

By: Van de Putte

S.B. No. 439

A BILL TO BE ENTITLED

1 AN ACT
2 relating to an exclusion from unemployment compensation
3 chargebacks for certain employers of uniformed service members.

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

5 SECTION 1. Subsection (a), Section 204.022, Labor Code, is
6 amended to read as follows:

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

11 (1) was required by a federal statute;

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

14 (3) would have disqualified the employee under Section
15 207.044, 207.045, 207.051, or 207.053 if the employment had been
16 the employee's last work;

17 (4) imposes a disqualification under Section 207.044,
18 207.045, 207.051, or 207.053;

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

21 (6) was based on a natural disaster that results in a
22 disaster declaration by the president of the United States under
23 the Robert T. Stafford Disaster Relief and Emergency Assistance Act
24 (42 U.S.C. Section 5121 et seq.), if the employee would have been

1 entitled to unemployment assistance benefits under Section 410 of
2 that act (42 U.S.C. Section 5177) had the employee not received
3 state unemployment compensation benefits;

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

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

9 (9) resulted from the employee's resigning from
10 partial employment to accept other employment that the employee
11 reasonably believed would increase the employee's weekly wage;

12 (10) was caused by the employer being called to active
13 military service in any branch of the United States armed forces on
14 or after January 1, 2003;

15 (11) resulted from the employee leaving the employee's
16 workplace to protect the employee from family violence or stalking
17 as evidenced by:

18 (A) an active or recently issued protective order
19 documenting family violence against, or the stalking of, the
20 employee or the potential for family violence against, or the
21 stalking of, the employee;

22 (B) a police record documenting family violence
23 against, or the stalking of, the employee; or

24 (C) a physician's statement or other medical
25 documentation that describes the family violence against the
26 employee that:

27 (i) is recorded in any form or medium that

1 identifies the employee as the patient; and

2 (ii) relates to the history, diagnosis,
3 treatment, or prognosis of the patient;

4 (12) resulted from a move from the area of the
5 employee's employment that:

6 (A) was made with the employee's spouse who is a
7 member of the armed forces of the United States; and

8 (B) resulted from the spouse's permanent change
9 of station of longer than 120 days or a tour of duty of longer than
10 one year;

11 (13) was caused by the employee being unable to
12 perform the work as a result of a disability for which the employee
13 is receiving disability insurance benefits under 42 U.S.C. Section
14 423; ~~or~~

15 (14) resulted from the employee leaving the employee's
16 workplace to care for the employee's terminally ill spouse as
17 evidenced by a physician's statement or other medical
18 documentation, but only if no reasonable, alternative care was
19 available; or

20 (15) was caused by the employer's reinstatement of a
21 qualified uniformed service member with reemployment rights and
22 benefits and other employment benefits in accordance with the
23 Uniformed Services Employment and Reemployment Rights Act of 1994
24 (38 U.S.C. Section 4301 et seq.).

25 SECTION 2. Subsection (a), Section 204.022, Labor Code, as
26 amended by this Act, applies only to a claim for unemployment
27 compensation benefits filed with the Texas Workforce Commission on

1 or after the effective date of this Act. A claim filed before that
2 date is governed by the law in effect on the date the claim was
3 filed, and the former law is continued in effect for that purpose.

4 SECTION 3. This Act takes effect September 1, 2011.