

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 712

Introduced by Albrecht, 17.

Read first time January 03, 2018

Committee: Business and Labor

1 A BILL FOR AN ACT relating to the Employment Security Law; to amend
2 sections 48-601, 48-628, and 48-628.10, Revised Statutes Supplement,
3 2017; to change provisions relating to disqualification for
4 unemployment benefits; to authorize drug testing of individuals
5 applying for or receiving unemployment benefits as prescribed; to
6 harmonize provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-601, Revised Statutes Supplement, 2017, is
2 amended to read:

3 48-601 Sections 48-601 to 48-683 and section 4 of this act shall be
4 known and may be cited as the Employment Security Law.

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

7 48-628 (1) An individual shall be disqualified for benefits for any
8 week of unemployment in which the commissioner finds he or she has
9 failed, without good cause, to apply for available, suitable work when so
10 directed by the employment office or the commissioner, to accept suitable
11 work offered him or her, or to return to his or her customary self-
12 employment, if any, and for the twelve weeks immediately thereafter. An
13 individual shall be considered to have refused to accept suitable work if
14 he or she fails a pre-employment drug screening test required by an
15 employer as a condition of employment. The total benefit amount to which
16 he or she is then entitled shall be reduced by an amount equal to the
17 number of weeks for which he or she has been disqualified by the
18 commissioner.

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

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

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

24 (c) His or her experience and prior earnings;

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

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

28 (3) Notwithstanding any other provisions of the Employment Security
29 Law, no work shall be deemed suitable and benefits shall not be denied
30 under such law to any otherwise eligible individual for refusing to
31 accept new work under any of the following conditions:

1 (a) If the position offered is vacant due directly to a strike,
2 lockout, or other labor dispute;

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

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

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

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

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

24 48-628.10 (1) An individual shall be disqualified for benefits for
25 the week in which he or she has been discharged for misconduct connected
26 with his or her work, if so found by the commissioner, and for the
27 fourteen weeks immediately thereafter.

28 (2) If the commissioner finds that the individual was discharged for
29 misconduct that was not gross, flagrant, and willful or unlawful but
30 which included being under the influence of any intoxicating beverage or
31 any controlled substance as defined in section 102 of the federal

1 ~~Controlled Substances Act, 21 U.S.C. 802, listed in section 28-405~~ not
2 prescribed by a physician licensed to practice medicine or surgery while
3 the individual is on the worksite or while the individual is engaged in
4 work for the employer, the commissioner shall cancel all wage credits
5 earned as a result of employment with the discharging employer.

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

10 Sec. 4. (1) The commissioner may, by rule and regulation, provide
11 for drug testing of individuals applying for or receiving unemployment
12 benefits as provided in this section at the sole cost of the
13 commissioner. The commissioner may require drug testing of an individual
14 if the individual was terminated from employment with the individual's
15 most recent employer because of the unlawful use of a controlled
16 substance as defined in section 102 of the federal Controlled Substances
17 Act, 21 U.S.C. 802.

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

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