

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 424

Representative Wiggam

Cosponsors: Representatives Becker, Riedel, Lang, Thompson, Roegner, Koehler

A BILL

To amend sections 4141.28 and 4141.29 and to enact 1
section 4141.294 of the Revised Code to enact 2
the "Substance Recovery and Workforce 3
Improvement Act" regarding drug testing and 4
eligibility for unemployment compensation 5
benefits. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4141.28 and 4141.29 be amended 7
and section 4141.294 of the Revised Code be enacted to read as 8
follows: 9

Sec. 4141.28. 10

BENEFITS 11

(A) FILINGS 12

Applications for determination of benefit rights and 13
claims for benefits shall be filed with the director of job and 14
family services. Such applications and claims also may be filed 15
with an employee of another state or federal agency charged with 16
the duty of accepting applications and claims for unemployment 17

benefits or with an employee of the unemployment insurance 18
commission of Canada. 19

When an unemployed individual files an application for 20
determination of benefit rights, the director shall furnish the 21
individual with an explanation of the individual's appeal 22
rights. The explanation shall describe clearly the different 23
levels of appeal and explain where and when each appeal must be 24
filed. 25

(B) APPLICATION FOR DETERMINATION OF BENEFIT RIGHTS 26

In filing an application, an individual shall furnish the 27
director with the name and address of the individual's most 28
recent separating employer and the individual's statement of the 29
reason for separation from the employer. The director shall 30
promptly notify the individual's most recent separating employer 31
of the filing and request the reason for the individual's 32
unemployment, unless that notice is not necessary under 33
conditions the director establishes by rule. The director may 34
request from the individual or any employer information 35
necessary for the determination of the individual's right to 36
benefits. The employer shall provide the information requested 37
within ten working days after the request is sent. If necessary 38
to ensure prompt determination and payment of benefits, the 39
director shall base the determination on the information that is 40
available. 41

An individual filing an application for determination of 42
benefit rights shall disclose ~~both of the following~~ at the time 43
of filing, ~~whether~~ ; 44

(1) Whether or not the individual owes child support 45
obligations; 46

(2) Whether the individual was separated from the 47
individual's most recent employer because of the unlawful use of 48
a controlled substance, as defined in section 4141.294 of the 49
Revised Code. 50

(C) MASS LAYOFFS 51

An employer who lays off or separates within any seven-day 52
period fifty or more individuals because of lack of work shall 53
furnish notice to the director of the dates of layoff or 54
separation and the approximate number of individuals being laid 55
off or separated. The notice shall be furnished at least three 56
working days prior to the date of the first day of such layoff 57
or separation. In addition, at the time of the layoff or 58
separation the employer shall furnish to the individual and to 59
the director information necessary to determine the individual's 60
eligibility for unemployment compensation. 61

(D) DETERMINATION OF BENEFIT RIGHTS 62

The director shall promptly examine any application for 63
determination of benefit rights. On the basis of the information 64
available to the director under this chapter, the director shall 65
determine whether or not the application is valid, and if valid, 66
the date on which the benefit year shall commence and the weekly 67
benefit amount. The director shall promptly notify the 68
applicant, employers in the applicant's base period, and any 69
other interested parties of the determination and the reasons 70
for it. In addition, the determination issued to the claimant 71
shall include the total amount of benefits payable. The 72
determination issued to each chargeable base period employer 73
shall include the total amount of benefits that may be charged 74
to the employer's account. 75

(E) CLAIM FOR BENEFITS 76

The director shall examine the first claim and any 77
additional claim for benefits. On the basis of the information 78
available, the director shall determine whether the claimant's 79
most recent separation and, to the extent necessary, prior 80
separations from work, allow the claimant to qualify for 81
benefits. Written notice of the determination granting or 82
denying benefits shall be sent to the claimant, the most recent 83
separating employer, and any other employer involved in the 84
determination, except that written notice is not required to be 85
sent to the claimant if the reason for separation is lack of 86
work and the claim is allowed. 87

If the director identifies an eligibility issue, the 88
director shall send notice to the claimant of the issue 89
identified and specify the week or weeks involved. The claimant 90
has a minimum of five business days after the notice is sent to 91
respond to the information included in the notice, and after the 92
time allowed as determined by the director, the director shall 93
make a determination. The claimant's response may include a 94
request for a fact-finding interview when the eligibility issue 95
is raised by an informant or source other than the claimant, or 96
when the eligibility issue, if determined adversely, 97
disqualifies the claimant for the duration of the claimant's 98
period of unemployment. 99

When the determination of a continued claim for benefits 100
results in a disallowed claim, the director shall notify the 101
claimant of the disallowance and the reasons for it. 102

(F) ELIGIBILITY NOTICE 103

Any base period or subsequent employer of a claimant who 104

has knowledge of specific facts affecting the claimant's right 105
to receive benefits for any week may notify the director in 106
writing of those facts. The director shall prescribe a form for 107
such eligibility notice, but failure to use the form shall not 108
preclude the director's examination of any notice. 109

