

ASSEMBLY, No. 2753

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1997

By Assemblymen ASSELTA, GIBSON, Malone and Cottrell

1 AN ACT to provide limited unemployment benefits for certain spouses  
2 of armed forces members and amending R.S. 43:21-5.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. R.S. 43:21-5 is amended to read as follows:

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work voluntarily  
10 without good cause attributable to such work, and for each week  
11 thereafter until the individual becomes reemployed and works four  
12 weeks in employment, which may include employment for the federal  
13 government, and has earned in employment at least six times the  
14 individual's weekly benefit rate, as determined in each case. This  
15 subsection shall apply to any individual seeking unemployment benefits  
16 on the basis of employment in the production and harvesting of  
17 agricultural crops, including any individual who was employed in the  
18 production and harvesting of agricultural crops on a contract basis and  
19 who has refused an offer of continuing work with that employer  
20 following the completion of the minimum period of work required to  
21 fulfill the contract.

22 (b) For the week in which the individual has been suspended or  
23 discharged for misconduct connected with the work, and for the five  
24 weeks which immediately follow that week (in addition to the waiting  
25 period), as determined in each case. In the event the discharge should  
26 be rescinded by the employer voluntarily or as a result of mediation or  
27 arbitration, this subsection (b) shall not apply, provided, however, an  
28 individual who is restored to employment with back pay shall return  
29 any benefits received under this chapter for any week of  
30 unemployment for which the individual is subsequently compensated  
31 by the employer.

32 If the discharge was for gross misconduct connected with the work  
33 because of the commission of an act punishable as a crime of the first,  
34 second, third or fourth degree under the "New Jersey Code of Criminal

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 Justice," N.J.S. 2C:1-1 et seq., the individual shall be disqualified in  
2 accordance with the disqualification prescribed in subsection (a) of this  
3 section and no benefit rights shall accrue to any individual based upon  
4 wages from that employer for services rendered prior to the day upon  
5 which the individual was discharged.

6 The director shall insure that any appeal of a determination holding  
7 the individual disqualified for gross misconduct in connection with the  
8 work shall be expeditiously processed by the appeal tribunal.

9 (c) If it is found that the individual has failed, without good cause,  
10 either to apply for available, suitable work when so directed by the  
11 employment office or the director or to accept suitable work when it  
12 is offered, or to return to the individual's customary self-employment  
13 (if any) when so directed by the director. The disqualification shall  
14 continue for the week in which the failure occurred and for the three  
15 weeks which immediately follow that week (in addition to the waiting  
16 period), as determined:

17 (1) In determining whether or not any work is suitable for an  
18 individual, consideration shall be given to the degree of risk involved  
19 to health, safety, and morals, the individual's physical fitness and prior  
20 training, experience and prior earnings, the individual's length of  
21 unemployment and prospects for securing local work in the individual's  
22 customary occupation, and the distance of the available work from the  
23 individual's residence. In the case of work in the production and  
24 harvesting of agricultural crops, the work shall be deemed to be  
25 suitable without regard to the distance of the available work from the  
26 individual's residence if all costs of transportation are provided to the  
27 individual and the terms and conditions of hire are as favorable or  
28 more favorable to the individual as the terms and conditions of the  
29 individual's base year employment.

30 (2) Notwithstanding any other provisions of this chapter, no work  
31 shall be deemed suitable and benefits shall not be denied under this  
32 chapter to any otherwise eligible individual for refusing to accept new  
33 work under any of the following conditions: (a) if the position offered  
34 is vacant due directly to a strike, lockout, or other labor dispute; (b)  
35 if the remuneration, hours, or other conditions of the work offered are  
36 substantially less favorable to the individual than those prevailing for  
37 similar work in the locality; (c) if as a condition of being employed the  
38 individual would be required to join a company union or to resign from  
39 or refrain from joining any bona fide labor organization.

40 (d) If it is found that this unemployment is due to a stoppage of  
41 work which exists because of a labor dispute at the factory,  
42 establishment or other premises at which the individual is or was last  
43 employed. No disqualification under this subsection shall apply if it is  
44 shown that:

45 (1) The individual is not participating in or financing or directly  
46 interested in the labor dispute which caused the stoppage of work; and

1       (2) The individual does not belong to a grade or class of workers  
2 of which, immediately before the commencement of the stoppage,  
3 there were members employed at the premises at which the stoppage  
4 occurs, any of whom are participating in or financing or directly  
5 interested in the dispute; provided that if in any case in which (1) or  
6 (2) above applies, separate branches of work which are commonly  
7 conducted as separate businesses in separate premises are conducted  
8 in separate departments of the same premises, each department shall,  
9 for the purpose of this subsection, be deemed to be a separate factory,  
10 establishment, or other premises.

11       (e) For any week with respect to which the individual is receiving  
12 or has received remuneration in lieu of notice.

13       (f) For any week with respect to which or a part of which the  
14 individual has received or is seeking unemployment benefits under an  
15 unemployment compensation law of any other state or of the United  
16 States; provided that if the appropriate agency of the other state or of  
17 the United States finally determines that the individual is not entitled  
18 to unemployment benefits, this disqualification shall not apply.

