

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 306

Introduced by Crawford, 45.

Read first time January 15, 2019

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Employment Security Law; to amend
- 2 sections 48-628.13 and 48-652, Revised Statutes Cumulative
- 3 Supplement, 2018; to change provisions relating to good cause for
- 4 voluntarily leaving employment; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-628.13, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 48-628.13 Good cause for voluntarily leaving employment shall
4 include, but not be limited to, the following reasons:

5 (1) An individual has made all reasonable efforts to preserve the
6 employment but voluntarily leaves his or her work for the necessary
7 purpose of escaping abuse at the place of employment or abuse as defined
8 in section 42-903 between household members;

9 (2) An individual left his or her employment voluntarily due to a
10 bona fide non-work-connected illness or injury that prevented him or her
11 from continuing the employment or from continuing the employment without
12 undue risk of harm to the individual;

13 (3) An individual left his or her employment to accompany his or her
14 spouse to the spouse's employment in a different city or new military
15 duty station;

16 (4) An individual left his or her employment because his or her
17 employer required the employee to relocate;

18 (5)(a) An individual is a construction worker and left his or her
19 employment voluntarily for the purpose of accepting previously secured
20 insured work in the construction industry if the commissioner finds that:

21 (i)(A) The quit occurred within thirty days immediately prior to the
22 established termination date of the job which the individual voluntarily
23 leaves, (B) the specific starting date of the new job is prior to the
24 established termination date of the job which the worker quits, (C) the
25 new job offered employment for a longer period of time than remained
26 available on the job which the construction worker voluntarily quit, and
27 (D) the worker had worked at least twenty days or more at the new job
28 after the established termination date of the previous job unless the new
29 job was terminated by a contract cancellation; or

30 (ii)(A) The construction worksite of the job which the worker quit
31 was more than fifty miles from his or her place of residence, (B) the new

1 construction job was fifty or more miles closer to his or her residence
2 than the job which he or she quit, and (C) the worker actually worked
3 twenty days or more at the new job unless the new job was terminated by a
4 contract cancellation.

5 (b) The provisions of this subdivision (5) shall not apply if the
6 individual is separated from the new job under conditions resulting in a
7 disqualification from benefits under section 48-628.10 or 48-628.12;

8 (6) An individual accepted a voluntary layoff to avoid bumping
9 another worker;

10 (7) An individual left his or her employment as a result of being
11 directed to perform an illegal act;

12 (8) An individual left his or her employment because of unlawful
13 discrimination or workplace harassment on the basis of race, sex, or age;

14 (9) An individual left his or her employment because of unsafe
15 working conditions;

16 (10) An individual left his or her employment to attend school; ~~or~~

17 (11) An individual left his or her employment to care for a family
18 member with a serious health condition. For purposes of this subdivision:

19 (a) Family member means:

20 (i) A biological, adopted, or foster child, a stepchild, or a legal
21 ward of the individual or the individual's spouse or a person to whom the
22 individual or the individual's spouse stood in loco parentis when such
23 person was a minor child, regardless of the age or dependency status of
24 such child, stepchild, legal ward, or person;

25 (ii) A biological, adoptive, or foster parent, a stepparent, or a
26 legal guardian of the individual or the individual's spouse or a person
27 who stood in loco parentis to the individual or the individual's spouse
28 when the individual or the individual's spouse was a minor child;

29 (iii) The individual's spouse or domestic partner; or

30 (iv) A grandparent, grandchild, or sibling, whether of a biological,
31 foster, adoptive, or step relationship, of the individual or the

1 individual's spouse; and

2 (b) Serious health condition has the same meaning as in 29 U.S.C.
3 2611, as such section existed on January 1, 2019; or

4 (12) (11) Equity and good conscience demand a finding of good cause.

5 Sec. 2. Section 48-652, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 48-652 (1)(a) A separate experience account shall be established for
8 each employer who is liable for payment of combined tax. Whenever and
9 wherever in the Employment Security Law the terms reserve account or
10 experience account are used, unless the context clearly indicates
11 otherwise, such terms shall be deemed interchangeable and synonymous and
12 reference to either of such accounts shall refer to and also include the
13 other.

14 (b) A separate reimbursement account shall be established for each
15 employer who is liable for payments in lieu of contributions. All
16 benefits paid with respect to service in employment for such employer
17 shall be charged to his or her reimbursement account, and such employer
18 shall be billed for and shall be liable for the payment of the amount
19 charged when billed by the commissioner. Payments in lieu of
20 contributions received by the commissioner on behalf of each such
21 employer shall be credited to such employer's reimbursement account, and
22 two or more employers who are liable for payments in lieu of
23 contributions may jointly apply to the commissioner for establishment of
24 a group account for the purpose of sharing the cost of benefits paid that
25 are attributable to service in the employ of such employers. The
26 commissioner shall adopt and promulgate such rules and regulations as he
27 or she deems necessary with respect to applications for establishment,
28 maintenance, and termination of group accounts authorized by this
29 subdivision.

30 (2) All contributions paid by an employer shall be credited to the
31 experience account of such employer. State unemployment insurance tax

1 payments shall not be credited to the experience account of each
2 employer. Partial payments of combined tax shall be credited so that at
3 least eighty percent of the combined tax payment excluding interest and
4 penalty is credited first to contributions due. Contributions with
5 respect to prior years which are received on or before January 31 of any
6 year shall be considered as having been paid at the beginning of the
7 calendar year. All voluntary contributions which are received on or
8 before January 10 of any year shall be considered as having been paid at
9 the beginning of the calendar year.