To be considered valid, an eligibility notice must: 110
contain in writing, a statement that identifies either a source 111
who has firsthand knowledge of the information or an informant 112
who can identify the source; provide specific and detailed 113
information that may potentially disqualify the claimant; 114
provide the name and address of the source or the informant; and 115
appear to the director to be reliable and credible. 116

An eligibility notice is timely filed if received or 117
postmarked prior to or within forty-five calendar days after the 118
end of the week with respect to which a claim for benefits is 119
filed by the claimant. An employer who timely files a valid 120
eligibility notice shall be an interested party to the claim for 121
benefits which is the subject of the notice. 122

The director shall consider the information contained in 123
the eligibility notice, together with other available 124
information. After giving the claimant notice and an opportunity 125
to respond, the director shall make a determination and inform 126
the notifying employer, the claimant, and other interested 127
parties of the determination. 128

(G) CORRECTED DETERMINATION 129

If the director finds within the fifty-two calendar weeks 130
beginning with the Sunday of the week during which an 131
application for benefit rights was filed or within the benefit 132
year that a determination made by the director was erroneous due 133

to an error in an employer's report or any typographical or 134
clerical error in the director's determination, or as shown by 135
correct remuneration information received by the director, the 136
director shall issue a corrected determination to all interested 137
parties. The corrected determination shall take precedence over 138
and void the prior determination of the director. The director 139
shall not issue a corrected determination when the commission or 140
a court has jurisdiction with respect to that determination. 141

(H) EFFECT OF COMMISSION DECISIONS 142

In making determinations, the director shall follow 143
decisions of the unemployment compensation review commission 144
which have become final with respect to claimants similarly 145
situated. 146

(I) PROMPT PAYMENTS 147

If benefits are allowed by the director, a hearing 148
officer, the commission, or a court, the director shall pay 149
benefits promptly, notwithstanding any further appeal, provided 150
that if benefits are denied on appeal, of which the parties have 151
notice and an opportunity to be heard, the director shall 152
withhold payment of benefits pending a decision on any further 153
appeal. 154

Sec. 4141.29. Each eligible individual shall receive 155
benefits as compensation for loss of remuneration due to 156
involuntary total or partial unemployment in the amounts and 157
subject to the conditions stipulated in this chapter. 158

(A) No individual is entitled to a waiting period or 159
benefits for any week unless the individual: 160

(1) Has filed a valid application for determination of 161
benefit rights in accordance with section 4141.28 of the Revised 162

| | |
|--|---|
| Code; | 163 |
| (2) Has made a claim for benefits in accordance with section 4141.28 of the Revised Code; | 164 165 |
| (3) (a) Has registered for work and thereafter continues to report to an employment office or other registration place maintained or designated by the director of job and family services. Registration shall be made in accordance with the time limits, frequency, and manner prescribed by the director. | 166 167 168 169 170 |
| (b) For purposes of division (A) (3) of this section, an individual has "registered" upon doing any of the following: | 171 172 |
| (i) Filing an application for benefit rights; | 173 |
| (ii) Making a weekly claim for benefits; | 174 |
| (iii) Reopening an existing claim following a period of employment or nonreporting. | 175 176 |
| (c) After an applicant is registered, that registration continues for a period of three calendar weeks, including the week during which the applicant registered. However, an individual is not registered for purposes of division (A) (3) of this section during any period in which the individual fails to report, as instructed by the director, or fails to reopen an existing claim following a period of employment. | 177 178 179 180 181 182 183 |
| (d) The director may, for good cause, extend the period of registration. | 184 185 |
| (e) For purposes of this section, "report" means contact by phone, access electronically, or be present for an in-person appointment, as designated by the director. | 186 187 188 |
| (4) (a) (i) Is able to work and available for suitable work | 189 |

and, except as provided in division (A) (4) (a) (ii) or (iii) of 190
this section, is actively seeking suitable work either in a 191
locality in which the individual has earned wages subject to 192
this chapter during the individual's base period, or if the 193
individual leaves that locality, then in a locality where 194
suitable work normally is performed. 195

(ii) The director may waive the requirement that a 196
claimant be actively seeking work when the director finds that 197
the individual has been laid off and the employer who laid the 198
individual off has notified the director within ten days after 199
the layoff, that work is expected to be available for the 200
individual within a specified number of days not to exceed 201
forty-five calendar days following the last day the individual 202
worked. In the event the individual is not recalled within the 203
specified period, this waiver shall cease to be operative with 204
respect to that layoff. 205

(iii) The director may waive the requirement that a 206
claimant be actively seeking work if the director determines 207
that the individual has been laid off and the employer who laid 208
the individual off has notified the director in accordance with 209
division (C) of section 4141.28 of the Revised Code that the 210
employer has closed the employer's entire plant or part of the 211
employer's plant for a purpose other than inventory or vacation 212
that will cause unemployment for a definite period not exceeding 213
twenty-six weeks beginning on the date the employer notifies the 214
director, for the period of the specific shutdown, if all of the 215
following apply: 216

