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**HOUSE BILL NO. 764**

Offered January 21, 2000

*A BILL to amend and reenact § 60.2-612 of the Code of Virginia, relating to unemployment compensation; benefit eligibility conditions; drug use prohibited.*

Patrons—Day, Cranwell, Dudley, Keister, Kilgore and Tate; Senator: Reynolds

Referred to Committee on Labor and Commerce

**Be it enacted by the General Assembly of Virginia:****1. That § 60.2-612 of the Code of Virginia is amended and reenacted as follows:**

§ 60.2-612. Benefit eligibility conditions.

An unemployed individual shall be eligible to receive benefits for any week only if the Commission finds that:

1. He has, in the highest two quarters of earnings within his base period, been paid wages in employment for employers that are equal to not less than the lowest amount appearing in Column A of the "Benefit Table" appearing in § 60.2-602 on the line which extends through Division C and on which in Column B of the "Benefit Table" appears his weekly benefit amount. Such wages shall be earned in not less than two quarters.

2. a. His total or partial unemployment is not due to a labor dispute in active progress or to shutdown or start-up operations caused by such dispute which exists (i) at the factory, establishment, or other premises, including a vessel, at which he is or was last employed, or (ii) at a factory, establishment or other premises, including a vessel, either within or without this Commonwealth, which (a) is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed and (b) supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed. This subdivision shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises, including a vessel, at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the dispute.

b. If separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subdivision, be deemed to be a separate factory, establishment or other premises. Membership in a union, or the payment of regular dues to a bona fide labor organization, however, shall not alone constitute financing a labor dispute.

3. He is not receiving, has not received or is not seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; however, if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this subdivision shall not apply.

4. He is not on a bona fide paid vacation. If an individual is paid vacation pay for any week in an amount less than the individual's weekly benefit amount his eligibility for benefits shall be computed under the provisions of § 60.2-603.

5. He has registered for work and thereafter has continued to report at an employment office in accordance with such regulations as the Commission may prescribe. The Commission may, by regulation, waive or alter either or both of the requirements of this subdivision for certain types of cases when it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title.

6. a. He has made a claim for benefits in accordance with regulations the Commission may prescribe.

b. He has, in conjunction with such claim, signed a statement furnished by the Commission declaring that: (i) the termination of employment for which such claim for benefits is made was not the direct result of his use of a nonprescribed controlled substance; (ii) he has not used nonprescribed controlled substances within the past ninety days preceding his making such claim for benefits; (iii) he will not use nonprescribed controlled substances at any time while receiving unemployment compensation benefits; and (iv) he acknowledges that if he has a confirmed positive test for nonprescribed controlled substances resulting from a drug test or screen required in connection with an offer of suitable work, he will be disqualified from receiving any further benefits in accordance with the provisions of § 60.2-618.

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60 c. For the purposes of this subdivision, "nonprescribed controlled substances" means substances  
61 identified as such in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1.

62 7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable  
63 work. Every claimant who is totally unemployed shall report to the Commission the names of employers  
64 contacted each week in his effort to obtain work. This information may be subject to employer  
65 verification by the Commission through a program designed for that purpose. The Commission may  
66 determine that registration by a claimant with the Virginia State Job Service may constitute a valid  
67 employer contact and satisfy the search for work requirement of this subsection in labor market areas  
68 where job opportunities are limited. The Commission may determine that an individual, whose usual and  
69 customary means of soliciting work in his occupation is through contact with a single hiring hall which  
70 makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be  
71 actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high  
72 unemployment, as determined by the Commission, the Commission has the authority to adjust the  
73 requirement that he be actively seeking and unable to obtain suitable work.

74 b. An individual who leaves the normal labor market area of the individual for the major portion of  
75 any week is presumed to be unavailable for work within the meaning of this section. This presumption  
76 may be overcome if the individual establishes to the satisfaction of the Commission that the individual  
77 has conducted a bona fide search for work and has been reasonably accessible to suitable work in the  
78 labor market area in which the individual spent the major portion of the week to which the presumption  
79 applies.

80 8. He has given notice of resignation to his employer and the employer subsequently made the  
81 termination of employment effective immediately, but in no case to exceed two weeks for which he  
82 would have worked had the employee separated from employment on the date of termination as given in  
83 the notice; provided, that the claimant could not establish good cause for leaving work pursuant to  
84 § 60.2-618 and was not discharged for misconduct as provided in § 60.2-618.

85 9. Beginning January 6, 1991, he has served a waiting period of one week during which he was  
86 eligible for benefits under this section in all other respects and has not received benefits, except that  
87 only one waiting week shall be required of such individual within any benefit year.

88 10. He is not imprisoned or confined in jail.

89 11. He participates in reemployment services, such as job search assistance services, if he has been  
90 determined to be likely to exhaust regular benefits and need reemployment services pursuant to a  
91 profiling system established by the Commission, unless the Commission determines that (i) such  
92 claimant has completed such services or (ii) there is good cause for such claimant's failure to participate  
93 in such services.