As Introduced

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Representative Demetriou

To amend section 4141.29 of the Revised Code to waive the requirement that an unemployment claimant be actively seeking work under certain circumstances.

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

Section 1. That section 4141.29 of the Revised Code be amended to read as follows:

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

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

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

(2) Has made a claim for benefits in accordance with section 4141.28 of the Revised Code;

(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.

(b) For purposes of division (A)(3) of this section, an individual has "registered" upon doing any of the following:

(i) Filing an application for benefit rights;

(ii) Making a weekly claim for benefits;

(iii) Reopening an existing claim following a period of employment or nonreporting.

(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.

(d) The director may, for good cause, extend the period of registration.

(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.

(4)(a)(i) Is able to work and available for suitable work and, except as provided in division (A)(4)(a)(ii) ~~or~~, (iii), or (v) of this section, is actively seeking suitable work either in a locality in which the individual has earned wages subject to this chapter during the individual's base period, or if the individual leaves that locality, then in a locality where suitable work normally is performed.

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

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

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

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

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

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

(v) The director shall waive the requirement that a claimant be actively seeking work for up to seventeen weeks if the director finds that all of the following apply:

(I) The individual has been laid off because weather conditions prevent the individual from performing the individual's work.

(II) The lay off falls between the first day of December and the thirty-first day of March.

(III) The individual is not a member of a bona fide labor organization.

(IV) At the time of the lay off, the employer provided the individual and the director with a date by which work is expected to be available for the individual, and that date is not later than the thirty-first day of March.

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

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

(II) Where the active search for work requirement has been

waived under division (A)(4)(a) of this section;

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

(ii) An individual who is registered with the OhioMeansJobs web site shall receive a weekly listing of available jobs based on information provided by the individual at the time of registration. For each week that the individual claims benefits, the individual shall keep a record of the individual's work search efforts and shall produce that record in the manner and means prescribed by the director.

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

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

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

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

(c) An individual who is attending a training course approved by the director meets the requirement of this division, if attendance was recommended by the director and the individual is regularly attending the course and is making satisfactory progress. An individual also meets the requirements of this division if the individual is participating and advancing in a training program, as defined in division (P) of section 5709.61

of the Revised Code, and if an enterprise, defined in division (B) of section 5709.61 of the Revised Code, is paying all or part of the cost of the individual's participation in the training program with the intention of hiring the individual for employment as a new employee, as defined in division (L) of section 5709.61 of the Revised Code, for at least ninety days after the individual's completion of the training program.

(d) An individual who becomes unemployed while attending a regularly established school and whose base period qualifying weeks were earned in whole or in part while attending that school, meets the availability and active search for work requirements of division (A)(4)(a) of this section if the individual regularly attends the school during weeks with respect to which the individual claims unemployment benefits and makes self available on any shift of hours for suitable employment with the individual's most recent employer or any other employer in the individual's base period, or for any other suitable employment to which the individual is directed, under this chapter.

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

(f) Notwithstanding any other provisions of this section, no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2296, nor shall that individual be denied benefits by

reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

For the purposes of division (A)(4)(f) of this section, "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for the purposes of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and wages for such work at not less than eighty per cent of the individual's average weekly wage as determined for the purposes of that federal act.

(5) Is unable to obtain suitable work.

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

(a) The individual has completed such services; or

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

Ineligibility for failure to participate in reemployment services as described in division (A)(6) of this section shall be for the week or weeks in which the claimant was scheduled and

failed to participate without justifiable cause.

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

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

(i) The individual has completed similar services.

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

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

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

(B) An individual suffering total or partial unemployment is eligible for benefits for unemployment occurring subsequent

to a waiting period of one week and no benefits shall be payable during this required waiting period. Not more than one week of waiting period shall be required of any individual in any benefit year in order to establish the individual's eligibility for total or partial unemployment benefits.

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

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

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

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

(i) The individual's employment was with such employer at any factory, establishment, or premises located in this state, owned or operated by such employer, other than the factory,

establishment, or premises at which the labor dispute exists, if it is shown that the individual is not financing, participating in, or directly interested in such labor dispute;

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

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

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

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

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

(I) Thirty days after separation;

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

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

(iii) The individual has left employment to accept a recall from a prior employer or, except as provided in division (D)(2)(a)(iv) of this section, to accept other employment as provided under section 4141.291 of the Revised Code, or left or was separated from employment that was concurrent employment at the time of the most recent separation or within six weeks prior to the most recent separation where the remuneration, hours, or other conditions of such concurrent employment were substantially less favorable than the individual's most recent employment and where such employment, if offered as new work, would be considered not suitable under the provisions of divisions (E) and (F) of this section. Any benefits that would otherwise be chargeable to the account of the employer from whom an individual has left employment or was separated from employment that was concurrent employment under conditions described in division (D)(2)(a)(iii) of this section, shall instead be charged to the mutualized account created by division (B) of section 4141.25 of the Revised Code, except that any benefits chargeable to the account of a reimbursing employer under division (D)(2)(a)(iii) of this section shall be charged to the account of the reimbursing employer and not to the mutualized account, except as provided in division (D)(2) of

section 4141.24 of the Revised Code.

(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.