(I) The employer and the individuals affected by the 217
layoff who are claiming benefits under this chapter jointly 218
request the exemption. 219

(II) The employer provides that the affected individuals 220
shall return to work for the employer within twenty-six weeks 221
after the date the employer notifies the director. 222

(III) The director determines that the waiver of the 223
active search for work requirement will promote productivity and 224
economic stability within the state. 225

(iv) Division (A) (4) (a) (iii) of this section does not 226
exempt an individual from meeting the other requirements 227
specified in division (A) (4) (a) (i) of this section to be able to 228
work and otherwise fully be available for work. An exemption 229
granted under division (A) (4) (a) (iii) of this section may be 230
granted only with respect to a specific plant closing. 231

(b) (i) The individual shall be instructed as to the 232
efforts that the individual must make in the search for suitable 233
work, including that, within six months after October 11, 2013, 234
the individual shall register with the OhioMeansJobs web site, 235
except in any of the following circumstances: 236

(I) The individual is an individual described in division 237
(A) (4) (b) (iii) of this section; 238

(II) Where the active search for work requirement has been 239
waived under division (A) (4) (a) of this section; 240

(III) Where the active search for work requirement is 241
considered to be met under division (A) (4) (c), (d), or (e) of 242
this section. 243

(ii) An individual who is registered with the 244
OhioMeansJobs web site shall receive a weekly listing of 245
available jobs based on information provided by the individual 246
at the time of registration. For each week that the individual 247
claims benefits, the individual shall keep a record of the 248

individual's work search efforts and shall produce that record 249
in the manner and means prescribed by the director. 250

(iii) No individual shall be required to register with the 251
OhioMeansJobs web site if the individual is legally prohibited 252
from using a computer, has a physical or visual impairment that 253
makes the individual unable to use a computer, or has a limited 254
ability to read, write, speak, or understand a language in which 255
the OhioMeansJobs web site is available. 256

(iv) As used in division (A) (4) (b) of this section: 257

(I) "OhioMeansJobs web site" has the same meaning as in 258
section 6301.01 of the Revised Code. 259

(II) "Registration" includes the creation, electronic 260
posting, and maintenance of an active, searchable resume. 261

(c) An individual who is attending a training course 262
approved by the director meets the requirement of this division, 263
if attendance was recommended by the director and the individual 264
is regularly attending the course and is making satisfactory 265
progress. An individual also meets the requirements of this 266
division if the individual is participating and advancing in a 267
training program, as defined in division (P) of section 5709.61 268
of the Revised Code, and if an enterprise, defined in division 269
(B) of section 5709.61 of the Revised Code, is paying all or 270
part of the cost of the individual's participation in the 271
training program with the intention of hiring the individual for 272
employment as a new employee, as defined in division (L) of 273
section 5709.61 of the Revised Code, for at least ninety days 274
after the individual's completion of the training program. 275

(d) An individual who becomes unemployed while attending a 276
regularly established school and whose base period qualifying 277

weeks were earned in whole or in part while attending that 278
school, meets the availability and active search for work 279
requirements of division (A) (4) (a) of this section if the 280
individual regularly attends the school during weeks with 281
respect to which the individual claims unemployment benefits and 282
makes self available on any shift of hours for suitable 283
employment with the individual's most recent employer or any 284
other employer in the individual's base period, or for any other 285
suitable employment to which the individual is directed, under 286
this chapter. 287

(e) An individual who is a member in good standing with a 288
labor organization that refers individuals to jobs meets the 289
active search for work requirement specified in division (A) (4) 290
(a) of this section if the individual provides documentation 291
that the individual is eligible for a referral or placement upon 292
request and in a manner prescribed by the director. 293

(f) Notwithstanding any other provisions of this section, 294
no otherwise eligible individual shall be denied benefits for 295
any week because the individual is in training approved under 296
section 236(a) (1) of the "Trade Act of 1974," 88 Stat. 1978, 19 297
U.S.C.A. 2296, nor shall that individual be denied benefits by 298
reason of leaving work to enter such training, provided the work 299
left is not suitable employment, or because of the application 300
to any week in training of provisions in this chapter, or any 301
applicable federal unemployment compensation law, relating to 302
availability for work, active search for work, or refusal to 303
accept work. 304

For the purposes of division (A) (4) (f) of this section, 305
"suitable employment" means with respect to an individual, work 306
of a substantially equal or higher skill level than the 307

individual's past adversely affected employment, as defined for 308
the purposes of the "Trade Act of 1974," 88 Stat. 1978, 19 309
U.S.C.A. 2101, and wages for such work at not less than eighty 310
per cent of the individual's average weekly wage as determined 311
for the purposes of that federal act. 312

