

House Bill 3024

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Employment Department)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would get rid of the cut in maximum benefits when a worker is barred from benefits due to not working for cause and has not earned four times weekly benefits. (Flesch Readability Score: 60.6).

Eliminates the reduction of an individual's maximum benefit amount by eight times the individual's weekly benefit amount after the individual is disqualified from the receipt of benefits for cause and has not earned at least four times the individual's weekly benefit amount.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the reduction of unemployment benefits due to disqualification; creating new provisions;
3 amending ORS 657.176; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 657.176 is amended to read:

6 657.176. (1) An authorized representative designated by the Director of the Employment De-
7 partment shall promptly examine each claim to determine whether an individual is subject to dis-
8 qualification as a result of a separation, termination, leaving, resignation, or disciplinary suspension
9 from work or as a result of failure to apply for or accept work and shall promptly enter a director's
10 decision if required by ORS 657.267. The authorized representative may address issues raised by
11 information before the authorized representative, including but not limited to the nature of the
12 separation, notwithstanding the way the parties characterize those issues.

13 (2) An individual shall be disqualified from the receipt of benefits until the individual has per-
14 formed service in employment subject to this chapter or the equivalent law of another state or
15 Canada or as defined in ORS 657.030 (2) or as an employee of the federal government, for which
16 remuneration is received that equals or exceeds four times the individual's weekly benefit amount
17 subsequent to the week in which the act causing the disqualification occurred, if the authorized
18 representative designated by the director finds that the individual:

19 (a) Has been discharged for misconduct connected with work;

20 (b) Has been suspended from work for misconduct connected with work;

21 (c) Voluntarily left work without good cause;

22 (d) Failed without good cause to apply for available suitable work when referred by the em-
23 ployment office or the director;

24 (e) Failed without good cause to accept suitable work when offered;

25 (f) Has been discharged or suspended for being absent or tardy in reporting to work and the
26 absence or tardiness occurred as a result of the unlawful use of any drug unless the person was
27 participating in a recognized drug rehabilitation program at the time of the absence or tardiness,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 or is so participating within 10 days after the date of the discharge or suspension, and the person
 2 provides to the Employment Department documentation of program participation. As used in this
 3 paragraph, “unlawful use” does not include the use of a drug taken under the supervision of a li-
 4 censed health care professional and in accordance with the prescribed directions for consumption,
 5 or other uses authorized by the laws of this state;

6 (g) Has been discharged or suspended for being absent or tardy in reporting to work and the
 7 absence or tardiness occurred as the result of the use of alcohol or cannabis on a second or any
 8 subsequent occasion within a period of 12 months unless the person was participating in a recog-
 9 nized alcohol or cannabis rehabilitation program at the time of the absence or tardiness, or is so
 10 participating within 10 days after the date of the discharge or suspension, and the person provides
 11 to the department documentation of program participation; or

12 (h) Has committed a disqualifying act described in subsection [(9) or (10)] **(8) or (9)** of this sec-
 13 tion.

14 (3) If the authorized representative designated by the director finds that an individual was dis-
 15 charged for misconduct because of the individual’s commission of a felony or theft in connection
 16 with the individual’s work, all benefit rights based on wages earned prior to the date of the dis-
 17 charge shall be canceled if the individual’s employer notifies the director of the discharge within
 18 10 days following issuance of the notice provided for in ORS 657.265 or 30 days following issuance
 19 of the notice provided for in ORS 657.266, and:

20 (a) The individual has admitted commission of the felony or theft to an authorized representative
 21 of the director;

22 (b) The individual has signed a written admission of the felony or theft and the written admis-
 23 sion has been presented to an authorized representative of the director; or

24 (c) The felony or theft has resulted in a conviction by a court of competent jurisdiction.

25 [(4) *An individual disqualified under subsection (2) of this section shall have the individual’s*
 26 *maximum benefit amount reduced by eight times the individual’s weekly benefit amount. However, in*
 27 *no event shall the individual’s maximum benefit amount be reduced to less than the individual’s weekly*
 28 *benefit amount unless the individual has previously received benefits during the individual’s benefit*
 29 *year.*]

30 [(5)] **(4)** An individual may not be disqualified from receiving benefits under subsection (2)(c) or
 31 (e) of this section or under ORS 657.200 if the individual ceases work or fails to accept work when
 32 a collective bargaining agreement between the individual’s bargaining unit and the individual’s em-
 33 ployer is in effect and the employer unilaterally modifies the amount of wages payable under the
 34 agreement, in breach of the agreement.

