

By: Thompson

H.B. No. 131

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the eligibility for unemployment compensation benefits  
3 of certain employees who provide at-home infant care after the  
4 birth or adoption of a child.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter B, Chapter 207, Labor Code, is  
7 amended by adding Section 207.026 to read as follows:

8 Sec. 207.026. BIRTH OR ADOPTION OF CHILD. (a) In this  
9 section, "parent" means a child's birth parent, stepparent,  
10 adoptive parent, or foster parent and includes a child's legal  
11 guardian.

12 (b) An individual who is the parent of a newborn child may  
13 not be denied benefits solely because the individual is on leave  
14 from or left the individual's last employment to care for the  
15 newborn child if the individual satisfies the requirements of  
16 Subsection (d).

17 (c) An individual who is on leave or who has left employment  
18 in accordance with Subsection (d):

19 (1) is eligible for benefits under this section; and  
20 (2) is not required to comply with the provisions of  
21 this chapter relating to the individual's:

22 (A) availability for work;

23 (B) active search for work; or

24 (C) refusal to apply for or refusal to accept

1 suitable work.

2 (d) Except as provided by Subsection (e), a parent is  
3 eligible to receive benefits under this section only if:

4 (1) the parent is providing care for the parent's  
5 newborn child in the home in which the parent or infant lives;

6 (2) the combined income of the parent or parents  
7 living at the same residence as the newborn child is not more than  
8 300 percent of the federal poverty guidelines for the year in which  
9 the child is born;

10 (3) the parent or parents living at the same residence  
11 as the newborn child, during each of the four calendar months  
12 immediately preceding the birth of the child, worked:

13 (A) a combined total of at least 100 hours, if two  
14 parents live at the same residence as the newborn child;

15 (B) a total of at least 50 hours, if only one  
16 parent lives at the same residence as the newborn child; or

17 (C) a total of at least 30 hours, if only one  
18 parent lives at the same residence as the newborn child and that  
19 parent is enrolled in and regularly attends high school, a high  
20 school equivalency program, or an institution of postsecondary  
21 education at the time the child is born; and

22 (4) the parent receiving benefits under this section  
23 is 18 years of age or older or, if the parent is younger than 18  
24 years of age, the parent is enrolled in and regularly attends high  
25 school, a high school equivalency program, or an institution of  
26 postsecondary education or has attained a high school equivalency  
27 certificate or a high school diploma.

1       (e) A newborn child's parent who is younger than 18 years of  
2 age and who attends high school or a high school equivalency program  
3 may receive benefits under this section during a calendar month or  
4 any portion of a calendar month that is not included in the school  
5 year adopted by the school district in which the parent lives.

6       (f) A parent receiving benefits under this section may not  
7 be employed outside of the parent's home at the same time the parent  
8 receives benefits under this section.

9       (g) A parent who is eligible to receive benefits under this  
10 section is entitled to receive benefits for not more than 12 weeks  
11 immediately following the latest of:

12               (1) the date on which the child is born;

13               (2) the first date on which the child is released from  
14 the hospital in which the child is born; or

15               (3) if the woman who gave birth to the child is the  
16 parent receiving benefits under this section, the first date on  
17 which that parent is released from the hospital in which the child  
18 is born.

19       (h) Notwithstanding any other provision of this subtitle,  
20 the amount of benefits under this section is an amount equal to the  
21 number of weeks a parent receives benefits multiplied by 60 percent  
22 of that parent's average earned weekly wage for the last four  
23 calendar weeks the parent worked immediately preceding the birth of  
24 the child, reduced by:

25               (1) any amount paid to the individual by an employer  
26 because of the birth or adoption of the child; and

27               (2) any amount paid to the individual under a

1 disability insurance plan contributed to by an employer, in  
2 proportion to the employer's contribution to the plan.

3 (i) An individual may not receive benefits under this  
4 section for more than 12 months during the individual's lifetime.

5 (j) An employer shall provide notice as prescribed by the  
6 commission by rule regarding the availability of benefits under  
7 this section to each employee before the employee's first day of  
8 employment.