(5) Is unable to obtain suitable work. An individual who 313
is provided temporary work assignments by the individual's 314
employer under agreed terms and conditions of employment, and 315
who is required pursuant to those terms and conditions to 316
inquire with the individual's employer for available work 317
assignments upon the conclusion of each work assignment, is not 318
considered unable to obtain suitable employment if suitable work 319
assignments are available with the employer but the individual 320
fails to contact the employer to inquire about work assignments. 321

(6) Participates in reemployment services, such as job 322
search assistance services, if the individual has been 323
determined to be likely to exhaust benefits under this chapter, 324
including compensation payable pursuant to 5 U.S.C.A. Chapter 325
85, other than extended compensation, and needs reemployment 326
services pursuant to the profiling system established by the 327
director under division (K) of this section, unless the director 328
determines that: 329

(a) The individual has completed such services; or 330

(b) There is justifiable cause for the claimant's failure 331
to participate in such services. 332

Ineligibility for failure to participate in reemployment 333
services as described in division (A) (6) of this section shall 334
be for the week or weeks in which the claimant was scheduled and 335
failed to participate without justifiable cause. 336

(7) Participates in the reemployment and eligibility 337
assessment program, or other reemployment services, as required 338
by the director. As used in division (A) (7) of this section, 339
"reemployment services" includes job search assistance 340
activities, skills assessments, and the provision of labor 341
market statistics or analysis. 342

(a) For purposes of division (A) (7) of this section, 343
participation is required unless the director determines that 344
either of the following circumstances applies to the individual: 345

(i) The individual has completed similar services. 346

(ii) Justifiable cause exists for the failure of the 347
individual to participate in those services. 348

(b) Within six months after October 11, 2013, 349
notwithstanding any earlier contact an individual may have had 350
with a local OhioMeansJobs center, as defined in section 6301.01 351
of the Revised Code, beginning with the eighth week after the 352
week during which an individual first files a valid application 353
for determination of benefit rights in the individual's benefit 354
year, the individual shall report to a local OhioMeansJobs 355
center for reemployment services in the manner prescribed by the 356
director. 357

(c) An individual whose active search for work requirement 358
has been waived under division (A) (4) (a) of this section or is 359
considered to be satisfied under division (A) (4) (c), (d), or (e) 360
of this section is exempt from the requirements of division (A) 361
(7) of this section. 362

(B) An individual suffering total or partial unemployment 363
is eligible for benefits for unemployment occurring subsequent 364
to a waiting period of one week and no benefits shall be payable 365

during this required waiting period. Not more than one week of 366
waiting period shall be required of any individual in any 367
benefit year in order to establish the individual's eligibility 368
for total or partial unemployment benefits. 369

(C) The waiting period for total or partial unemployment 370
shall commence on the first day of the first week with respect 371
to which the individual first files a claim for benefits at an 372
employment office or other place of registration maintained or 373
designated by the director or on the first day of the first week 374
with respect to which the individual has otherwise filed a claim 375
for benefits in accordance with the rules of the department of 376
job and family services, provided such claim is allowed by the 377
director. 378

(D) Notwithstanding division (A) of this section, no 379
individual may serve a waiting period or be paid benefits under 380
the following conditions: 381

(1) For any week with respect to which the director finds 382
that: 383

(a) The individual's unemployment was due to a labor 384
dispute other than a lockout at any factory, establishment, or 385
other premises located in this or any other state and owned or 386
operated by the employer by which the individual is or was last 387
employed; and for so long as the individual's unemployment is 388
due to such labor dispute. No individual shall be disqualified 389
under this provision if either of the following applies: 390

(i) The individual's employment was with such employer at 391
any factory, establishment, or premises located in this state, 392
owned or operated by such employer, other than the factory, 393
establishment, or premises at which the labor dispute exists, if 394

it is shown that the individual is not financing, participating 395
in, or directly interested in such labor dispute; 396

(ii) The individual's employment was with an employer not 397
involved in the labor dispute but whose place of business was 398
located within the same premises as the employer engaged in the 399
dispute, unless the individual's employer is a wholly owned 400
subsidiary of the employer engaged in the dispute, or unless the 401
individual actively participates in or voluntarily stops work 402
because of such dispute. If it is established that the claimant 403
was laid off for an indefinite period and not recalled to work 404
prior to the dispute, or was separated by the employer prior to 405
the dispute for reasons other than the labor dispute, or that 406
the individual obtained a bona fide job with another employer 407
while the dispute was still in progress, such labor dispute 408
shall not render the employee ineligible for benefits. 409

(b) The individual has been given a disciplinary layoff 410
for misconduct in connection with the individual's work. 411

(2) For the duration of the individual's unemployment if 412
the director finds that: 413

(a) The individual quit work without just cause or has 414
been discharged for just cause in connection with the 415
individual's work, provided division (D)(2) of this section does 416
not apply to the separation of a person under any of the 417
following circumstances: 418

