COMMITTEE REPORT

February 3, 2010

**H. 4303**

Introduced by Reps. Bingham, Battle, Merrill, J.H. Neal, Ott, M.A. Pitts, Rice, A.D. Young, Sandifer, Cobb‑Hunter, Bedingfield, Nanney, G.R. Smith, Hamilton, Stringer, Wylie, Horne, Harrell, Lowe, Ballentine and Clemmons

S. Printed 2/3/10--S.

Read the first time January 20, 2010.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Joint Resolution (H. 4303) to impose certain enforcement requirements on the South Carolina Employment Security Commission related to disqualification parameters for unemployment benefits, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the joint resolution, as and if amended, page 2, by striking lines 19 ‑ 22 and inserting:

/ (c) employee possession or consumption of illegal drugs on employer property, in employer vehicles, or while on the job or on duty;

(d) employee blood alcohol content of .08 percent or higher while on the job, or failure to comply with the drug and alcohol testing and use regulations pursuant to 49 C.F.R. part 40 and part 382 of the federal motor carrier safety regulations while on the job or on duty; /

Amend the joint resolution further, as and if amended, page 2, by striking line 35 and inserting:

/ list of subitems (a) through (d) of this subsection, with ineligibility /

Amend the joint resolution further, as and if amended, page 2, by striking line 43.

Renumber sections to conform.

Amend title to conform.

W. GREG RYBERG for Committee.

**A** **JOINT RESOLUTION**

TO IMPOSE CERTAIN ENFORCEMENT REQUIREMENTS ON THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION RELATED TO DISQUALIFICATION PARAMETERS FOR UNEMPLOYMENT BENEFITS, TO REQUIRE THE COMMISSION TO INSTITUTE CERTAIN ADMINISTRATIVE MEASURES, AND TO PROVIDE THIS JOINT RESOLUTION EXPIRES ON JULY 1, 2011, AMONG OTHER THINGS.

Whereas, the South Carolina Employment Security Commission Unemployment Insurance Trust Fund has been insolvent since December 22, 2008, and was $702,423,230.00 in debt to the Federal Government on January 6, 2010; and

Whereas, the General Assembly and the Employment Security Commission are working towards comprehensive reform legislation to be passed in the 118th Session of the General Assembly; and

Whereas, the General Assembly and the Employment Security Commission have identified immediate administrative actions the Employment Security Commission can take to begin to remedy the insolvency of the Unemployment Insurance Trust Fund. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A) The South Carolina Employment Security Commission shall enforce the following disqualification parameters to the fullest extent possible under state and federal law:

(1) An insured worker is ineligible for benefits if the commission finds that he has been discharged from his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year for gross misconduct as illustrated by the nonexclusive list of subitems (a) through (i) of this subsection, with ineligibility beginning with the effective date of the request, and continuing not less than twenty‑five nor more than the next twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification:

(a) wilful or reckless employee damage to employer property in excess of two hundred dollars;

(b) employee discharge for cause pursuant to Section 41‑35‑120(2)(b);

(c) employee possession or consumption of illegal drugs on employer property;

(d) employee blood alcohol content of .08 percent or higher while on the job;

(e) employee assault or battery of another;

(f) employee theft causing loss in excess of two hundred dollars;

(g) employee abuse of patient or child in his professional care;

(h) employee insubordination; or

(i) employee sleeping on the job.

(2) An insured worker is ineligible for benefits if the commission finds that he has been discharged from his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year for gross misconduct as illustrated by the nonexclusive list of subitems (a) through (i) of this subsection, with ineligibility beginning with the effective date of the request, and continuing not less than ten nor more than the next twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification:

(a) employee neglect of duty;

(b) poor employee attitude;

(c) poor employee work quality; or

(d) employee absenteeism or tardiness.

(3) The disqualification parameters in subsections (1) and (2) of this section only may apply to an insured worker discharged for cause connected with his most recent work after the effective date of this resolution. The provisions of subsection (2) shall not apply to discharge for absenteeism as the result of a verified medical condition.

SECTION 2. (A) The South Carolina Employment Security Commission must institute the following measures to the fullest extent possible under state and federal law:

(1) increase eligibility reviews and investigations as to violations of Sections 41‑35‑110 and 41‑35‑120 and enforce appropriate disqualifications and penalties;

(2) increase investigations of violations of Chapter 41, Title 41 and enforce appropriate penalties;

(3) beginning February 1, 2009, prohibit new employer filed claims by an employer whose contributions paid for all past periods is less than the total benefits charged to the employer’s account for all past periods;

(4) increase investigations of violations of Article 3, Chapter 31, Title 41 and enforce appropriate penalties;

(5) keep detailed voting and attendance records at all commission hearings and make them available to the General Assembly;

(6) keep detailed travel and expense records for commissioners and make them available to the General Assembly;

(7) submit all internal quality reviews of commission and hearing officer decisions from calendar years 2007, 2008, and 2009 to the General Assembly for review;

(8) acquire all United States Department of Labor due process and claim reviews of commission decisions from calendar years 2007, 2008, and 2009, and make them available to the General Assembly for review;

(9) continue to work with the South Carolina Budget and Control Board and Office of Research and Statistics to develop and continuously improve a customer service portal, to include increased interagency integration and data sharing, and keep the General Assembly regularly informed of its progress in upgrading its computer system through a possible multistate compact in cooperation with the federal government;

(10) report to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Labor, Commerce and Industry Committee within five days of the effective date of this joint resolution as to the degree the commission can accomplish or cannot accomplish each subitem in Sections 1 and 2 of this resolution, and provide reasons why a subitem cannot be accomplished if the commission cannot do so; and

(11) report to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Labor, Commerce and Industry Committee on the first day of each month in Fiscal Years 2010 and 2011 on the progress of each request.

SECTION 3. This joint resolution expires on July 1, 2011.

SECTION 4. This joint resolution takes effect upon approval by the Governor.

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