(v) The individual's spouse is a member of the armed forces of the United States who is on active duty or a member of the commissioned corps of the national oceanic and atmospheric administration or public health service, the spouse is the subject of a transfer, the individual left employment to accompany the individual's spouse to a location from which it is impractical to commute to the individual's place of employment, and upon arrival at the new place of residence, the individual is in all respects able and available for suitable work. For purposes of division (D)(2)(a)(v) of this section, "active duty" and "armed forces" have the same meanings as in 10 U.S.C. 101.

(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 marital, parental, filial, or other domestic obligations.

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

(e) The individual became unemployed because of dishonesty in connection with the individual's most recent or any base period work. Remuneration earned in such work shall be excluded from the individual's total base period remuneration and qualifying weeks that otherwise would be credited to the individual for such work in the individual's base period shall not be credited for the purpose of determining the total benefits to which the individual is eligible and the weekly benefit amount to be paid under section 4141.30 of the Revised Code. Such excluded remuneration and noncredited qualifying weeks shall be excluded from the calculation of the maximum amount to be charged, under division (D) of section 4141.24 and section 4141.33 of the Revised Code, against the accounts of the individual's base period employers. In addition, no benefits

shall thereafter be paid to the individual based upon such excluded remuneration or noncredited qualifying weeks.

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

(3) For purposes of division (D)(2)(a) of this section, an individual shall be considered to have quit work without just cause if all of the following apply:

(a) The individual is provided temporary work assignments by the individual's employer under agreed terms and conditions of employment.

(b) The individual is required pursuant to those terms and conditions to inquire with the individual's employer for available work assignments upon the conclusion of each work assignment.

(c) Suitable work assignments are available with the employer, but the individual fails to contact the employer to inquire about work assignments.

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

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

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

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

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

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

(G) The "duration of unemployment" as used in this section means the full period of unemployment next ensuing after a separation from any base period or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than: eighty-five dollars and ten cents per week beginning on June 26, 1990; and beginning on and after January 1, 1992,

twenty-seven and one-half per cent of the statewide average weekly wage as computed each first day of January under division (B)(3) of section 4141.30 of the Revised Code, rounded down to the nearest dollar, except for purposes of division (D)(2)(c) of this section, such term means the full period of unemployment next ensuing after a separation from such work and until such individual has become reemployed subject to the terms set forth above, and has earned wages equal to one-half of the individual's average weekly wage or sixty dollars, whichever is less.

(H) If a claimant is disqualified under division (D)(2)(a), (c), or (d) of this section or found to be qualified under the exceptions provided in division (D)(2)(a)(i), (iii), (iv), or (v) of this section or division (A)(2) of section 4141.291 of the Revised Code, then benefits that may become payable to such claimant, which are chargeable to the account of the employer from whom the individual was separated under such conditions, shall be charged to the mutualized account provided in section 4141.25 of the Revised Code, provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer, except as provided in division (D)(2) of section 4141.24 of the Revised Code. In the case of a reimbursing employer, the director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered under division (B) of section 4141.35 of the Revised Code. Amounts chargeable to other states, the United States, or Canada that are subject to agreements and arrangements that are established pursuant to section 4141.43 of the Revised Code shall be credited or reimbursed according to the agreements and arrangements to which the chargeable amounts are subject.

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

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

(b) Benefits based on service for an educational institution or an institution of higher education in other than an instructional, research, or principal administrative capacity, shall not be paid to any individual for any week of unemployment which begins during the period between two successive academic years or terms of the employing educational institution or institution of higher education, provided the individual performed those services for the educational institution or institution of higher education during the first such academic year or term and, there is a reasonable assurance

that such individual will perform those services for any educational institution or institution of higher education in the second of such academic years or terms.

If compensation is denied to any individual for any week under division (I)(1)(b) of this section and the individual was not offered an opportunity to perform those services for an institution of higher education or for an educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of compensation for each week for which the individual timely filed a claim for compensation and for which compensation was denied solely by reason of division (I)(1)(b) of this section. An application for retroactive benefits shall be timely filed if received by the director or the director's deputy within or prior to the end of the fourth full calendar week after the end of the period for which benefits were denied because of reasonable assurance of employment. The provision for the payment of retroactive benefits under division (I)(1)(b) of this section is applicable to weeks of unemployment beginning on and after November 18, 1983. The provisions under division (I)(1)(b) of this section shall be retroactive to September 5, 1982, only if, as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States secretary of labor determines that retroactivity is required by federal law.

(c) With respect to weeks of unemployment beginning after December 31, 1977, benefits shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess, if the individual performs any services described in divisions (I)(1)(a) and (b) of this section in the period immediately before the vacation period or

holiday recess, and there is a reasonable assurance that the individual will perform any such services in the period immediately following the vacation period or holiday recess.

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

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

(f) Any individual employed by a school district, other than a municipal school district as defined in section 3311.71 of the Revised Code, shall be notified by the first day of June each year if the individual is not to be reemployed the following academic year.

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

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

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

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

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence that the individual had not, in

fact, been lawfully admitted to the United States.

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

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

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

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

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

(L) Except as otherwise provided in division (A)(6) of this section, ineligibility pursuant to division (A) of this section shall begin on the first day of the week in which the claimant becomes ineligible for benefits and shall end on the last day of the week preceding the week in which the claimant satisfies the eligibility requirements.

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

Section 2. That existing section 4141.29 of the Revised Code is hereby repealed.