

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 2404

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Introduction and first reading
Referred to Jobs and Economic Growth Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to unemployment insurance; modifying what constitutes a good reason to
1.3 quit; establishing an unemployment insurance equity working group; amending
1.4 Minnesota Statutes 2018, sections 268.095, subdivision 3; 268.101, subdivisions
1.5 2, 4.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 268.095, subdivision 3, is amended to read:

1.8 Subd. 3. **Good reason caused by the employer defined.** (a) A good reason caused by
1.9 the employer for quitting is a reason:

1.10 (1) that is directly related to the employment and for which the employer is responsible;

1.11 (2) that is adverse to the worker; and

1.12 (3) that would compel an average, reasonable worker to quit and become unemployed
1.13 rather than remaining in the employment.

1.14 (b) The analysis required in paragraph (a) must be applied to the specific facts of each
1.15 case.

1.16 (c) If an applicant was subjected to adverse working conditions by the employer, the
1.17 applicant must complain to the employer and give the employer a reasonable opportunity
1.18 to correct the adverse working conditions before that may be a good reason caused by the
1.19 employer for quitting.

1.20 (d) A reason for quitting employment is not a good reason caused by the employer for
1.21 quitting if the reason for quitting occurred because of the applicant's employment misconduct.

2.1 (e) Notification of discharge in the future, including a layoff because of lack of work,
2.2 is not a good reason caused by the employer for quitting.

2.3 (f) An applicant has a good reason caused by the employer for quitting if it results from
2.4 sexual harassment of which the employer was aware, or should have been aware, and the
2.5 employer failed to take timely and appropriate action. Sexual harassment means unwelcome
2.6 sexual advances, requests for sexual favors, sexually motivated physical contact or other
2.7 conduct or communication of a sexual nature when:

2.8 (1) the applicant's submission to the conduct or communication is made a term or
2.9 condition of the employment;

2.10 (2) the applicant's submission to or rejection of the conduct or communication is the
2.11 basis for decisions affecting employment; or

2.12 (3) the conduct or communication has the purpose or effect of substantially interfering
2.13 with an applicant's work performance or creating an intimidating, hostile, or offensive
2.14 working environment.

2.15 (g) An applicant has a good reason caused by the employer for quitting if it results
2.16 because the employer denied the applicant's request for reasonable time off from scheduled
2.17 work in order to deal with a matter of such a compelling nature that an average, reasonable
2.18 worker would, under the circumstances, miss scheduled work.

2.19 (h) The definition of a good reason caused by the employer for quitting employment
2.20 provided by this subdivision is exclusive and no other definition applies.

2.21 Sec. 2. Minnesota Statutes 2018, section 268.101, subdivision 2, is amended to read:

2.22 Subd. 2. **Determination.** (a) The commissioner must determine any issue of ineligibility
2.23 raised by information required from an applicant under subdivision 1, paragraph (a) or (c),
2.24 and send to the applicant and any involved employer, by mail or electronic transmission, a
2.25 document titled a determination of eligibility or a determination of ineligibility, as is
2.26 appropriate. The determination on an issue of ineligibility as a result of a quit or a discharge
2.27 of the applicant must state the effect on the employer under section 268.047. A determination
2.28 must be made in accordance with this paragraph even if a notified employer has not raised
2.29 the issue of ineligibility.

2.30 (b) The commissioner must determine any issue of ineligibility raised by an employer
2.31 and send to the applicant and that employer, by mail or electronic transmission, a document
2.32 titled a determination of eligibility or a determination of ineligibility as is appropriate. The

3.1 determination on an issue of ineligibility as a result of a quit or discharge of the applicant
3.2 must state the effect on the employer under section 268.047.

3.3 If a base period employer:

3.4 (1) was not the applicant's most recent employer before the application for unemployment
3.5 benefits;

3.6 (2) did not employ the applicant during the six calendar months before the application
3.7 for unemployment benefits; and

3.8 (3) did not raise an issue of ineligibility as a result of a quit or discharge of the applicant
3.9 within ten calendar days of notification under subdivision 1, paragraph (b);

3.10 then any exception under section 268.047, subdivisions 2 and 3, begins the Sunday two
3.11 weeks following the week that the issue of ineligibility as a result of a quit or discharge of
3.12 the applicant was raised by the employer.

3.13 A communication from an employer must specifically set out why the applicant should
3.14 be determined ineligible for unemployment benefits for that communication to be considered
3.15 to have raised an issue of ineligibility for purposes of this section. A statement of "protest"
3.16 or a similar term without more information does not constitute raising an issue of ineligibility
3.17 for purposes of this section.

3.18 (c) Subject to section 268.031, an issue of ineligibility is determined based upon that
3.19 information required of an applicant, any information that may be obtained from an applicant
3.20 or employer, and information from any other source.

3.21 (d) Regardless of the requirements of this subdivision, the commissioner is not required
3.22 to send to an applicant a copy of the determination where the applicant has satisfied a period
3.23 of ineligibility because of a quit or a discharge under section 268.095, subdivision 10.

