

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1157

By: Dahm

AS INTRODUCED

An Act relating to unemployment benefits; stating eligibility for individuals terminated due to vaccine status; providing date for retroactive eligibility to claimants; amending 40 O.S. 2021, Section 2-406, which relates to discharge for misconduct; providing additional exclusion from employment misconduct; 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:

A. In addition to the eligibility provisions provided by this act, an individual shall be eligible to receive unemployment benefits, if monetarily and otherwise eligible, if the claimant was terminated or placed on unpaid leave due to their status of being unvaccinated or non-compliance with an employer's vaccine mandate.

B. Any individual found eligible under subsection A of this section shall be eligible to receive unemployment benefits based on

1 a claim filed for a period of employment that begins on or after
2 September 1, 2021.

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

5 Section 2-406. A. An individual shall be disqualified for
6 benefits if the individual has been discharged for misconduct
7 connected with the individual's last work. If discharged for
8 misconduct, the employer shall have the burden to prove that the
9 employee engaged in misconduct as defined by this section. Such
10 burden of proof is satisfied by the employer, or its designated
11 representative, providing a signed affidavit, or presenting such
12 other evidence which properly demonstrates the misconduct which
13 resulted in the discharge. Once this burden is met, the burden then
14 shifts to the discharged employee to prove that the facts are
15 inaccurate or that the facts as stated do not constitute misconduct
16 as defined by this section. Disqualification under this section
17 shall continue for the full period of unemployment next ensuing
18 after the employee has been discharged for misconduct connected with
19 the employee's work and until such individual has become reemployed
20 and has earned wages equal to or in excess of ten (10) times the
21 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 Commission
7 determines that such failure did not constitute misconduct as
8 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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