

Senate Study Bill 1088 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON CHAPMAN)

A BILL FOR

1 An Act concerning disqualification from eligibility for
2 unemployment benefits due to discharge for misconduct.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 96.5, subsection 2, Code 2019, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *d.* For purposes of this subsection,
4 "*misconduct*" means a deliberate act or omission by an
5 employee that constitutes a material breach of the duties
6 and obligations arising out of the employee's contract of
7 employment. "*Misconduct*" is limited to conduct evincing such
8 willful or wanton disregard of an employer's interest as
9 is found in deliberate violation or disregard of standards
10 of behavior which the employer has the right to expect of
11 employees, or in carelessness or negligence of such degree of
12 recurrence as to manifest equal culpability, wrongful intent
13 or evil design, or to show an intentional and substantial
14 disregard of the employer's interests or of the employee's
15 duties and obligations to the employer. "*Misconduct*" includes
16 but is not limited to all of the following:

- 17 (1) Falsification by the individual of an employment
18 application to obtain employment.
- 19 (2) Knowing violation by the individual of a reasonable and
20 uniformly enforced rule of an employer.
- 21 (3) Damage of the employer's property through willful
22 negligence by the individual.
- 23 (4) Refusal by the individual to obey reasonable
24 instructions of the employer.
- 25 (5) Disobedience, or manifestation of an intent to disobey,
26 reasonable instructions of the employer by the individual.
- 27 (6) Lack of truthfulness or candor with the employer by the
28 individual.
- 29 (7) Conduct not in the best interest of the employer by the
30 individual.
- 31 (8) Consumption by the individual of alcohol, illegal or
32 nonprescribed prescription drugs, or an impairing substance
33 in an off-label manner, or a combination of such substances,
34 on the employer's premises in violation of the employer's
35 employment policies.

1 (9) Reporting to work under the influence of alcohol,
2 illegal or nonprescribed prescription drugs, or an impairing
3 substance used in an off-label manner, or a combination of such
4 substances, in violation of the employer's employment policies,
5 unless the individual is compelled to report to work by the
6 employer outside of scheduled or on-call working hours.

7 (10) Conduct by the individual that endangers the personal
8 safety of the individual or coworkers.

9 (11) Incarceration of the individual that results in
10 missing work for an act for which one could reasonably expect
11 to be incarcerated.

12 (12) Incarceration of the individual following
13 conviction of a misdemeanor or felony by a court of competent
14 jurisdiction.

15 (13) Any breach of duty in connection with work which is
16 reasonably owed the employer by the individual.

17 (14) Excessive unexcused tardiness or absenteeism.

18 (15) Falsification by the individual of any work-related
19 report, task, or job that could expose the employer or
20 coworkers to legal liability or sanction for violation of
21 health or safety laws.

22 (16) Failure by the individual to maintain any license,
23 registration, or certification that is reasonably required by
24 the employer, that is required by law, or that is a functional
25 requirement to perform the individual's regular job duties,
26 unless the failure is not within the control of the individual.

27 (17) Conduct by the individual that is defamatory toward the
28 employer or an employee of the employer if such conduct is not
29 protected under state or federal law.

30 (18) Conduct by the individual creating or attempting to
31 create dissention or animus against the employer or a coworker
32 if such conduct is not protected under state or federal law.

33 (19) Theft of funds or property of the employer or a
34 coworker by the individual.

35 (20) Misrepresentation by the individual of time worked

1 or work carried out that results in the individual receiving
2 unearned wages or unearned benefits.

3 Sec. 2. Section 96.6, subsection 2, Code 2019, is amended
4 to read as follows:

5 2. *Initial determination.* A representative designated by
6 the director shall promptly notify all interested parties to
7 the claim of its filing, and the parties have ten days from
8 the date of mailing the notice of the filing of the claim by
9 ordinary mail to the last known address to protest payment of
10 benefits to the claimant. The representative shall promptly
11 examine the claim and any protest, take the initiative to
12 ascertain relevant information concerning the claim, and, on
13 the basis of the facts found by the representative, shall
14 determine whether or not the claim is valid, the week with
15 respect to which benefits shall commence, the weekly benefit
16 amount payable and its maximum duration, and whether any
17 disqualification shall be imposed. The claimant has the burden
18 of proving that the claimant meets the basic eligibility
19 conditions of [section 96.4](#). The employer has the burden of
20 proving that the claimant is disqualified for benefits pursuant
21 to [section 96.5](#), except as provided by [this subsection](#). The
22 claimant has the initial burden to produce evidence showing
23 that the claimant is not disqualified for benefits in cases
24 involving [section 96.5, subsections 10 and 11](#), and has the
25 burden of proving that a voluntary quit pursuant to section
26 96.5, subsection 1, was for good cause attributable to the
27 employer and that the claimant is not disqualified for benefits
28 in cases involving [section 96.5, subsection 1](#), paragraphs
29 "a" through "h". When making a determination as to whether
30 a claimant is disqualified for benefits pursuant to section
31 96.5, subsection 2, the representative shall not consider
32 whether, to what extent, or in what manner an employer imposed
33 disciplinary action upon the claimant for any past misconduct
34 by the claimant. Unless the claimant or other interested
35 party, after notification or within ten calendar days after

1 notification was mailed to the claimant's last known address,
2 files an appeal from the decision, the decision is final
3 and benefits shall be paid or denied in accordance with the
4 decision. If an administrative law judge affirms a decision of
5 the representative, or the appeal board affirms a decision of
6 the administrative law judge allowing benefits, the benefits
7 shall be paid regardless of any appeal which is thereafter
8 taken, but if the decision is finally reversed, no employer's
9 account shall be charged with benefits so paid and this relief
10 from charges shall apply to both contributory and reimbursable
11 employers, notwithstanding [section 96.8, subsection 5](#).

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 Under current law, an individual is disqualified from
16 eligibility for unemployment benefits if the department of
17 workforce development finds that the individual has been
18 discharged for misconduct in connection with the individual's
19 employment. "Misconduct" is defined by the department by rule.

20 This bill provides that "misconduct" means a deliberate act
21 or omission by an employee that constitutes a material breach
22 of the duties and obligations arising out of the employee's
23 contract of employment. "Misconduct" is limited to conduct
24 evincing such willful or wanton disregard of an employer's
25 interest as is found in deliberate violation or disregard
26 of standards of behavior which the employer has the right
27 to expect of employees, or in carelessness or negligence of
28 such degree of recurrence as to manifest equal culpability,
29 wrongful intent or evil design, or to show an intentional and
30 substantial disregard of the employer's interests or of the
31 employee's duties and obligations to the employer. The bill
32 includes a nonexclusive list of behaviors that constitute
33 misconduct.

34 The bill also prohibits the department from considering
35 whether, to what extent, or in what manner an employer imposed

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1 disciplinary action upon an individual for any past misconduct
2 by the individual when making a determination as to whether the
3 individual is disqualified for benefits due to being discharged
4 for misconduct.