(i) Separation from employment for the purpose of entering 419
the armed forces of the United States if the individual is 420
inducted into the armed forces within one of the following 421
periods: 422

(I) Thirty days after separation; 423

(II) One hundred eighty days after separation if the 424
individual's date of induction is delayed solely at the 425
discretion of the armed forces. 426

(ii) Separation from employment pursuant to a labor- 427
management contract or agreement, or pursuant to an established 428
employer plan, program, or policy, which permits the employee, 429
because of lack of work, to accept a separation from employment; 430

(iii) The individual has left employment to accept a 431
recall from a prior employer or, except as provided in division 432
(D) (2) (a) (iv) of this section, to accept other employment as 433
provided under section 4141.291 of the Revised Code, or left or 434
was separated from employment that was concurrent employment at 435
the time of the most recent separation or within six weeks prior 436
to the most recent separation where the remuneration, hours, or 437
other conditions of such concurrent employment were 438
substantially less favorable than the individual's most recent 439
employment and where such employment, if offered as new work, 440
would be considered not suitable under the provisions of 441
divisions (E) and (F) of this section. Any benefits that would 442
otherwise be chargeable to the account of the employer from whom 443
an individual has left employment or was separated from 444
employment that was concurrent employment under conditions 445
described in division (D) (2) (a) (iii) of this section, shall 446
instead be charged to the mutualized account created by division 447
(B) of section 4141.25 of the Revised Code, except that any 448
benefits chargeable to the account of a reimbursing employer 449
under division (D) (2) (a) (iii) of this section shall be charged 450
to the account of the reimbursing employer and not to the 451
mutualized account, except as provided in division (D) (2) of 452
section 4141.24 of the Revised Code. 453

(iv) When an individual has been issued a definite layoff date by the individual's employer and before the layoff date, the individual quits to accept other employment, the provisions of division (D) (2) (a) (iii) of this section apply and no disqualification shall be imposed under division (D) of this section. However, if the individual fails to meet the employment and earnings requirements of division (A) (2) of section 4141.291 of the Revised Code, then the individual, pursuant to division (A) (5) of this section, shall be ineligible for benefits for any week of unemployment that occurs prior to the layoff date.

(b) The individual has refused without good cause to accept an offer of suitable work when made by an employer either in person or to the individual's last known address, or has refused or failed to investigate a referral to suitable work when directed to do so by a local employment office of this state or another state, provided that this division shall not cause a disqualification for a waiting week or benefits under the following circumstances:

(i) When work is offered by the individual's employer and the individual is not required to accept the offer pursuant to the terms of the labor-management contract or agreement; or

(ii) When the individual is attending a training course pursuant to division (A) (4) of this section except, in the event of a refusal to accept an offer of suitable work or a refusal or failure to investigate a referral, benefits thereafter paid to such individual shall not be charged to the account of any employer and, except as provided in division (B) (1) (b) of section 4141.241 of the Revised Code, shall be charged to the mutualized account as provided in division (B) of section 4141.25 of the Revised Code.

(c) Such individual quit work to marry or because of 484
marital, parental, filial, or other domestic obligations. 485

(d) The individual became unemployed by reason of 486
commitment to any correctional institution. 487

(e) The individual became unemployed because of dishonesty 488
in connection with the individual's most recent or any base 489
period work. Remuneration earned in such work shall be excluded 490
from the individual's total base period remuneration and 491
qualifying weeks that otherwise would be credited to the 492
individual for such work in the individual's base period shall 493
not be credited for the purpose of determining the total 494
benefits to which the individual is eligible and the weekly 495
benefit amount to be paid under section 4141.30 of the Revised 496
Code. Such excluded remuneration and noncredited qualifying 497
weeks shall be excluded from the calculation of the maximum 498
amount to be charged, under division (D) of section 4141.24 and 499
section 4141.33 of the Revised Code, against the accounts of the 500
individual's base period employers. In addition, no benefits 501
shall thereafter be paid to the individual based upon such 502
excluded remuneration or noncredited qualifying weeks. 503

For purposes of division (D) (2) (e) of this section, 504
"dishonesty" means the commission of substantive theft, fraud, 505
or deceitful acts. 506

(f) The individual fails or refuses to submit to a drug 507
test required pursuant to division (E) of section 4141.294 of 508
the Revised Code. 509

(E) No individual otherwise qualified to receive benefits 510
shall lose the right to benefits by reason of a refusal to 511
accept new work if: 512

(1) As a condition of being so employed the individual 513
would be required to join a company union, or to resign from or 514
refrain from joining any bona fide labor organization, or would 515
be denied the right to retain membership in and observe the 516
lawful rules of any such organization. 517

(2) The position offered is vacant due directly to a 518
strike, lockout, or other labor dispute. 519

