

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 105

An Act to amend and reenact §§ 60.2-119 and 60.2-528 of the Code of Virginia, relating to unemployment compensation; obsolete references.

[H 2416]

Approved March 20, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-119 and 60.2-528 of the Code of Virginia are amended and reenacted as follows:

§ 60.2-119. Criminal cases.

All criminal actions for violation of any provision of this title, or of any rules or regulations issued pursuant to this title, shall be prosecuted by the attorney for the Commonwealth of the county or city in which the offense, or a part thereof, was committed, except that the offense set out in § ~~60.2-632~~ 60.2-518 or § ~~60.2-518~~ 60.2-632 shall be deemed to be committed and venue for the prosecution shall lie in the county or city wherein the statement, representation, or nondisclosure is received by the Commission. However, if a defendant resides in this Commonwealth and the courthouse of the county or city in which he resides is more than 100 miles from the City of Richmond, as determined in § ~~30-19.17~~, venue for such prosecution shall lie in the city or county where he resides, and the offense shall be prosecuted by the attorney for the Commonwealth for the city or county where the defendant resides. If, in the opinion of the Commission, the prosecution should be conducted by the Office of the Attorney General, that office, upon the request of the Commission, shall have authority to conduct or supervise such prosecution.

§ 60.2-528. Individual benefit charges.

A. An individual's "benefit charges" shall be computed in the following manner:

1. For each week benefits are received, a claimant's "benefit charges" shall be equal to his benefits received for such week.

2. For each week extended benefits are received, pursuant to § 60.2-610 or § 60.2-611, a claimant's "benefit charges" shall be equal to one-half his benefits received for such week. However, a claimant's "benefit charges" for extended benefits attributable to service in the employ of a governmental entity referred to in subdivisions 1 through 3 of subsection A of § 60.2-213 shall be equal to the full amount of such extended benefit.

3. For each week partial benefits are received, the claimant's "benefit charges" shall be computed (i) in the case of regular benefits as in subdivision 1 of this subsection, or (ii) in the case of extended benefits as in subdivision 2 of this subsection.

B. 1. The employing unit from whom such individual was separated, resulting in the current period of unemployment, shall be the most recent employing unit for whom such individual has performed services for remuneration (i) during 30 days, whether or not such days are consecutive, or (ii) during 240 hours. If such individual's unemployment is caused by separation from an employer, such individual's "benefit charges" for such period of unemployment shall be deemed the responsibility of the last employer for (i) 30 days or (ii) 240 hours prior to such period of unemployment.

2. Any employer charged with benefits paid shall be notified of the charges quarterly by the Commission. The amount specified shall be conclusive on the employer unless, not later than 30 days after the notice of benefit charges was mailed to its last known address or otherwise delivered to it, the employer files an appeal with the Commission, setting forth the grounds for such an appeal. Proceedings on appeal to the Commission regarding the amount of benefit charges under this subsection or a redetermination of such amount shall be in accordance with the provisions of § 60.2-500. The decision of the Commission shall be subject to the provisions of § 60.2-500. Any appeal perfected pursuant to the provisions of this section shall not address any issue involving the merits or conditions of a claimant's separation from employment.

C. No "benefit charges" shall be deemed the responsibility of an employer of:

1. An individual whose separation from the work of such employer arose as a result of a violation of the law by such individual, which violation led to confinement in any jail or prison;

2. An individual who voluntarily left employment in order to accept other employment, genuinely believing such employment to be permanent;

3. An individual with respect to any weeks in which benefits are claimed and received after such date as that individual refused to accept an offer of rehire by the employer because such individual was in training with approval of the Commission pursuant to § 60.2-613;

4. An individual who voluntarily left employment to enter training approved under § 236 of the Trade Act of 1974 (19 U.S.C. § 2296 et seq.);

5. An individual hired to replace a member of the Reserve of the United States Armed Forces or the

National Guard called into active duty as a result of ~~Operation Desert Shield or Operation Desert Storm~~ *in connection with an international conflict* and whose employment is terminated concurrent with and because of that member's return from active duty;

6. An individual who left employment voluntarily with good cause due to a personal bona fide medical reason caused by a non-job-related injury or medical condition;

7. An individual participating as an inmate in (i) state or local work release programs pursuant to § 53.1-60 or § 53.1-131; (ii) community residential programs pursuant to §§ 53.1-177, 53.1-178, and 53.1-179; or (iii) any similar work release program, whose separation from work arose from conditions of release or parole from such program; or

8. An individual who was unable to work at his regular employment due to a disaster for which the Governor, by executive order, has declared a state of emergency, if such disaster forced the closure of the employer's business, and if the individual returned to his regular full-time employment once the business reopened. In no case shall more than four weeks of benefit charges be waived.