service, as defined in 10-1-1003; and
- 6 (ii) had completed 4 or more weeks of military service and exercised reemployment rights under Title 10,
- 7 chapter 1, part 10; or
- 8 (g) if the worker separates from employment as a result of domestic violence, a sexual assault, or
- 9 stalking pursuant to 39-51-2111; or
- 10 (h) if paid to a worker who was terminated by the employer for misconduct or gross misconduct.

11 (3) FOR PURPOSES OF THIS SECTION, THE TERM "COMPELLING REASONS" INCLUDES BUT IS NOT LIMITED TO:

12 (A) UNDUE RISK OF INJURY, ILLNESS, OR PHYSICAL IMPAIRMENT OR REASONABLY FORESEEABLE RISK TO THE  
13 CLAIMANT'S MORALS;

14 (B) UNREASONABLE ACTIONS BY THE EMPLOYER CONCERNING HOURS, WAGES, TERMS OF EMPLOYMENT, OR  
15 WORKING CONDITIONS;

16 (C) A CONDITION UNDERLYING A WORKERS' COMPENSATION OR OCCUPATIONAL DISEASE CLAIM FOR WHICH  
17 LIABILITY HAS BEEN ACCEPTED BY A WORKERS' COMPENSATION INSURER. IF THE CONDITION IS ONE FOR WHICH LIABILITY  
18 HAS NOT BEEN ACCEPTED BY THE WORKERS' COMPENSATION INSURER, THE DEPARTMENT SHALL INDEPENDENTLY  
19 EVALUATE THE CONDITION TO DETERMINE WHETHER THE CONDITION APPEARS TO RESULT FROM THE CLAIMANT'S  
20 EMPLOYMENT. IF THE CONDITION APPEARS TO THE SATISFACTION OF THE DEPARTMENT TO BE RELATED TO WORK, THE  
21 DEPARTMENT SHALL CONSIDER THE CONDITION TO PROVIDE A COMPELLING REASON FOR LEAVING WORK.

22 (D) UNREASONABLE RULES OR DISCIPLINE BY THE EMPLOYER SO SEVERE AS TO CONSTITUTE HARASSMENT."

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24 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2013.

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