(3) The work is at an unreasonable distance from the 520
individual's residence, having regard to the character of the 521
work the individual has been accustomed to do, and travel to the 522
place of work involves expenses substantially greater than that 523
required for the individual's former work, unless the expense is 524
provided for. 525

(4) The remuneration, hours, or other conditions of the 526
work offered are substantially less favorable to the individual 527
than those prevailing for similar work in the locality. 528

(F) Subject to the special exceptions contained in 529
division (A) (4) (f) of this section and section 4141.301 of the 530
Revised Code, in determining whether any work is suitable for a 531
claimant in the administration of this chapter, the director, in 532
addition to the determination required under division (E) of 533
this section, shall consider the degree of risk to the 534
claimant's health, safety, and morals, the individual's physical 535
fitness for the work, the individual's prior training and 536
experience, the length of the individual's unemployment, the 537
distance of the available work from the individual's residence, 538
and the individual's prospects for obtaining local work. 539

(G) The "duration of unemployment" as used in this section 540
means the full period of unemployment next ensuing after a 541

separation from any base period or subsequent work and until an 542
individual has become reemployed in employment subject to this 543
chapter, or the unemployment compensation act of another state, 544
or of the United States, and until such individual has worked 545
six weeks and for those weeks has earned or been paid 546
remuneration equal to six times an average weekly wage of not 547
less than: eighty-five dollars and ten cents per week beginning 548
on June 26, 1990; and beginning on and after January 1, 1992, 549
twenty-seven and one-half per cent of the statewide average 550
weekly wage as computed each first day of January under division 551
(B) (3) of section 4141.30 of the Revised Code, rounded down to 552
the nearest dollar, except for purposes of division (D) (2) (c) of 553
this section, such term means the full period of unemployment 554
next ensuing after a separation from such work and until such 555
individual has become reemployed subject to the terms set forth 556
above, and has earned wages equal to one-half of the 557
individual's average weekly wage or sixty dollars, whichever is 558
less. 559

(H) If a claimant is disqualified under division (D) (2) 560
(a), (c), or (d) of this section or found to be qualified under 561
the exceptions provided in division (D) (2) (a) (i), (iii), or (iv) 562
of this section or division (A) (2) of section 4141.291 of the 563
Revised Code, then benefits that may become payable to such 564
claimant, which are chargeable to the account of the employer 565
from whom the individual was separated under such conditions, 566
shall be charged to the mutualized account provided in section 567
4141.25 of the Revised Code, provided that no charge shall be 568
made to the mutualized account for benefits chargeable to a 569
reimbursing employer, except as provided in division (D) (2) of 570
section 4141.24 of the Revised Code. In the case of a 571
reimbursing employer, the director shall refund or credit to the 572

account of the reimbursing employer any over-paid benefits that 573
are recovered under division (B) of section 4141.35 of the 574
Revised Code. Amounts chargeable to other states, the United 575
States, or Canada that are subject to agreements and 576
arrangements that are established pursuant to section 4141.43 of 577
the Revised Code shall be credited or reimbursed according to 578
the agreements and arrangements to which the chargeable amounts 579
are subject. 580

(I) (1) Benefits based on service in employment as provided 581
in divisions (B) (2) (a) and (b) of section 4141.01 of the Revised 582
Code shall be payable in the same amount, on the same terms, and 583
subject to the same conditions as benefits payable on the basis 584
of other service subject to this chapter; except that after 585
December 31, 1977: 586

(a) Benefits based on service in an instructional, 587
research, or principal administrative capacity in an institution 588
of higher education, as defined in division (Y) of section 589
4141.01 of the Revised Code; or for an educational institution 590
as defined in division (CC) of section 4141.01 of the Revised 591
Code, shall not be paid to any individual for any week of 592
unemployment that begins during the period between two 593
successive academic years or terms, or during a similar period 594
between two regular but not successive terms or during a period 595
of paid sabbatical leave provided for in the individual's 596
contract, if the individual performs such services in the first 597
of those academic years or terms and has a contract or a 598
reasonable assurance that the individual will perform services 599
in any such capacity for any such institution in the second of 600
those academic years or terms. 601

(b) Benefits based on service for an educational 602

institution or an institution of higher education in other than 603
an instructional, research, or principal administrative 604
capacity, shall not be paid to any individual for any week of 605
unemployment which begins during the period between two 606
successive academic years or terms of the employing educational 607
institution or institution of higher education, provided the 608
individual performed those services for the educational 609
institution or institution of higher education during the first 610
such academic year or term and, there is a reasonable assurance 611
that such individual will perform those services for any 612
educational institution or institution of higher education in 613
the second of such academic years or terms. 614

