**South Carolina General Assembly**

119th Session, 2011-2012

**A247, R274, S1125**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Bright, Bryant, S. Martin, Thomas, Gregory, Knotts, Campbell, Rose, Cromer, Fair, Campsen, Grooms, Peeler and Shoopman

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Introduced in the Senate on January 24, 2012

Introduced in the House on March 29, 2012

Last Amended on June 7, 2012

Passed by the General Assembly on June 7, 2012

Governor's Action: June 18, 2012, Signed

Summary: Unemployment benefits

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/24/2012 Senate Introduced and read first time ([Senate Journal‑page 2](file:///h:\sj%20archive\2012\01-24-12.docx))

1/24/2012 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 2](file:///h:\sj%20archive\2012\01-24-12.docx))

2/23/2012 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 9](file:///h:\sj%20archive\2012\02-23-12.docx))

3/14/2012 Senate Motion For Special Order Failed ([Senate Journal‑page 45](file:///h:\sj%20archive\2012\03-14-12.docx))

3/14/2012 Senate Roll call Ayes‑24 Nays‑18 ([Senate Journal‑page 45](file:///h:\sj%20archive\2012\03-14-12.docx))

3/21/2012 Senate Motion For Special Order Failed ([Senate Journal‑page 46](file:///h:\sj%20archive\2012\03-21-12.docx))

3/21/2012 Senate Roll call Ayes‑29 Nays‑15 ([Senate Journal‑page 46](file:///h:\sj%20archive\2012\03-21-12.docx))

3/28/2012 Senate Committee Amendment Amended and Adopted ([Senate Journal‑page 35](file:///h:\sj%20archive\2012\03-28-12.docx))

3/28/2012 Senate Read second time ([Senate Journal‑page 35](file:///h:\sj%20archive\2012\03-28-12.docx))

3/28/2012 Senate Roll call Ayes‑40 Nays‑0 ([Senate Journal‑page 35](file:///h:\sj%20archive\2012\03-28-12.docx))

3/29/2012 Senate Read third time and sent to House ([Senate Journal‑page 14](file:///h:\sj%20archive\2012\03-29-12.docx))

3/29/2012 House Introduced and read first time ([House Journal‑page 89](file:///h:\hj%20archive\2012\03-29-12.docx))

3/29/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 89](file:///h:\hj%20archive\2012\03-29-12.docx))

3/29/2012 House Recalled from Committee on **Judiciary** ([House Journal‑page 120](file:///h:\hj%20archive\2012\03-29-12.docx))

3/29/2012 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 120](file:///h:\hj%20archive\2012\03-29-12.docx))

3/29/2012 Scrivener's error corrected

5/9/2012 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 3](file:///h:\hj%20archive\2012\05-09-12.docx))

5/16/2012 House Debate adjourned until Thur., 05‑17‑12 ([House Journal‑page 15](file:///h:\hj%20archive\2012\05-16-12.docx))

5/17/2012 House Debate adjourned until Wed., 05‑23‑12 ([House Journal‑page 15](file:///h:\hj%20archive\2012\05-17-12.docx))

5/23/2012 House Debate adjourned until Thur., 05‑24‑12 ([House Journal‑page 26](file:///h:\hj%20archive\2012\05-23-12.docx))

5/24/2012 House Requests for debate‑Rep(s). Anderson, Sandifer, White, Gilliard, JR Smith, Whitmire, RL Brown, Hosey, Neilson, Johnson, Sabb, Knight, Jefferson, Williams, Forrester, Brantley, Toole ([House Journal‑page 17](file:///h:\hj%20archive\2012\05-24-12.docx))

5/29/2012 House Amended ([House Journal‑page 40](file:///h:\hj%20archive\2012\05-29-12.docx))

5/29/2012 House Read second time ([House Journal‑page 40](file:///h:\hj%20archive\2012\05-29-12.docx))

5/29/2012 House Roll call Yeas‑83 Nays‑21 ([House Journal‑page 46](file:///h:\hj%20archive\2012\05-29-12.docx))

5/30/2012 House Read third time and returned to Senate with amendments ([House Journal‑page 123](file:///h:\hj%20archive\2012\05-30-12.docx))

6/7/2012 Senate House amendment amended ([Senate Journal‑page 156](file:///h:\sj%20archive\2012\06-07-12.docx))

6/7/2012 Senate Roll call Ayes‑41 Nays‑1 ([Senate Journal‑page 156](file:///h:\sj%20archive\2012\06-07-12.docx))

6/7/2012 Senate Returned to House with amendments ([Senate Journal‑page 156](file:///h:\sj%20archive\2012\06-07-12.docx))

6/7/2012 House Concurred in Senate amendment and enrolled

6/7/2012 House Roll call Yeas‑80 Nays‑2 ([House Journal‑page 124](file:///h:\hj%20archive\2012\06-07-12.docx))

6/12/2012 Ratified R 274

6/18/2012 Signed By Governor

6/25/2012 Effective date 06/18/12

6/27/2012 Act No. 247

**VERSIONS OF THIS BILL**

[1/24/2012](file:///p:\pprever\2011-12\1125_20120124.docx)

[2/23/2012](file:///p:\pprever\2011-12\1125_20120223.docx)