19       (g) (1) For a period of one year from the date of the discovery by  
20 the division of the illegal receipt or attempted receipt of benefits  
21 contrary to the provisions of this chapter, as the result of any false or  
22 fraudulent representation; provided that any disqualification may be  
23 appealed in the same manner as any other disqualification imposed  
24 hereunder; and provided further that a conviction in the courts of this  
25 State arising out of the illegal receipt or attempted receipt of these  
26 benefits in any proceeding instituted against the individual under the  
27 provisions of this chapter or any other law of this State shall be  
28 conclusive upon the appeals tribunal and the board of review.

29       (2) A disqualification under this subsection shall not preclude the  
30 prosecution of any civil, criminal or administrative action or  
31 proceeding to enforce other provisions of this chapter for the  
32 assessment and collection of penalties or the refund of any amounts  
33 collected as benefits under the provisions of R.S. 43:21-16, or to  
34 enforce any other law, where an individual obtains or attempts to  
35 obtain by theft or robbery or false statements or representations any  
36 money from any fund created or established under this chapter or any  
37 negotiable or nonnegotiable instrument for the payment of money from  
38 these funds, or to recover money erroneously or illegally obtained by  
39 an individual from any fund created or established under this chapter.

40       (h) (1) Notwithstanding any other provisions of this chapter (R.S.  
41 43:21-1 et seq.), no otherwise eligible individual shall be denied  
42 benefits for any week because the individual is in training approved  
43 under section 236(a)(1) of the Trade Act of 1974, [P.L.93-618]  
44 Pub.L.93-618, 19 U.S.C. §2296, nor shall the individual be denied  
45 benefits by reason of leaving work to enter this training, provided the  
46 work left is not suitable employment, or because of the application to

1 any week in training of provisions in this chapter (R.S.43:21-1 et  
2 seq.), or any applicable federal unemployment compensation law,  
3 relating to availability for work, active search for work, or refusal to  
4 accept work.

5 (2) For purposes of this subsection (h), the term "suitable"  
6 employment means, with respect to an individual, work of a  
7 substantially equal or higher skill level than the individual's past  
8 adversely affected employment (as defined for purposes of the Trade  
9 Act of 1974, [P.L.93-618] Pub.L.93-618, 19 U.S.C. §2102 et seq.),  
10 and wages for this work at not less than 80% of the individual's  
11 average weekly wage, as determined for the purposes of the Trade Act  
12 of 1974.

13 (i) For benefit years commencing after June 30, 1984, for any week  
14 in which the individual is a student in full attendance at, or on vacation  
15 from, an educational institution, as defined in subsection (y) of R.S.  
16 43:21-19; except that this subsection shall not apply to any individual  
17 attending a training program approved by the division to enhance the  
18 individual's employment opportunities, as defined under subsection (c)  
19 of R.S.43:21-4; nor shall this subsection apply to any individual who,  
20 during the individual's base year, earned sufficient wages, as defined  
21 under subsection (e) of R.S. 43:21-4, while attending an educational  
22 institution during periods other than established and customary  
23 vacation periods or holiday recesses at the educational institution, to  
24 establish a claim for benefits. For purposes of this subsection, an  
25 individual shall be treated as a full-time student for any period:

26 (1) During which the individual is enrolled as a full-time student at  
27 an educational institution, or

28 (2) Which is between academic years or terms, if the individual was  
29 enrolled as a full-time student at an educational institution for the  
30 immediately preceding academic year or term.

31 (j) Notwithstanding any other provisions of this chapter  
32 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied  
33 benefits for the week in which the individual has left work voluntarily  
34 and without good cause attributable to the work, and for the three  
35 weeks which immediately follow that week, if the individual left work  
36 to accompany his or her spouse who is an active member of the United  
37 States Armed Forces as defined in P.L. 1963, c. 109 (C. 38A:1-1(g))  
38 to a new place of residence outside the State, due to the armed forces  
39 member's transfer to a new assignment in a different geographical  
40 location outside the State, and upon arrival at the new place of  
41 residence was in all respects available for suitable work. No  
42 employer's account shall be charged for the payment of benefits to an  
43 individual who left work under the circumstances contained in this  
44 subsection (j).

45 (cf: P.L. 1985, c. 508, s. 3)

1       2. This act shall take effect on the 90th day following the date of  
2 enactment.

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STATEMENT

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7       When a member of the armed forces is ordered to move to a new  
8 assignment outside the State, the member's family usually is forced to  
9 relocate and the member's spouse must quit his or her job. Under  
10 current law, the spouse would not qualify for unemployment insurance  
11 benefits because the separation from work was voluntary and without  
12 good cause attributable to the work.

13       This bill creates a limited exception for spouses of members of the  
14 armed forces who relocate outside of the State. If the spouse is  
15 otherwise eligible in all respects to obtain unemployment benefits, he  
16 or she may receive up to four weeks of benefits. Under the bill,  
17 employers whose workers receive these benefits will not be charged  
18 for these benefits.

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23       Provides limited unemployment benefits for certain spouses of armed  
24 services members.