Introduced by Albrecht, 17.
Read first time January 03, 2018
Committee: Business and Labor

A BILL FOR AN ACT relating to the Employment Security Law; to amend sections 48-601, 48-628, and 48-628.10, Revised Statutes Supplement, 2017; to change provisions relating to disqualification for unemployment benefits; to authorize drug testing of individuals applying for or receiving unemployment benefits as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 48-601, Revised Statutes Supplement, 2017, is amended to read:

48-601 Sections 48-601 to 48-683 and section 4 of this act shall be known and may be cited as the Employment Security Law.

Sec. 2. Section 48-628, Revised Statutes Supplement, 2017, is amended to read:

48-628 (1) An individual shall be disqualified for benefits for any week of unemployment in which the commissioner finds he or she has failed, without good cause, to apply for available, suitable work when so directed by the employment office or the commissioner, to accept suitable work offered him or her, or to return to his or her customary self-employment, if any, and for the twelve weeks immediately thereafter. An individual shall be considered to have refused to accept suitable work if he or she fails a pre-employment drug screening test required by an employer as a condition of employment. The total benefit amount to which he or she is then entitled shall be reduced by an amount equal to the number of weeks for which he or she has been disqualified by the commissioner.

(2) In determining whether or not any work is suitable for an individual, the commissioner shall consider the following:

(a) The degree of risk involved to the individual's health, safety, and morals;

(b) His or her physical fitness and prior training;

(c) His or her experience and prior earnings;

(d) His or her length of unemployment and prospects for securing local work in his or her customary occupation; and

(e) The distance of the available work from his or her residence.

(3) Notwithstanding any other provisions of the Employment Security Law, no work shall be deemed suitable and benefits shall not be denied under such law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(c) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Notwithstanding any other provisions in this section relating to failure to apply for or a refusal to accept suitable work, no otherwise eligible individual shall be denied benefits with respect to any week in which he or she is in training with the approval of the commissioner.

(5) No individual shall be disqualified for refusing to apply for available, full-time work or accept full-time work under subsection (1) of this section solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subsection, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week.

Sec. 3. Section 48-628.10, Revised Statutes Supplement, 2017, is amended to read:

48-628.10 (1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.

(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance as defined in section 102 of the federal
Controlled Substances Act, 21 U.S.C. 802, listed in section 28-405 not
prescribed by a physician licensed to practice medicine or surgery while
the individual is on the worksite or while the individual is engaged in
work for the employer, the commissioner shall cancel all wage credits
earned as a result of employment with the discharging employer.

(3) If the commissioner finds that the individual’s misconduct was
gross, flagrant, and willful, or was unlawful, the commissioner shall
totally disqualify such individual from receiving benefits with respect
to wage credits earned prior to discharge for such misconduct.

Sec. 4. (1) The commissioner may, by rule and regulation, provide
for drug testing of individuals applying for or receiving unemployment
benefits as provided in this section at the sole cost of the
commissioner. The commissioner may require drug testing of an individual
if the individual was terminated from employment with the individual’s
most recent employer because of the unlawful use of a controlled
substance as defined in section 102 of the federal Controlled Substances

(2) An individual who tests positive for a controlled substance as
defined in section 102 of the federal Controlled Substances Act, 21
U.S.C. 802, when tested for the presence of drugs pursuant to this
section or who fails to take a drug test when directed by the
commissioner shall be ineligible for benefits for the week in which he or
she fails the drug test or fails to take the drug test and any
intervening weeks until such week as he or she successfully passes a drug
test.

Sec. 5. Original sections 48-601, 48-628, and 48-628.10, Revised
Statutes Supplement, 2017, are repealed.