

SB1277



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1277

Introduced 2/9/2017, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

820 ILCS 405/602

from Ch. 48, par. 432

Amends provisions of the Unemployment Insurance Act concerning ineligibility for benefits after a discharge for misconduct. Provides that "misconduct" means the violation (rather than the deliberate and willful violation) of a reasonable rule or policy of the employing unit governing the individual's behavior in performance of his or her work, provided the violation has harmed the employing unit or other employees or has been repeated by the individual despite a warning or other instruction (rather than explicit instruction) from the employing unit.

LRB100 09323 JLS 19484 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 602 as follows:

6 (820 ILCS 405/602) (from Ch. 48, par. 432)

7 Sec. 602. Discharge for misconduct - Felony.

8 A. An individual shall be ineligible for benefits for the
9 week in which he has been discharged for misconduct connected
10 with his work and, thereafter, until he has become reemployed
11 and has had earnings equal to or in excess of his current
12 weekly benefit amount in each of four calendar weeks which are
13 either for services in employment, or have been or will be
14 reported pursuant to the provisions of the Federal Insurance
15 Contributions Act by each employing unit for which such
16 services are performed and which submits a statement certifying
17 to that fact. The requalification requirements of the preceding
18 sentence shall be deemed to have been satisfied, as of the date
19 of reinstatement, if, subsequent to his discharge by an
20 employing unit for misconduct connected with his work, such
21 individual is reinstated by such employing unit. For purposes
22 of this subsection, the term "misconduct" means the ~~deliberate~~
23 ~~and willful~~ violation of a reasonable rule or policy of the

1 employing unit, governing the individual's behavior in
2 performance of his work, provided such violation has harmed the
3 employing unit or other employees or has been repeated by the
4 individual despite a warning or other ~~explicit~~ instruction from
5 the employing unit. The previous definition notwithstanding,
6 "misconduct" shall include any of the following work-related
7 circumstances:

8 1. Falsification of an employment application, or any
9 other documentation provided to the employer, to obtain
10 employment through subterfuge.

11 2. Failure to maintain licenses, registrations, and
12 certifications reasonably required by the employer, or
13 those that the individual is required to possess by law, to
14 perform his or her regular job duties, unless the failure
15 is not within the control of the individual.

16 3. Knowing, repeated violation of the attendance
17 policies of the employer that are in compliance with State
18 and federal law following a written warning for an
19 attendance violation, unless the individual can
20 demonstrate that he or she has made a reasonable effort to
21 remedy the reason or reasons for the violations or that the
22 reason or reasons for the violations were out of the
23 individual's control. Attendance policies of the employer
24 shall be reasonable and provided to the individual in
25 writing, electronically, or via posting in the workplace.

26 4. Damaging the employer's property through conduct

1 that is grossly negligent.

2 5. Refusal to obey an employer's reasonable and lawful
3 instruction, unless the refusal is due to the lack of
4 ability, skills, or training for the individual required to
5 obey the instruction or the instruction would result in an
6 unsafe act.

7 6. Consuming alcohol or illegal or non-prescribed
8 prescription drugs, or using an impairing substance in an
9 off-label manner, on the employer's premises during
10 working hours in violation of the employer's policies.

11 7. Reporting to work under the influence of alcohol,
12 illegal or non-prescribed prescription drugs, or an
13 impairing substance used in an off-label manner in
14 violation of the employer's policies, unless the
15 individual is compelled to report to work by the employer
16 outside of scheduled and on-call working hours and informs
17 the employer that he or she is under the influence of
18 alcohol, illegal or non-prescribed prescription drugs, or
19 an impairing substance used in an off-label manner in
20 violation of the employer's policies.

21 8. Grossly negligent conduct endangering the safety of
22 the individual or co-workers.

23 For purposes of paragraphs 4 and 8, conduct is "grossly
24 negligent" when the individual is, or reasonably should be,
25 aware of a substantial risk that the conduct will result in the
26 harm sought to be prevented and the conduct constitutes a

1 substantial deviation from the standard of care a reasonable
2 person would exercise in the situation.

3 Nothing in paragraph 6 or 7 prohibits the lawful use of
4 over-the-counter drug products as defined in Section 206 of the
5 Illinois Controlled Substances Act, provided that the
6 medication does not affect the safe performance of the
7 employee's work duties.

8 B. Notwithstanding any other provision of this Act, no
9 benefit rights shall accrue to any individual based upon wages
10 from any employer for service rendered prior to the day upon
11 which such individual was discharged because of the commission
12 of a felony in connection with his work, or because of theft in
13 connection with his work, for which the employer was in no way
14 responsible; provided, that the employer notified the Director
15 of such possible ineligibility within the time limits specified
16 by regulations of the Director, and that the individual has
17 admitted his commission of the felony or theft to a
18 representative of the Director, or has signed a written
19 admission of such act and such written admission has been
20 presented to a representative of the Director, or such act has
21 resulted in a conviction or order of supervision by a court of
22 competent jurisdiction; and provided further, that if by reason
23 of such act, he is in legal custody, held on bail or is a
24 fugitive from justice, the determination of his benefit rights
25 shall be held in abeyance pending the result of any legal
26 proceedings arising therefrom.

1 (Source: P.A. 99-488, eff. 1-3-16.)