

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:

1 SECTION 1. Section 1(w) of chapter 151A of the General Laws, as appearing in the
2 2006 Official Edition, is hereby amended by inserting after the word “quarter” in the first
3 sentence, the following words:-- ; provided further, that if the individual has worked for 15 or
4 more weeks and such deeming renders the individual ineligible for unemployment benefits, the
5 amount shall be equal to one twenty-sixth of the total wages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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