

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1157

By: Dahm and Allen of the
Senate

and

Roberts (Sean) of the House

COMMITTEE SUBSTITUTE

An Act relating to unemployment benefits; stating eligibility for individuals terminated due to COVID-19 vaccine status; amending 40 O.S. 2021, Section 2-406, which relates to discharge for misconduct; providing additional exclusion from employment misconduct; updating statutory language; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-211 of Title 40, unless there is created a duplication in numbering, reads as follows:

In addition to the eligibility provisions provided by this act, an individual may be eligible to receive unemployment benefits, if monetarily and otherwise eligible, if the claimant was terminated or placed on unpaid leave due to his or her status of being

1 unvaccinated against COVID-19 or non-compliance with an employer's
2 COVID-19 vaccine mandate.

3 SECTION 2. AMENDATORY 40 O.S. 2021, Section 2-406, is
4 amended to read as follows:

5 Section 2-406. DISCHARGE FOR MISCONDUCT.

6 A. An individual shall be disqualified for benefits if the
7 individual has been discharged for misconduct connected with the
8 individual's last work. If discharged for misconduct, the employer
9 shall have the burden to prove that the employee engaged in
10 misconduct as defined by this section. Such burden of proof is
11 satisfied by the employer, or its designated representative,
12 providing a signed affidavit, or presenting such other evidence
13 which properly demonstrates the misconduct which resulted in the
14 discharge. Once this burden is met, the burden then shifts to the
15 discharged employee to prove that the facts are inaccurate or that
16 the facts as stated do not constitute misconduct as defined by this
17 section. Disqualification under this section shall continue for the
18 full period of unemployment next ensuing after the employee has been
19 discharged for misconduct connected with the employee's work and
20 until such individual has become reemployed and has earned wages
21 equal to or in excess of ten (10) times the weekly benefit amount.

22 B. Acts which constitute misconduct under this section shall be
23 limited to the following:

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1 1. Any intentional act or omission by an employee which
2 constitutes a material or substantial breach of the employee's job
3 duties or responsibilities or obligations pursuant to the employee's
4 employment or contract of employment;

5 2. Unapproved or excessive absenteeism or tardiness;

6 3. Indifference to, breach of or neglect of the duties required
7 which result in a material or substantial breach of the employee's
8 job duties or responsibilities;

9 4. Acts or omissions that place in jeopardy the health, life,
10 or property of self or others;

11 5. Dishonesty;

12 6. Wrongdoing;

13 7. Violation of a law; or

14 8. A violation of a policy or rule enacted to ensure orderly
15 and proper job performance or for the safety of self or others.

16 C. Non-compliance with an employer's vaccine mandate shall not
17 be considered misconduct for the purpose of subsection B of this
18 section.

19 D. Any misconduct violation as defined in subsection B of this
20 section shall not require a prior warning from the employer. As
21 long as the employee knew, or should have reasonably known, that a
22 rule or policy of the employer was violated, the employee shall not
23 be eligible for benefits.

1 ~~D.~~ E. Any finding by a state or federal agency of any failure
2 by the employee to meet the applicable civil, criminal or
3 professional standards of the employee's profession shall create a
4 rebuttable presumption of such misconduct, and benefits shall be
5 denied, unless the employee can show, with clear and convincing
6 evidence, that such misconduct did not occur, or the Oklahoma
7 Employment Security Commission determines that such failure did not
8 constitute misconduct as defined herein.

9 SECTION 3. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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