

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 424**

**Representative Wiggam**

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

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**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

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