3.24 (e) The department is authorized to issue a determination on an issue of ineligibility
3.25 within 24 months from the establishment of a benefit account based upon information from
3.26 any source, even if the issue of ineligibility was not raised by the applicant or an employer.

3.27 If an applicant obtained unemployment benefits through misrepresentation under section
3.28 268.18, subdivision 2, the department is authorized to issue a determination of ineligibility
3.29 within 48 months of the establishment of the benefit account.

3.30 If the department has filed an intervention in a worker's compensation matter under
3.31 section 176.361, the department is authorized to issue a determination of ineligibility within
3.32 48 months of the establishment of the benefit account.

4.1 (f) A determination of eligibility or determination of ineligibility is final unless an appeal
4.2 is filed by the applicant or employer within 20 calendar days after sending, or within 60
4.3 calendar days if an applicant or notified employer establishes good cause for not appealing
4.4 within 20 days. Good cause is a reason that would have prevented an applicant or notified
4.5 employer from acting with due diligence in appealing within 20 days and shall take into
4.6 account any illness, disabilities, or linguistic and literacy limitations of the applicant along
4.7 with other relevant factors. If an applicant or notified employer claims good cause for a late
4.8 appeal, the applicant or notified employer must be granted a hearing on the issue of
4.9 timeliness. This hearing can be held at the same time as a hearing on the merits of the appeal.
4.10 The determination must contain a prominent statement indicating the consequences of not
4.11 appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

4.12 (g) An issue of ineligibility required to be determined under this section includes any
4.13 question regarding the denial or allowing of unemployment benefits under this chapter
4.14 except for issues under section 268.07. An issue of ineligibility for purposes of this section
4.15 includes any question of effect on an employer under section 268.047.

4.16 Sec. 3. Minnesota Statutes 2018, section 268.101, subdivision 4, is amended to read:

4.17 Subd. 4. **Amended determination.** Unless an appeal has been filed, the commissioner,
4.18 on the commissioner's own motion, may reconsider a determination of eligibility or
4.19 determination of ineligibility that has not become final and issue an amended determination.
4.20 Any amended determination must be sent to the applicant and any involved employer by
4.21 mail or electronic transmission. Any amended determination is final unless an appeal is
4.22 filed by the applicant or notified employer within 20 calendar days after sending, or within
4.23 60 calendar days if an applicant or notified employer establishes good cause for not appealing
4.24 within 20 days. Good cause is a reason that would have prevented an applicant or notified
4.25 employer from acting with due diligence in appealing within 20 days and shall take into
4.26 account any illness, disabilities, or linguistic and literacy limitations of the applicant along
4.27 with other relevant factors. If an applicant or notified employer claims good cause for a late
4.28 appeal, the applicant or notified employer must be granted a hearing on the issue of
4.29 timeliness. This hearing can be held at the same time as a hearing on the merits of the appeal.
4.30 Proceedings on the appeal are conducted in accordance with section 268.105.

4.31 Sec. 4. **UNEMPLOYMENT INSURANCE EQUITY WORKING GROUP.**

4.32 Subdivision 1. **Establishment; purpose.** There is established an unemployment insurance
4.33 equity working group. The purpose of the group is to make recommendations to the

5.1 Department of Employment and Economic Development and the legislature for eliminating
5.2 barriers that prevent low-wage workers from accessing unemployment insurance benefits
5.3 following loss of employment. The group must also make recommendations to ensure equity
5.4 and due process within the unemployment insurance hearing system.

5.5 Subd. 2. **Members.** (a) The working group must consist of:

5.6 (1) the commissioner of employment and economic development, or the commissioner's
5.7 designee;

5.8 (2) a labor market expert;

5.9 (3) representation from legal services attorneys who work in unemployment insurance;
5.10 and

5.11 (4) representation from organizations or employees representing low-wage workers in
5.12 the hotel and restaurant, home health care, retail, and temporary work industries.

5.13 (b) The governor shall make all appointments to the working group.

5.14 Subd. 3. **Organization.** (a) By August 1, 2019, the commissioner of employment and
5.15 economic development shall convene the first meeting of the working group.

5.16 (b) The members of the working group shall organize themselves as necessary.

5.17 (c) The working group shall meet at regular intervals.

5.18 Subd. 4. **Open meetings.** Except as otherwise provided in this section, the group is
5.19 subject to Minnesota Statutes, chapter 13D. A meeting occurs when the members receive
5.20 information, discuss, or take action on any matter relating to the duties of the group.

5.21 Subd. 5. **Report and recommendations.** The working group shall provide a progress
5.22 report, with any legislative recommendations, to the chairs and ranking minority members
5.23 of the legislative committees with jurisdiction over unemployment insurance by February
5.24 15, 2020.

5.25 Subd. 6. **Expiration.** The advisory group expires February 15, 2020, or upon the delivery
5.26 of the progress report to the chairs and ranking minority members of the legislative
5.27 committees, whichever comes first.

5.28 **EFFECTIVE DATE.** This section is effective July 1, 2019.