35 [(6)] **(5)(a)** For purposes of [applying] subsection (2) of this section, [when] **a separation from**
 36 **work shall be adjudicated as if an actual voluntary leaving had not occurred and a planned**
 37 **voluntary leaving had occurred if** an individual has notified an employer that the individual will
 38 leave work on a specific date and it is determined that:

39 [(a)] **(A)** The separation would be for reasons that constitute good cause;

40 [(b)] **(B)** The individual voluntarily left work without good cause prior to the date of the im-
 41 pending good cause voluntary leaving date; and

42 [(c)] **(C)** The actual voluntary leaving of work occurred no more than 15 days prior to the
 43 planned date of voluntary leaving[.]

44
 45 [then the separation from work shall be adjudicated as if the actual voluntary leaving had not occurred

1 *and the planned voluntary leaving had occurred].*

2 **(b) [However] Notwithstanding paragraph (a) of this subsection,** the individual shall be in-
 3 eligible for benefits for the period including the week in which the actual voluntary leaving occurred
 4 through the week prior to the week of the planned good cause voluntary leaving date.

5 [(7)] **(6)(a)** For purposes of [applying] subsection (2) of this section, [when] **a separation from**
 6 **work shall be adjudicated as if a voluntary leaving had not occurred and a discharge had**
 7 **occurred if** an employer has notified an individual that the individual will be discharged on a spe-
 8 cific date and it is determined that:

9 [(a)] **(A)** The discharge would not be for reasons that constitute misconduct connected with the
 10 work;

11 [(b)] **(B)** The individual voluntarily left work without good cause prior to the date of the im-
 12 pending discharge; and

13 [(c)] **(C)** The voluntary leaving of work occurred no more than 15 days prior to the date of the
 14 impending discharge[,]

15
 16 *[then the separation from work shall be adjudicated as if the voluntary leaving had not occurred and*
 17 *the discharge had occurred].*

18 **(b) [However] Notwithstanding paragraph (a) of this subsection,** the individual shall be in-
 19 eligible for benefits for the period including the week in which the voluntary leaving occurred
 20 through the week prior to the week in which the individual would have been discharged.

21 [(8)] **(7)(a)** For purposes of [applying] subsection (2) of this section, [when] **a separation from**
 22 **work shall be adjudicated as if a discharge had not occurred and a planned voluntary leaving**
 23 **had occurred if** an individual has notified an employer that the individual will leave work on a
 24 specific date and it is determined that:

25 [(a)] **(A)** The voluntary leaving would be for reasons that do not constitute good cause;

26 [(b)] **(B)** The employer discharged the individual, but not for misconduct connected with work,
 27 prior to the date of the planned voluntary leaving; and

28 [(c)] **(C)** The actual discharge occurred no more than 15 days prior to the planned voluntary
 29 leaving[,]

30
 31 *[then the separation from work shall be adjudicated as if the discharge had not occurred and the*
 32 *planned voluntary leaving had occurred].*

33 **(b) [However] Notwithstanding paragraph (a) of this subsection,** the individual shall be eli-
 34 gible for benefits for the period including the week in which the actual discharge occurred through
 35 the week prior to the week of the planned voluntary leaving date.

36 [(9)(a)] **(8)(a)** For the purposes of subsection (2) of this section, an individual is considered to
 37 have committed a disqualifying act when the individual:

38 (A) Fails to comply with the terms and conditions of a reasonable written policy established by
 39 the employer or through collective bargaining, which may include blanket, random, periodic and
 40 probable cause testing, that governs the use, sale, possession or effects of drugs, cannabis or alcohol
 41 in the workplace;

42 (B) Fails or refuses to take a drug, cannabis or alcohol test as required by the employer's rea-
 43 sonable written policy;

44 (C) Refuses to cooperate with or subverts or attempts to subvert a drug, cannabis or alcohol
 45 testing process in any employment-related test required by the employer's reasonable written policy,

1 including but not limited to:

2 (i) Refusal or failure to complete proper documentation that authorizes the test;

3 (ii) Refusal or failure to sign a chain of custody form;

4 (iii) Presentation of false identification;

5 (iv) Placement of an adulterant in the individual's specimen for testing, when the adulterant is
6 identified by a testing facility; or

7 (v) Interference with the accuracy of the test results by conduct that includes dilution or
8 adulteration of a test specimen;

9 (D) Is under the influence of intoxicants while performing services for the employer;

10 (E) Possesses cannabis or a drug unlawfully or in violation of the employer's reasonable written
11 policy during work;

12 (F) Tests positive for alcohol, cannabis or an unlawful drug in connection with employment; or

13 (G) Refuses to enter into or violates the terms of a last chance agreement with the employer.

