SENATE DOCKET, NO. 1894 FILED ON: 1/14/2009

SENATE . . . . . No. 698

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to modernizing and protecting the unemployment insurance system..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1(w) of chapter 151A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "quarter" in the first sentence, the following words:-- ; provided further, that if the individual has worked for 15 or more weeks and such deeming renders the individual ineligible for unemployment benefits, the amount shall be equal to one twenty-sixth of the total wages.

SECTION 2. Section 14(a) of said chapter 151A, as so appearing, is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph:- "Unemployment insurance taxable wage base", with respect to calendar years beginning on or after January 1, 2011, the term "unemployment insurance taxable wage base" shall mean not less than $20,000 and shall be adjusted annually to reflect increases in the state average weekly wage as determined in section 29(a).

SECTION 3. Section 25(e) of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 112-114, the words, "and in each of said weeks has earned an amount equivalent to or in excess of the individuals' weekly benefit amount after the individual has left

work," and replacing it with the following words:-- and has earned an amount equivalent to or in excess of eight times the individual's weekly benefit amount after the individual has left work.

SECTION 4. Said section 25(e) of said chapter 151A, as so appearing, is hereby further amended by inserting in the third paragraph after the word "involuntary", in line 142, the following words:- Leaving employment due to the illness or disability of a member of the individual's immediate family shall be deemed to be an involuntary separation.

SECTION 5. Said section 25(e) of said chapter 151A, as so appearing, is hereby further amended by striking out the eighth and ninth paragraphs.

SECTION 6. Said section 25(e) of said chapter 151A, as so appearing, is hereby further amended by striking the last paragraph.

SECTION 7. Section 29(b) of said chapter 151A, as so appearing, is hereby amended by adding at the end thereof the following sentence:-- Nothing herein shall permit a reduction of benefits solely because an individual leaves a subsidiary part-time job during his or her base period.

SECTION 8. Section 30(c) of said chapter 151A, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

If in the opinion of the commissioner, it is necessary for an unemployed individual to obtain further industrial, vocational, adult basic education, general equivalency diploma or English for speakers of a second language training to realize sustainable employment, the total benefits which that individual may receive shall be extended by up to 26 times the individual's benefit rate, if the individual is attending a retraining course approved by the commissioner, and

if the training program shall be completed within 2 years or within 3 years if the program includes a combination of adult basic education, general equivalency diploma or English for speakers of other languages with vocational or industrial training; provided that no English for speakers of other languages program shall be denied approval under this section solely because it is not combined with another program. These additional benefits shall be paid to the individual only when attending the course and only if the individual has exhausted all rights to regular and extended benefits under this chapter and has no rights to benefits or compensation under this chapter or under any other state unemployment compensation law or under any federal law. This extension shall be available only to individuals who have applied to the commissioner for training no later than the fifteenth week of a new or continued claim, but the commissioner shall specify by regulation the circumstances in which the 15-week application period shall be tolled, including, but not limited to, where staff of the division of unemployment assistance, or its agents, have given the applicant misinformation that causes the applicant to miss the 15-week deadline; the applicant is working with, or has attempted to initiate a working relationship with, a one-stop career center for the purpose of securing a spot in a training program, but has not yet been able to enroll in an appropriate program; the applicant needs to address the physical, psychological and legal effects of domestic violence; and other good cause to be determined by the commissioner. The claimant shall begin training in the first available appropriate program for which funding is available and which is a reasonable distance from the claimant's residence, as determined by the commissioner, but the commissioner, in his discretion, may extend the period once for not more than two weeks for any applicant whose initial application is denied. Any benefits paid to an individual under this paragraph which would not be chargeable to the account of any particular employer under section 14 shall be charged to the solvency account. An

individual eligible to receive a trade readjustment allowance under Chapter 2 of Title II of the Trade Act of 1974,19 USC 2251-2322, as amended, shall not be eligible to receive additional benefits under this section for any week in which the individual receives this trade readjustment allowance. An individual eligible to receive emergency unemployment compensation, under any federal law, shall not be eligible to receive additional benefits under this section for any week in which the individual receives that compensation.

SECTION 9. Section 47 of said chapter 151A, as so appearing, is hereby amended by inserting after the fourth paragraph the following paragraph:- The receipt of any notice of termination of employment or of any substantial alteration in the terms of employment within six months after an employee has provided evidence in connection with a claim for benefits under this chapter, or has testified at any hearing conducted under any provision of this chapter, shall create a rebuttable presumption that such notice or other action is a reprisal against the employee for providing evidence. Such presumption shall be rebutted only by clear and convincing evidence that such employer's action was not a reprisal against the employee and that the employer had sufficient independent justification for taking such action, and would have in fact taken such action, in the same manner and at the same time the action was taken, regardless of the employee's providing evidence in connection with a claim for benefit under this chapter. An employing unit found to have threatened, coerced or taken reprisal against any employee pursuant to this paragraph shall rescind any adverse alteration in the terms of employment for such employee and shall offer reinstatement to any terminated employee and shall also be liable for damages and costs of the suit, including a reasonable attorney's fee.

SECTION 10. Section 71 of said chapter 151A, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:- Notice

of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in this chapter with respect to notice of an original determination. If the amount of benefits would be increased upon such redetermination an appeal therefrom solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in sections 39 to 40, inclusive. If the amount of benefits would be decreased upon such redetermination, the matters involved in such decrease shall be subject to review in connection with an appeal by the claimant thereon or from any determination upon a subsequent claim for benefits which may be affected in amount or duration by such redetermination. Any proposed decrease or increase of the amount of benefits based upon such a redetermination shall not take effect if any party seeks timely review in accordance with section 39(b). Subject to the same limitations and for the same reasons, the commissioner may reconsider the determination in any case in which a decision has been rendered by the board of review or a court, and may apply to said board or such court which rendered such decision to revoke or modify such decision and the board of review or court may affirm, modify or revoke such decision.