



Ohio Legislative Service Commission

Sub. Bill Comparative Synopsis

Kelly Bomba

Sub. H.B. 394

131st General Assembly
(H. Insurance)

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (As Introduced)	Sub. Version (LSC 131 0578-6)
<p>Just cause – suitable for the position</p>	<p>Specifies that an individual was discharged for just cause, and thus disqualified from serving a waiting week or receiving unemployment benefits, if all of the following apply:</p> <ul style="list-style-type: none"> • The individual was discharged because the individual was not suitable for the position, as shown by evidence that the individual did not perform the work required of the position; • The employer made known the employer's expectations of the individual at the time of hiring; • The expectations were reasonable; • The requirements of the position did not change since the date of the original hiring (<i>R.C. 4141.29(D)(2)</i>), with 	<p>Expands the disqualification to include circumstances in which the position changes after hire, thus disqualifying an individual from serving a waiting week or receiving unemployment benefits if all of the following apply:</p> <ul style="list-style-type: none"> • The individual was discharged because the individual was not suitable for the position, as shown by evidence that the individual did not perform the work required of the position; • The employer made known the employer's expectations of the individual at the time of hiring or made the individual aware of any changes in the employer's expectations during the individual's

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	<i>conforming changes in R.C. 4141.29(H) and 4141.291).</i>	employment; <ul style="list-style-type: none"> The expectations were reasonable (<i>R.C. 4141.29(D)(2), with conforming changes in R.C. 4141.29(H) and 4141.291).</i>
Just cause – handbook violation	Specifies that an individual was discharged for just cause, and thus disqualified from serving a waiting week or receiving unemployment benefits, if the individual violated the terms of an employee handbook provided to the employee in connection with the individual's employment (<i>R.C. 4141.29(D)(2), with conforming changes in R.C. 4141.29(H) and 4141.291).</i>	Requires, for the disqualification to apply, the employer to have proof that the employee handbook was distributed to the employee before the employee violated the handbook terms (<i>R.C. 4141.29(D)(2), with conforming changes in R.C. 4141.29(H) and 4141.291).</i>
Lockout exception	Removes lockout and constructive lockout exceptions to continuing law disqualifications for unemployment due to a labor dispute (<i>R.C. 4141.29(D)(1).</i>	Maintains the current law lockout exception, but defines "lockout" as the physical denial of entry by an employer to a factory, establishment, or other premises and specifies that "lockout" does not include an employer taking reasonable steps to secure and protect a factory, establishment, or other premises from sabotage (<i>R.C. 4141.29(D)(1).</i>
Social Security disability insurance disqualification	Disqualifies an individual from serving a waiting week or receiving unemployment benefits for a week if the individual receives Social Security disability insurance benefits attributable to that week (<i>R.C. 4141.29(D)(3).</i>	No provision (maintains current law).
Social Security retirement offset	Reduces an individual's weekly unemployment benefits by the amount the individual receives as Social Security retirement payments for that week (<i>R.C. 4141.312).</i>	Reduces an individual's weekly unemployment benefits by 50% of the amount of a Social Security retirement payment an individual receives for that week (<i>R.C. 4141.312).</i>



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Waiting weeks	Requires an individual to serve an additional waiting week after any week in the individual's benefit year in which the individual earned wages in excess of the individual's weekly benefit amount <i>(R.C. 4141.29(B) and (C))</i> .	Requires, instead, an individual who fails to timely file a weekly claim for benefits for three or more consecutive weeks in a continued claim series within a benefit year to serve an additional waiting week after that period of failing to file <i>(R.C. 4141.29(B) and (C))</i> .
Remuneration in base period	Requires an individual to have earned wages in at least three of the calendar quarters in the individual's base period to be eligible to requalify for unemployment benefits <i>(R.C. 4141.01(R))</i> .	Requires an individual to have earned wages in at least two of the most recent three calendar quarters in the individual's base period to be eligible to receive unemployment benefits <i>(R.C. 4141.01(R))</i> .
Construction industry employer	No provision.	<p>Allows an employer whose employees are mostly construction workers as defined in the bill to apply with the Director of Job and Family Services for classification as a "construction industry employer." Allows an employer to appeal a determination regarding classification in accordance with current law appeal procedures.</p> <p>Makes the maximum number of weeks that an individual whose base period employment consists only of services performed for a construction industry employer may receive benefits 20 weeks, instead of 12 – 20 weeks based on the seasonal unemployment rate as under the bill, and sets the total benefit amount the individual may receive at 20 times the individual's weekly benefit amount calculated under the bill. Charges these benefits to the employer's account in accordance with current law requirements.</p> <p>Requires a construction industry employer to pay a surcharge of 1% of the employer's taxable</p>

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		<p>wage base. Credits the surcharge to the employer's account.</p> <p>Requires the Director to adopt rules to implement the provision.</p> <p>Requires all of the following to occur if the provision is found to be unconstitutional or results in Ohio's unemployment compensation system ceasing to satisfy a condition for full tax credit against the tax imposed under the Federal Unemployment Tax Act:</p> <ul style="list-style-type: none"> • The Director must cease accepting applications for classification as a construction industry employer; • A construction industry employer must no longer be charged the surcharge; • An individual receiving benefits under this provision will be subject to the bill's requirements to determine the maximum number of weeks an individual may receive benefits and the determination of an individual's maximum benefit amount. <i>(R.C. 4141.26 and 4141.34.)</i>
Employee Misclassification Study Committee	No provision.	<p>Creates the Employee Misclassification Study Committee to recommend a uniform definition of "independent contractor" for purposes of the Revised Code and specifies its membership.</p> <p>Requires the Committee to publish its recommendation in a report and submit the report to the Speaker of the House of Representatives and the President of the Senate not later than one year after the bill's effective</p>



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		<p>date.</p> <p>Specifies that the Committee ceases to exist upon submission of the report. (<i>Section 4.</i>)</p>
Failing a drug test	<p>Does not consider, for purposes of the bill's provision that disqualifies an individual from serving a waiting week or receiving unemployment benefits if the individual fails or refuses to take a drug test, if required to do so by the bill, an individual to have "failed a drug test" if the individual obtained the controlled substance pursuant to a prescription and the individual took the drug in accordance with the prescriber's directions (<i>R.C. 4141.294(A)(4)</i>).</p>	<p>Adds a requirement that an individual also must have complied with all safety warnings for the controlled substance to be considered as not failing a drug test (<i>R.C. 4141.294(A)(4)</i>).</p>
Interest on late payments	<p>Maintains current law.</p>	<p>Changes the annual interest rate for any late contribution, payment in lieu of contribution, interest, forfeiture, or fine that is due on or after January 1, 2017, from an employer from 14% compounded monthly on the aggregate receivable balance due to 1.5 times the prime interest rate compounded monthly on the aggregate receivable balance due.</p> <p>Defines "prime interest rate" as the average bank prime rate and requires the Director to determine the average bank prime rate in accordance with continuing law procedures. (<i>R.C. 4141.23.</i>)</p>
Telephone hearings	<p>Maintains current law.</p>	<p>Requires, if an interested party elects to have an in-person hearing under current law, the hearing officer to permit the other party to elect to participate in the hearing via telephone or other electronic means (<i>R.C. 4141.281</i>).</p>

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Workers' compensation payments	Eliminates current law payments made to the Director by Ohio's Bureau of Workers' Compensation when an individual receives both temporary total disability compensation and unemployment benefits concurrently (<i>R.C. 4123.56</i>).	Maintains current law.

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