14 (b)(A) Except as provided in subparagraph (B) of this paragraph, an individual is not considered
15 to have committed a disqualifying act under this subsection if the individual, on the date of sepa-
16 ration or within 10 days after the date of separation, is participating in a recognized drug, cannabis
17 or alcohol rehabilitation program and provides documentation of participation in the program to the
18 department.

19 (B) This paragraph does not apply to an individual who has refused to enter into or has violated
20 the terms of a last chance agreement with the employer.

21 (c) It is no defense or excuse under this section that the individual's separation resulted from
22 alcohol use, cannabis use, unlawful drug use, alcoholism or addiction to cannabis or drugs.

23 (d) The department shall adopt rules to carry out the provisions of this subsection.

24 [(10)] (9) For the purposes of subsection (2) of this section, an individual is considered to have
25 committed a disqualifying act when the individual voluntarily leaves work, fails to apply for avail-
26 able suitable work when referred by the employment office or the director or fails to accept suitable
27 work when offered:

28 (a) Because the employer has or introduces a reasonable written cannabis-free or drug-free
29 workplace policy that is consistent with subsection [(9)(a)(A)] (8)(a)(A) of this section;

30 (b) Because the employer requires the employee to consent to present or future drug, cannabis
31 or alcohol tests under a reasonable written policy that is consistent with subsection [(9)(a)(A)]
32 (8)(a)(A) of this section;

33 (c) To avoid taking a drug, cannabis or alcohol test under a reasonable written policy that is
34 consistent with subsection [(9)(a)(A)] (8)(a)(A) of this section; or

35 (d) To avoid meeting the requirements of a last chance agreement.

36 [(11)] (10) An individual may not be disqualified from receiving benefits under subsection (2)(c)
37 of this section and shall be deemed laid off if the individual:

38 (a) Works under a collective bargaining agreement;

39 (b) Elects to be laid off when the employer has decided to lay off employees; and

40 (c) Is placed on the referral list under the collective bargaining agreement.

41 [(12)] (11) An individual may not be disqualified from receiving benefits under subsection (2)(c),
42 (d) or (e) of this section or be considered unavailable for purposes of ORS 657.155 if:

43 (a) The individual or a member of the individual's immediate family is a victim of domestic vi-
44 olence, stalking, sexual assault or a bias crime, or the individual believes that the individual or a
45 member of the individual's immediate family could become a victim of domestic violence, stalking,

1 sexual assault or a bias crime; and

2 (b) The individual leaves work, fails to apply for available suitable work or fails to accept suit-
3 able work when offered in order to protect the individual or a member of the individual's immediate
4 family from domestic violence, stalking, sexual assault or a bias crime that the individual reasonably
5 believes will occur as a result of the individual's continued employment or acceptance of work.

6 [(13)] (12) For purposes of this section:

7 (a) "Adulterant" means a substance that does not occur naturally in urine, or that occurs na-
8 turally in urine but not at the concentrations detected. "Adulterant" includes but is not limited to
9 glutaraldehyde, nitrite concentrations above physiological levels, hypochlorite or soap.

10 (b) "Bias crime" means:

11 (A) Conduct that, in the determination of the director, more likely than not constitutes a bias
12 crime in the first degree described in ORS 166.165 or a bias crime in the second degree described
13 in ORS 166.155; or

14 (B) Similar conduct, as defined by the director by rule.

15 (c) "Drug" means a controlled substance as defined in ORS 475.005.

16 (d) "Last chance agreement" means a reasonable agreement:

17 (A) Between an employer and an employee who has violated the employer's reasonable written
18 policy, has engaged in drug, cannabis or alcohol use connected with work or has admitted to alcohol
19 abuse, cannabis abuse or unlawful drug use; and

20 (B) That permits the employee to return to work under conditions that may require the em-
21 ployee to:

22 (i) Abstain from alcohol use, cannabis use and unlawful drug use; and

23 (ii) Attend and comply with the requirements of a rehabilitation or education program accepta-
24 ble to the employer.

25 (e) "Under the influence of intoxicants" means the level of alcohol, cannabis or unlawful drugs
26 present in an individual's body exceeds the amount prescribed in a collective bargaining agreement
27 or the amount prescribed in the employer's reasonable written policy if there is no applicable col-
28 lective bargaining agreement provision.

29 **SECTION 2. The amendments to ORS 657.176 by section 1 of this 2025 Act apply to indi-**
30 **viduals disqualified under ORS 657.176 (2) on or after the effective date of this 2025 Act.**

31 **SECTION 3. This 2025 Act takes effect on the 91st day after the date on which the 2025**
32 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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