[3/28/2012](file:///p:\pprever\2011-12\1125_20120328.docx)

[3/29/2012](file:///p:\pprever\2011-12\1125_20120329.docx)

[5/9/2012](file:///p:\pprever\2011-12\1125_20120509.docx)

[5/29/2012](file:///p:\pprever\2011-12\1125_20120529.docx)

[6/7/2012](file:///p:\pprever\2011-12\1125_20120607.docx)

(A247, R274, S1125)

**AN ACT** **TO AMEND SECTION 41‑35‑120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISQUALIFICATIONS FROM UNEMPLOYMENT BENEFITS, SO AS TO PROVIDE DISCHARGE FOR MISCONDUCT AS A BASIS FOR DISQUALIFICATION, TO SUBJECT A PERSON DISCHARGED FOR MISCONDUCT TO A PERIOD OF INELIGIBILITY FOR BENEFITS AND A SUBSEQUENT PERIOD OF REDUCED BENEFITS, TO DELETE OBSOLETE PROVISIONS RELATED TO DISCHARGE FOR CAUSE, TO SUBJECT A PERSON DISCHARGED FOR CAUSE OTHER THAN MISCONDUCT TO A PERIOD OF INELIGIBILITY FOR BENEFITS AND A SUBSEQUENT PERIOD OF REDUCED BENEFITS, AND TO PROVIDE DISCHARGE FOR CERTAIN SUBSTANDARD PERFORMANCE IS NOT A BASIS FOR DISQUALIFICATION FROM BENEFITS UNDER THIS SECTION; TO AMEND SECTION 41‑35‑130, AS AMENDED, RELATING TO BENEFIT PAYMENTS NOT CHARGEABLE TO A FORMER EMPLOYER, SO AS TO PROVIDE A BENEFIT PAID TO A CLAIMANT MAY NOT BE CHARGED TO AN EMPLOYER WHO IS SUBJECT TO THE PAYMENT OF CONTRIBUTIONS IF THE CLAIMANT WAS DISCHARGED BY HIS MOST RECENT BONA FIDE EMPLOYER FOR MISCONDUCT OF CLAIMANT CONNECTED TO HIS EMPLOYMENT, AND TO DEFINE TERMINOLOGY; AND TO AMEND SECTION 41‑41‑40, AS AMENDED, RELATING TO RECOVERY OF BENEFITS BY A PERSON NOT ENTITLED TO BENEFITS, SO AS TO PROVIDE UPON DETERMINATION BY THE DEPARTMENT OF A FRAUDULENT OVERPAYMENT, THE EMPLOYER WHOSE ACCOUNT WAS DEBITED FOR THE OVERPAYMENT MUST BE CREDITED THE AMOUNT OF THE OVERPAYMENT, SUBJECT TO CERTAIN EXCEPTIONS.**

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

**Discharge for misconduct as basis for disqualification from unemployment benefits, periods of ineligibility from benefits and reduction of benefits for discharge for misconduct and discharge for cause other than misconduct, exception for substandard performance, deletion of obsolete references**

SECTION 1. Section 41‑35‑120(2) of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

“(2)(a) Discharge for misconduct connected with the employment. If the department finds that he has been discharged for misconduct connected with 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, with ineligibility beginning with the effective date of the request, and continuing for the next twenty 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 twenty. For the purposes of this item, ‘misconduct’ is limited to conduct evincing such wilfull and wanton disregard of an employer’s interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer’s interest or of the employee’s duties and obligations to his employer. No finding of misconduct may be made for discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance.

(b) If the department finds that he has been discharged for cause, other than misconduct as defined in item (2)(a), connected with 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, then the department must find him partially ineligible. The ineligibility must begin with the effective date of the request, and continuing not less than five nor more than the next nineteen weeks, in addition to the waiting period. 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, must be made. The ineligibility period must be determined by the department in each case according to the seriousness of the cause for discharge. Discharge resulting from substandard performance due to inefficiency, inability, or incapacity shall not serve as a basis for disqualification under either subitem (a) or (b) of this item.”

**Benefit payments not chargeable to former employer must include payments made to claimant discharged by his most recent bona fide employer for misconduct of claimant related to his employment**

SECTION 2. Section 41‑35‑130 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding a new subsection to read:

“(M)(1) For the purposes of this subsection, ‘most recent bona fide employer’ means the work or employer from which an individual was discharged regardless of work subsequent to his discharge in which he earned less than eight times his weekly benefit amount.

(2) A benefit paid to a claimant must not be charged against the account of an employer if the department determines that the claimant’s most recent bona fide employer discharged him for misconduct connected with his employment. This provision is applicable only to an employer subject to the payment of contributions.”

**Employer may recover funds debited from his account for fraudulently paid unemployment benefits**

SECTION 3. Section 41‑41‑40 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding a new subsection to read:

“(D) Upon the determination of fraudulent overpayments by the department, an employer from whose account the overpayment was debited must be credited for the amount of the overpayment regardless of the outcome of the action for recoupment or recovery of the overpayment. This section shall not apply to employers whose accounts are subject to the provisions of Sections 41‑31‑810 or 41‑31‑620.”

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

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