

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

364S0033

SENATE BILL NO. 123

Introduced by: Senators Haverly, Peters, and Rampelberg and Representatives Solum and Dryden

1 FOR AN ACT ENTITLED, An Act to allow military spouses to receive unemployment
2 compensation if they leave their jobs due to a spouse's military transfer.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 61-6-13.1 be amended to read as follows:

5 61-6-13.1. "Good cause" for voluntarily leaving employment is restricted to leaving
6 employment because:

7 (1) Continued employment presents a hazard to the employee's health. However, this
8 subdivision applies only if:

9 (a) Prior to the separation from the employment the employee is examined by a
10 licensed practitioner of the healing arts, as defined in chapter 36-4 or 36-5, and
11 advised that continued employment presents a hazard to his health; and

12 (b) The health hazard is supported by a certificate signed by the licensed
13 practitioner of the healing arts.

14 The secretary of labor may request an additional certificate signed by another
15 licensed practitioner of the healing arts, as defined in chapter 36-4 or 36-5;



- 1 (2) The employer required the employee to relocate the employee's residence to hold the
2 employee's job;
- 3 (3) The employer's conduct demonstrates a substantial disregard of the standards of
4 behavior that the employee has a right to expect of an employer or the employer has
5 breached or substantially altered the contract for employment;
- 6 (4) An individual accepted employment while on lay off and subsequently quit the
7 employment to return to work for the individual's regular employer; ~~or~~
- 8 (5) The employee's religious belief mandates it. This provision does not apply, however,
9 if the employer has offered to the employee reasonable accommodations taking into
10 consideration the employee's religious beliefs if this offer is made before the
11 employee leaves the employment; ~~or~~
- 12 (6) Leaving is necessary to protect the individual from domestic abuse. However, this
13 subdivision applies only if:
 - 14 (a) The employee reports the abusive situation to law enforcement within
15 forty-eight hours of any occurrence and cooperates fully with law enforcement
16 in any subsequent investigation and criminal charge relating to the abusive
17 situation. Upon request by the department, the law enforcement agency shall
18 complete and return to the department a certification form indicating whether
19 the employee has complied with the requirements of this subdivision;
 - 20 (b) The employee has left the abusive situation and remains separate from the
21 situation; and
 - 22 (c) The employee made reasonable efforts to preserve the employment before
23 quitting.

24 Any person found to have good cause for leaving employment due to domestic abuse

as set forth in subdivision (6) and who returns to the abusive situation is ineligible for benefits; or

(7) The employee is relocating to accompany a spouse who has been reassigned from one military assignment to another.

Section 2. That § 61-5-29 be amended to read as follows:

61-5-29. Each employer's experience-rating account shall be charged with all benefits chargeable, as provided in this title, except extended benefits paid as provided in §§ 61-6-29 to 61-6-45, inclusive, against wages paid for employment by the employer. However, no benefits paid on the basis of a period of employment may be charged to the experience-rating account of any employer, except as provided in § 61-5-29.2, if the claimant:

- (1) Voluntarily separated without good cause attributable to the employer or the employment;
- (2) Was discharged or suspended for misconduct connected with the employment, or for conduct mandated by religious belief which belief cannot be reasonably accommodated by the employer;
- (3) Was discharged or suspended for inability or incompetence to successfully complete a ninety-day probationary period established between the employer and employee at the time of employment;
- (4) Earned total base period wages of less than one hundred dollars with one employer;
- (5) Is receiving benefits while in approved training authorized by § 61-6-15.1;
- (6) Performed services while incarcerated in a custodial or penal institution and terminated such employment because of his transfer or release from the institution;
- (7) Received benefits for unemployment directly caused by a major natural disaster declared by the president pursuant to section 410(a) of the Robert T. Stafford

- 1 Disaster Relief and Employment Assistance Act, 42 U.S.C. § 5177, if the individual
2 would have been eligible for disaster unemployment assistance with respect to that
3 unemployment but for their receipt of unemployment insurance benefits; ~~or~~
- 4 (8) Received benefits for unemployment resulting directly from the reinstatement of
5 another employee upon that employee's completion of service in the uniformed
6 services as provided in 38 U.S.C. § 4303(13) as of January 1, 2005, or the completion
7 of state active duty by members of the national guard who are activated pursuant to
8 a call from the Governor as provided by law; or
- 9 (9) Voluntarily separated to accompany a spouse who was reassigned from one military
10 assignment to another.