If compensation is denied to any individual for any week 615
under division (I)(1)(b) of this section and the individual was 616
not offered an opportunity to perform those services for an 617
institution of higher education or for an educational 618
institution for the second of such academic years or terms, the 619
individual is entitled to a retroactive payment of compensation 620
for each week for which the individual timely filed a claim for 621
compensation and for which compensation was denied solely by 622
reason of division (I)(1)(b) of this section. An application for 623
retroactive benefits shall be timely filed if received by the 624
director or the director's deputy within or prior to the end of 625
the fourth full calendar week after the end of the period for 626
which benefits were denied because of reasonable assurance of 627
employment. The provision for the payment of retroactive 628
benefits under division (I)(1)(b) of this section is applicable 629
to weeks of unemployment beginning on and after November 18, 630
1983. The provisions under division (I)(1)(b) of this section 631
shall be retroactive to September 5, 1982, only if, as a 632
condition for full tax credit against the tax imposed by the 633

"Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 634
3301 to 3311, the United States secretary of labor determines 635
that retroactivity is required by federal law. 636

(c) With respect to weeks of unemployment beginning after 637
December 31, 1977, benefits shall be denied to any individual 638
for any week which commences during an established and customary 639
vacation period or holiday recess, if the individual performs 640
any services described in divisions (I) (1) (a) and (b) of this 641
section in the period immediately before the vacation period or 642
holiday recess, and there is a reasonable assurance that the 643
individual will perform any such services in the period 644
immediately following the vacation period or holiday recess. 645

(d) With respect to any services described in division (I) 646
(1) (a), (b), or (c) of this section, benefits payable on the 647
basis of services in any such capacity shall be denied as 648
specified in division (I) (1) (a), (b), or (c) of this section to 649
any individual who performs such services in an educational 650
institution or institution of higher education while in the 651
employ of an educational service agency. For this purpose, the 652
term "educational service agency" means a governmental agency or 653
governmental entity that is established and operated exclusively 654
for the purpose of providing services to one or more educational 655
institutions or one or more institutions of higher education. 656

(e) Any individual employed by a county board of 657
developmental disabilities shall be notified by the thirtieth 658
day of April each year if the individual is not to be reemployed 659
the following academic year. 660

(f) Any individual employed by a school district, other 661
than a municipal school district as defined in section 3311.71 662
of the Revised Code, shall be notified by the first day of June 663

each year if the individual is not to be reemployed the 664
following academic year. 665

(2) No disqualification will be imposed, between academic 666
years or terms or during a vacation period or holiday recess 667
under this division, unless the director or the director's 668
deputy has received a statement in writing from the educational 669
institution or institution of higher education that the claimant 670
has a contract for, or a reasonable assurance of, reemployment 671
for the ensuing academic year or term. 672

(3) If an individual has employment with an educational 673
institution or an institution of higher education and employment 674
with a noneducational employer, during the base period of the 675
individual's benefit year, then the individual may become 676
eligible for benefits during the between-term, or vacation or 677
holiday recess, disqualification period, based on employment 678
performed for the noneducational employer, provided that the 679
employment is sufficient to qualify the individual for benefit 680
rights separately from the benefit rights based on school 681
employment. The weekly benefit amount and maximum benefits 682
payable during a disqualification period shall be computed based 683
solely on the nonschool employment. 684

(J) Benefits shall not be paid on the basis of employment 685
performed by an alien, unless the alien had been lawfully 686
admitted to the United States for permanent residence at the 687
time the services were performed, was lawfully present for 688
purposes of performing the services, or was otherwise 689
permanently residing in the United States under color of law at 690
the time the services were performed, under section 212(d) (5) of 691
the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 692
1101: 693

(1) Any data or information required of individuals 694
applying for benefits to determine whether benefits are not 695
payable to them because of their alien status shall be uniformly 696
required from all applicants for benefits. 697

(2) In the case of an individual whose application for 698
benefits would otherwise be approved, no determination that 699
benefits to the individual are not payable because of the 700
individual's alien status shall be made except upon a 701
preponderance of the evidence that the individual had not, in 702
fact, been lawfully admitted to the United States. 703

(K) The director shall establish and utilize a system of 704
profiling all new claimants under this chapter that: 705

(1) Identifies which claimants will be likely to exhaust 706
regular compensation and will need job search assistance 707
services to make a successful transition to new employment; 708

(2) Refers claimants identified pursuant to division (K) 709
(1) of this section to reemployment services, such as job search 710
assistance services, available under any state or federal law; 711

(3) Collects follow-up information relating to the 712
services received by such claimants and the employment outcomes 713
for such claimant's subsequent to receiving such services and 714
utilizes such information in making identifications pursuant to 715
division (K) (1) of this section; and 716

(4) Meets such other requirements as the United States 717
secretary of labor determines are appropriate. 718

(L) Except as otherwise provided in division (A) (6) of 719
this section, ineligibility pursuant to division (A) of this 720
section shall begin on the first day of the week in which the 721
claimant becomes ineligible for benefits and shall end on the 722

last day of the week preceding the week in which the claimant 723
satisfies the eligibility requirements. 724

(M) The director may adopt rules that the director 725
considers necessary for the administration of division (A) of 726
this section. 727

