



SPONSOR: Sen. Brown & Rep. Osienski
Sen. Poore; Reps. Bolden, Kowalko

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 244

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT
COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3314, Title 19 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 3314 Disqualification for benefits.

An individual shall be disqualified for benefits:

(4) ~~For any~~ Except as provided by paragraph (4)b. of this section, before the third week with respect to which
the Department finds that the individual's total or partial unemployment is due to a stoppage of work which exists
because of a labor ~~dispute (other than a lockout) dispute, other than a lockout,~~ at the factory, ~~establishment~~
establishment, or other premises at which the individual is or was last employed.

a. For purposes of this paragraph, a lockout exists when: ~~when~~ all of the following apply:

a. 1. The contract between the employing unit and the individual's bona fide labor organization has
expired and contract negotiations are continuing; ~~continuing.~~

b. 2. The individual, through a bona fide labor organization, has offered to continue working for a
reasonable time under the preexisting terms and conditions of employment so as to avert a work stoppage
pending the final settlement of the contract negotiations; ~~and negotiations.~~

e. 3. The employing unit has refused to permit work to continue and maintain the status quo for a
reasonable time pending further negotiations.

b. An individual is not disqualified for benefits before the third week with respect to which the
Department finds that the individual's total or partial unemployment is due to a stoppage of work which exists
because of a labor dispute, other than a lockout, if 1 of the following applies:

1. The labor dispute is caused by the failure or refusal of the employer to comply with an agreement
or contract between the employer and the individual, including a collective bargaining agreement with a union
representing the individual, or a State or federal law pertaining to hours, wages, or other conditions of work.

23 2. The employer hires a permanent replacement worker for individual's position.

24 A. A replacement worker is presumed to be permanent unless the employer certifies in writing
25 that the individual will be able to return to the individual's prior position on conclusion of the labor
26 dispute, if the labor dispute terminates before the conclusion of the individual's eligibility for benefit
27 rights under this chapter.

28 B. If, after the certification under paragraph (4)b.2.A. of this section, the employer does not
29 permit the individual to return to the individual's prior position, the individual is qualified for, and may
30 recover, benefits lost during the period the individual was disqualified for benefits, and the Department
31 may impose a penalty on the employer of up to \$750 per employee per week of benefits lost. The
32 Department shall deposit the penalty collected under this paragraph (4)b.2.B. into the Penalties and
33 Interest Account.

SYNOPSIS

Under current Delaware law, if a labor dispute constitutes a lockout, employees are immediately eligible for unemployment benefits. Additionally, current law permits an individual to collect unemployment benefits beginning the third week of a labor dispute, other than a lockout.

This Act mandates that the 2-week disqualification period does not apply if either:

- (1) The labor dispute is caused by the failure or refusal of the employer to comply with an agreement or contract between the employer and the individual, including a collective bargaining agreement with a union representing the individual, or a State or federal law pertaining to hours, wages, or other conditions of work.
- (2) The employer hires a permanent replacement worker for the individual's position.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Brown