10 (3)(a) Each experience account shall be charged only for benefits
11 based upon wages paid by such employer. No benefits shall be charged to
12 the experience account of any employer if:

13 (i) Such benefits were paid on the basis of a period of employment
14 from which the claimant (A) left work voluntarily without good cause, (B)
15 left work voluntarily due to a nonwork-connected illness or injury, (C)
16 left work voluntarily with good cause to escape abuse as defined in
17 section 42-903 between household members as provided in subdivision (1)
18 of section 48-628.13, (D) left work from which he or she was discharged
19 for misconduct connected with his or her work, (E) left work voluntarily
20 and is entitled to unemployment benefits without disqualification in
21 accordance with subdivision (3), ~~or (5)~~, or (11) of section 48-628.13, or
22 (F) was involuntarily separated from employment and such benefits were
23 paid pursuant to section 48-628.17; and

24 (ii) The employer has filed timely notice of the facts on which such
25 exemption is claimed in accordance with rules and regulations adopted and
26 promulgated by the commissioner.

27 (b) No benefits shall be charged to the experience account of any
28 employer if such benefits were paid during a week when the individual was
29 participating in training approved under section 236(a)(1) of the federal
30 Trade Act of 1974, 19 U.S.C. 2296(a)(1).

31 (c) Each reimbursement account shall be charged only for benefits

1 paid that were based upon wages paid by such employer in the base period
2 that were wages for insured work solely by reason of section 48-627.01.

3 (d)(i) Benefits paid to an eligible individual shall be charged
4 against the account of his or her most recent employers within his or her
5 base period against whose accounts the maximum charges hereunder have not
6 previously been made in the inverse chronological order in which the
7 employment of such individual occurred. The maximum amount so charged
8 against the account of any employer, other than an employer for which
9 services in employment as provided in subdivision (4)(a) of section
10 48-604 are performed, shall not exceed the total benefit amount to which
11 such individual was entitled as set out in section 48-626 with respect to
12 base period wages of such individual paid by such employer plus one-half
13 the amount of extended benefits paid to such eligible individual with
14 respect to base period wages of such individual paid by such employer.
15 The commissioner shall adopt and promulgate rules and regulations
16 determining the manner in which benefits shall be charged against the
17 account of several employers for whom an individual performed employment
18 during the same quarter or during the same base period.

19 (ii) Any benefit check duly issued and delivered or mailed to a
20 claimant and not presented for payment within one year from the date of
21 its issue may be invalidated and the amount thereof credited to the
22 Unemployment Compensation Fund, except that a substitute check may be
23 issued and charged to the fund on proper showing at any time within the
24 year next following. Any charge made to an employer's account for any
25 such invalidated check shall stand as originally made.

26 (4)(a) An employer's experience account shall be terminated one
27 calendar year after such employer has ceased to be subject to the
28 Employment Security Law, except that if the commissioner finds that an
29 employer's business is closed solely because one or more of the owners,
30 officers, partners, or limited liability company members or the majority
31 stockholder entered the armed forces of the United States, or of any of

1 its allies, such employer's account shall not be terminated and, if the
2 business is resumed within two years after the discharge or release from
3 active duty in the armed forces of such person or persons, the employer's
4 experience account shall be deemed to have been continuous throughout
5 such period.

6 (b) An experience account terminated pursuant to this subsection
7 shall be reinstated if:

8 (i) The employer becomes subject again to the Employment Security
9 Law within one calendar year after termination of such experience
10 account;

11 (ii) The employer makes a written application for reinstatement of
12 such experience account to the commissioner within two calendar years
13 after termination of such experience account; and

14 (iii) The commissioner finds that the employer is operating
15 substantially the same business as prior to the termination of such
16 experience account.

17 (5) All money in the Unemployment Compensation Fund shall be kept
18 mingled and undivided. In no case shall the payment of benefits to an
19 individual be denied or withheld because the experience account of any
20 employer does not have a total of contributions paid in excess of
21 benefits charged to such experience account.

22 (6)(a) For benefit years beginning before September 3, 2017, if an
23 individual's base period wage credits represent part-time employment for
24 a contributory employer and the contributory employer continues to employ
25 the individual to the same extent as during the base period, then the
26 contributory employer's experience account shall not be charged if the
27 contributory employer has filed timely notice of the facts on which such
28 exemption is claimed in accordance with rules and regulations adopted and
29 promulgated by the commissioner.

30 (b) For benefit years beginning on or after September 3, 2017, if an
31 individual's base period wage credits represent part-time employment for

1 an employer and the employer continues to employ the individual to the
2 same extent as during the base period, then the employer's experience
3 account, in the case of a contributory employer, or the employer's
4 reimbursement account, in the case of a reimbursable employer, shall not
5 be charged if the employer has filed timely notice of the facts on which
6 such exemption is claimed in accordance with rules and regulations
7 prescribed by the commissioner.

8 (7) If a contributory employer responds to the department's request
9 for information within the time period set forth in subsection (1) of
10 section 48-632 and provides accurate information as known to the employer
11 at the time of the response, the employer's experience account shall not
12 be charged if the individual's separation from employment is voluntary
13 and without good cause as determined under section 48-628.12.

14 Sec. 3. Original sections 48-628.13 and 48-652, Revised Statutes
15 Cumulative Supplement, 2018, are repealed.