

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 436

An Act to amend and reenact §§ 60.2-612 and 60.2-613 of the Code of Virginia, relating to unemployment compensation; reemployment services.

[H 1774]

Approved March 20, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-612 and 60.2-613 of the Code of Virginia are 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 makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high unemployment, as determined by the Commission, the Commission has the authority to adjust the requirement that he be actively seeking and unable to obtain suitable work.

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

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

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

10. He is not imprisoned or confined in jail.

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

§ 60.2-613. Benefits not denied to individuals in training with approval of Commission.

A. No otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the Commission, including training under ~~§ 302~~ *Title III* of the Job Training Partnership Act, nor shall such individual be denied benefits for any week in which he is in training with the approval of the Commission, including training under ~~§ 302~~ *Title III* of the Job Training Partnership Act, by reason of the application of the provisions in subdivision 7 of § 60.2-612 relating to availability for work, or the provisions of subdivision 3 of § 60.2-618 relating to failure to apply for, or a refusal to accept, suitable work.

B. Notwithstanding any other provisions of this chapter, no otherwise eligible individual shall be denied benefits for any week because he is in training approved under § 2296 of the Trade Act (19 U.S.C. § 2101 et seq.), nor shall such individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work.

C. For purposes of this section, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act.