Sec. 4141.294. (A) As used in this section: 728

(1) "Controlled substance" means a substance listed on a 729
schedule established under section 202 of the federal 730
"Controlled Substances Act," 21 U.S.C. 812, 84 Stat. 1247, as 731
amended. 732

(2) "Drug test" means either of the following that is 733
conducted to determine whether a controlled substance is present 734
in a biological specimen taken from an individual's body: 735

(a) A chemical test of an individual's urine; 736

(b) An oral fluid test that uses a swab. 737

(3) (a) Except as provided in division (A) (3) (b) of this 738
section, "fail a drug test" means that a drug test reveals the 739
presence of a controlled substance in a biological specimen 740
taken from an individual's body. 741

(b) An individual shall not be determined to have failed a 742
drug test if the individual obtained the controlled substance 743
pursuant to a prescription issued by a licensed health 744
professional authorized to prescribe drugs and the individual 745
used the controlled substance in accordance with the licensed 746
health professional's directions. 747

(4) "Licensed health professional authorized to prescribe 748
drugs" and "prescription" have the same meanings as in section 749
4729.01 of the Revised Code. 750

(B) An individual who fails or refuses to submit to a drug 751
test as a condition of an offer of employment while the 752
individual is serving a waiting period or being paid benefits 753
under this chapter shall be considered to have refused without 754
good cause an offer of suitable work for purposes of division 755
(D) (2) (b) of section 4141.29 of the Revised Code. 756

An employer who requires an individual to submit to a drug 757
test as a condition of an offer of employment may voluntarily 758
submit to the director of job and family services information 759
necessary to identify any individual who fails or refuses to 760
submit to such a test not later than seven business days after 761
the day on which the employer discovered the failure or refusal. 762

On receipt of notification from an employer that an 763
individual failed a drug test as a condition of an offer of 764
employment or refused to submit to such a test, the director 765
shall determine whether the individual is serving a waiting 766
period or being paid benefits under this chapter. 767

(C) An individual who was discharged from employment with 768
the individual's most recent employer for failing or refusing to 769
submit to a drug test required by the employer as a condition of 770
continued employment shall be considered to have been discharged 771
for just cause in connection with the individual's employment 772
for purposes of division (D) (2) (a) of section 4141.29 of the 773
Revised Code. 774

An employer who discharges an individual from employment 775
with the employer for failing or refusing to submit to a drug 776
test required by the employer as a condition of continued 777
employment may voluntarily submit to the director information 778
necessary to identify the individual. 779

The director shall establish and maintain a database of 780
individuals who are reported to the director under this 781
division. The director shall use the database in determining 782
whether an individual who files an application for determination 783
of benefit rights was discharged from employment with the 784
individual's most recent employer for failing or refusing to 785
submit to a drug test required by the employer as a condition of 786
continued employment. 787

(D) Notwithstanding any other provision of the Revised 788
Code to the contrary, an employer's submission of information to 789
the director in accordance with division (B) or (C) of this 790
section shall not be the basis of any criminal or civil 791
liability against the employer. Nothing in this division shall 792
provide immunity for wanton, willful, or intentional misconduct. 793

(E) If the director has reasonable cause to suspect that 794
an individual who has filed an application for determination of 795
benefit rights has engaged in the unlawful use of a controlled 796
substance and the individual was discharged from employment with 797
the individual's most recent employer because of the unlawful 798
use of a controlled substance, the director shall require the 799
individual to undergo a drug test to determine the individual's 800
eligibility for benefits. An individual who fails or refuses to 801
submit to a drug test required under this division shall be 802
disqualified from unemployment benefits pursuant to division (D) 803
(2) (f) of section 4141.29 of the Revised Code. 804

The director shall ensure that a drug test conducted under 805
this division meets or exceeds the standards of the mandatory 806
guidelines for federal workplace drug testing programs, 807
published by the substance abuse and mental health services 808
administration of the United States department of health. 809

The director shall pay the cost of drug tests conducted 810
under this division from the unemployment compensation 811
administration fund created under section 4141.10 of the Revised 812
Code. 813

(F) The director shall send a letter to the following 814
individuals listing community addiction services providers, as 815
defined in section 5119.01 of the Revised Code, located near the 816
individual's residence; 817

(1) An individual who is considered to have refused 818
without good cause an offer of suitable work under division (B) 819
of this section; 820

(2) An individual who is considered to have been 821
discharged for just cause in connection with the individual's 822
employment under division (C) of this section; 823

(3) An individual who is disqualified from receiving 824
benefits pursuant to division (D) (2) (f) of section 4141.29 of 825
the Revised Code. 826

(E) The director shall adopt rules necessary for the 827
administration of this section. 828

Section 2. That existing sections 4141.28 and 4141.29 of 829
the Revised Code are hereby repealed. 830

Section 3. This act shall be referred to as the "Substance 831
Recovery and Workforce Improvement Act." 832