



2022 South Dakota Legislature

House Bill 1224

Introduced by: **Representative Haugaard**

1 **An Act to extend unemployment insurance benefits to individuals who are**
 2 **unemployed because of their refusal to obtain a COVID-19 vaccination.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 61-6-9.1 be AMENDED:**

5 **61-6-9.1.** Good cause for voluntarily leaving employment is restricted to leaving
 6 employment because:

7 (1) Continued employment presents a hazard to the employee's health. However, this
 8 subdivision applies only if:

9 (a) Before separation from the employment, the employee is examined by a
 10 licensed practitioner of the healing arts, as defined in chapter 36-4, 36-4A,
 11 or 36-5 or subdivision 36-9A-1(5), and advised that continued employment
 12 presents a hazard to the employee's health; and

13 (b) The health hazard is supported by a certificate signed by the licensed
 14 practitioner of the healing arts.

15 The secretary of labor and regulation may request an additional certificate signed by
 16 another licensed practitioner of the healing arts, as defined in chapter 36-4, 36-
 17 4A, or 36-5 or subdivision 36-9A-1(5);

18 (2) The employer required the employee to relocate the employee's residence to hold
 19 the employee's job;

20 (3) The employer's conduct demonstrates a substantial disregard of the standards of
 21 behavior that the employee has a right to expect of an employer or the employer
 22 has breached or substantially altered the contract for employment;

23 (4) An individual accepted employment while on lay off and subsequently quit the
 24 employment to return to work for the individual's regular employer;

25 (5) The employee's religious belief mandates it. This provision does not apply, however,
 26 if the employer has offered to the employee reasonable accommodations taking

1 into consideration the employee's religious beliefs if this offer is made before the
2 employee leaves the employment;

3 (6) Leaving is necessary to protect the individual from domestic abuse. However, this
4 subdivision applies only if:

5 (a) The employee reports the abusive situation to law enforcement within forty-
6 eight hours of any occurrence and cooperates fully with law enforcement in
7 any subsequent investigation and criminal charge relating to the abusive
8 situation. Upon request by the department, the law enforcement agency
9 shall complete and return to the department a certification form indicating
10 whether the employee has complied with the requirements of this
11 subdivision;

12 (b) The employee has left the abusive situation and remains separate from the
13 situation; and

14 (c) The employee made reasonable efforts to preserve the employment before
15 quitting;

16 (7) The employer required or otherwise made a condition of employment that the
17 employee be vaccinated against COVID-19;

18 (8) The employee is relocating to accompany a spouse who has been reassigned from
19 one military assignment to another; or

20 ~~(8)~~(9) The employee is an officer who exercises substantial control in decisions to take or
21 not to take action on behalf of a corporation and has no other alternative than to
22 leave employment with that corporation. This does not preclude a corporate officer
23 who does not exercise substantial control in any decision to take or not take action
24 on behalf of a corporation from being found to have good cause to leave
25 employment under the circumstances set out in subdivisions (1) to (7), inclusive.

26 Any person found to have good cause for leaving employment due to domestic
27 abuse as set forth in subdivision (6) and who returns to the abusive situation is ineligible
28 for benefits.

29 **Section 2. That § 61-6-14.1 be AMENDED:**

30 **61-6-14.1.** As used in this chapter, misconduct is:

31 (1) Failure to obey orders, rules, or instructions, or failure to discharge the duties for
32 which an individual was employed; or

33 (2) Substantial disregard of the employer's interests or of the employee's duties and
34 obligations to the employer; or

1 (3) Conduct evincing such willful or wanton disregard of an employer's interests as is
2 found in deliberate violations or disregard of standards of behavior which the
3 employer has the right to expect of an employee; or

4 (4) Carelessness or negligence of such degree or recurrence as to manifest equal
5 culpability or wrongful intent.

6 However, mere inefficiency, unsatisfactory conduct, failure to perform as the result
7 of inability or incapacity, a good faith error in judgment or discretion, refusal to be
8 vaccinated against COVID-19, or conduct mandated by a religious belief which belief
9 cannot be reasonably accommodated by the employer is not misconduct.

10 **Section 3. That § 61-6-19 be AMENDED:**

11 **61-6-19.** Notwithstanding any other provisions of this title, no work is deemed
12 suitable and no benefits may be denied under this title to any otherwise eligible individual
13 for refusing to accept new work under any of the following conditions:

14 (1) If the position offered is vacant due directly to a strike, lockout, or other labor
15 dispute;

16 (2) If the wages, hours, or other conditions of the work offered are substantially less
17 favorable to the individual than those prevailing for similar work in the locality;

18 (3) If, as a condition of being employed, the individual would be required to join or to
19 resign from or refrain from joining any labor organization; or

20 (4) If the position offered requires, as a condition of employment, that the individual
21 receive or has received a COVID-19 vaccination.