9 (k) This section shall be applied in accordance with any  
10 applicable regulations of the United States Department of Labor.

11 SECTION 2. Section 207.045(d), Labor Code, is amended to  
12 read as follows:

13 (d) Notwithstanding any other provision of this section, an  
14 individual who is available to work may not be disqualified for  
15 benefits because the individual left work because of:

16 (1) a medically verified illness of the individual or  
17 the individual's minor child;

18 (2) injury;

19 (3) disability;

20 (4) pregnancy; ~~or~~

21 (5) an involuntary separation as described by Section  
22 207.046; or

23 (6) the birth of the individual's child or the adoption  
24 of a child by the individual, if the individual is eligible for  
25 benefits under Section 207.026.

26 SECTION 3. Section 204.022(a), Labor Code, as amended by  
27 Chapters 77, 526, and 817, Acts of the 78th Legislature, Regular

1 Session, 2003, is reenacted and amended to read as follows:

2 (a) Benefits computed on benefit wage credits of an employee  
3 or former employee may not be charged to the account of an employer  
4 if the employee's last separation from the employer's employment  
5 before the employee's benefit year:

6 (1) was required by a federal statute;

7 (2) was required by a statute of this state or an  
8 ordinance of a municipality of this state;

9 (3) would have disqualified the employee under Section  
10 207.044, 207.045, 207.051, or 207.053 if the employment had been  
11 the employee's last work;

12 (4) imposes a disqualification under Section 207.044,  
13 207.045, 207.051, or 207.053;

14 (5) was caused by a medically verifiable illness of  
15 the employee or the employee's minor child;

16 (6) was based on a natural disaster that results in a  
17 disaster declaration by the president of the United States under  
18 the Robert T. Stafford Disaster Relief and Emergency Assistance Act  
19 (42 U.S.C. Section 5121 et seq.), if the employee would have been  
20 entitled to unemployment assistance benefits under Section 410 of  
21 that act (42 U.S.C. Section 5177) had the employee not received  
22 state unemployment compensation benefits;

23 (7) was caused by a natural disaster, fire, flood, or  
24 explosion that causes employees to be separated from one employer's  
25 employment;

26 (8) was based on a disaster that results in a disaster  
27 declaration by the governor under Section 418.014, Government Code;

1           (9) resulted from the employee's resigning from  
2 partial employment to accept other employment that the employee  
3 reasonably believed would increase the employee's weekly wage; ~~or~~

4           (10) ~~[(9)]~~ was caused by the employer being called to  
5 active military service in any branch of the United States armed  
6 forces on or after January 1, 2003;

7           (11) ~~[(9)]~~ resulted from the employee leaving the  
8 employee's workplace to protect the employee from family violence  
9 or stalking as evidenced by:

10                   (A) an active or recently issued protective order  
11 documenting family violence against, or the stalking of, the  
12 employee or the potential for family violence against, or the  
13 stalking of, the employee;

14                   (B) a police record documenting family violence  
15 against, or the stalking of, the employee; and

16                   (C) a physician's statement or other medical  
17 documentation of family violence against the employee; or

18           (12) resulted from the employee's taking leave or  
19 leaving employment to care for a newborn child, if the individual is  
20 eligible to receive benefits under Section 207.026.

21           SECTION 4. (a) The changes in law made by this Act apply  
22 only to eligibility for unemployment compensation benefits under a  
23 claim that is filed with the Texas Workforce Commission on or after  
24 December 1, 2005. Eligibility for unemployment compensation  
25 benefits under a claim that is filed before December 1, 2005, is  
26 governed by the law in effect on the date the claim was filed, and  
27 the former law is continued in effect for that purpose.

1           (b) To the extent of any conflict, this Act prevails over  
2 another Act of the 79th Legislature, Regular Session, 2005,  
3 relating to nonsubstantive additions to and corrections in enacted  
4 codes.

5           (c) The Texas Workforce Commission shall adopt rules as  
6 necessary to implement Section 207.026, Labor Code, as added by  
7 this Act, not later than November 1, 2005.

8           SECTION 5. This Act takes effect September 1, 2005.