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**HOUSE BILL NO. 148**

Offered January 11, 2012

Prefiled January 5, 2012

A *BILL to amend and reenact § 60.2-612 of the Code of Virginia, relating to the eligibility for unemployment benefits; testing for the use of nonprescribed controlled substances.*

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Patron—Ransone

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Referred to Committee on Commerce and Labor

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

7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable work. Every claimant who is totally unemployed shall report to the Commission the names of employers contacted each week in his effort to obtain work. This information may be subject to employer verification by the Commission through a program designed for that purpose. The Commission may determine that registration by a claimant with the Virginia State Job Service may constitute a valid employer contact and satisfy the search for work requirement of this subsection in labor market areas where job opportunities are limited. The Commission may determine that an individual, whose usual and customary means of soliciting work in his occupation is through contact with a single hiring hall which

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59 makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be  
60 actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high  
61 unemployment, as determined by the Commission, the Commission has the authority to adjust the  
62 requirement that he be actively seeking and unable to obtain suitable work.

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

69 c. An individual whose type of work is such that it is performed by individuals working two or more  
70 shifts in a 24-hour period shall not be deemed unavailable for work if the individual is currently  
71 enrolled in one or more classes of education related to employment or is continuing in a certificate or  
72 degree program at an institution of higher education, provided that the enrollment would only limit the  
73 individual's availability for one shift and the individual is otherwise available to work any of the other  
74 shifts.

75 8. He has given notice of resignation to his employer and the employer subsequently made the  
76 termination of employment effective prior to the date of termination as given in the notice, but in no  
77 case shall unemployment compensation benefits awarded under this subdivision exceed two weeks;  
78 provided, that the claimant could not establish good cause for leaving work pursuant to § 60.2-618 and  
79 was not discharged for misconduct as provided in § 60.2-618.

80 9. Beginning January 6, 1991, he has served a waiting period of one week during which he was  
81 eligible for benefits under this section in all other respects and has not received benefits, except that  
82 only one waiting week shall be required of such individual within any benefit year. For claims filed  
83 effective November 28, 1999, and after, this requirement shall be waived for any individual whose  
84 unemployment was caused by his employer terminating operations, closing its business or declaring  
85 bankruptcy without paying the final wages earned as required by § 40.1-29 of the Code of Virginia.  
86 Notwithstanding any other provision of this title, if an employer who terminates operations, closes its  
87 business or declares bankruptcy pays an individual his final wages after the period of time prescribed by  
88 § 40.1-29 of the Code of Virginia, such payment shall not be offset against the benefits the individual  
89 was otherwise entitled to receive and shall not, under any circumstances, cause such individual to be  
90 declared overpaid benefits.

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

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

97 12. *He provides to the Commission, at the time of submitting a claim for benefits required pursuant*  
98 *to subdivision 6, the results of a drug testing performed in accordance with scientifically recognized*  
99 *standards by a laboratory accredited by the U.S. Department of Health and Human Services, or the*  
100 *College of American Pathologists, or the American Association for Clinical Chemistry, or the equivalent,*  
101 *that is negative for the use of a nonprescribed controlled substance, identified as such in Chapter 34*  
102 *(§ 54.1-3400 et seq.) of Title 54.1. Any individual who fails or refuses to provide the results of such a*  
103 *test or who tests positive for the use of a nonprescribed controlled substance shall be ineligible to*  
104 *receive benefits.*