

REFERENCE TITLE: **unemployment benefits; requirements; disqualifications**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# **HB 2108**

Introduced by  
Representative Livingston

**AN ACT**

**AMENDING SECTIONS 23-634.01, 23-773 AND 23-776, ARIZONA REVISED STATUTES;  
RELATING TO EMPLOYMENT SECURITY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-634.01, Arizona Revised Statutes, is amended  
3 to read:

4 23-634.01. Denial of benefits for failure to accept suitable  
5 work or actively seek work; definition

6 A. Notwithstanding section 23-776, an individual who is found by  
7 the department, with respect to any week in an eligibility period ~~which~~  
8 THAT begins from and after April 4, 1981, to have failed to apply for or  
9 accept available suitable work to which ~~he~~ THE INDIVIDUAL was referred by  
10 the department or to have failed to actively engage in seeking work is  
11 disqualified from receiving extended benefits. The disqualification shall  
12 begin with the week in which the failure occurred and continue until the  
13 individual has been employed in each of four subsequent weeks, whether or  
14 not consecutive, and has earned remuneration equal to ~~not less than~~ AT  
15 LEAST four times ~~his~~ THE INDIVIDUAL'S weekly benefit amount.

16 B. An individual shall not be denied extended benefits for failure  
17 to accept an offer of or apply for available suitable work as defined in  
18 subsection G of this section, if:

19 1. The position was not offered to the individual in writing or was  
20 not listed with the department.

21 2. The failure would not result in a denial of benefits under  
22 section 23-776 to the extent that the criteria of suitability in section  
23 23-776 are not inconsistent with this section.

24 C. If an individual furnishes evidence satisfactory to the  
25 department that prospects for obtaining work in ~~his~~ THE INDIVIDUAL'S  
26 customary occupation within a reasonably short period are good, the  
27 determination of whether any work is suitable with respect to the  
28 individual shall be made in accordance with ~~the provisions of~~ section  
29 23-776 without reference to the definition contained in this section.

30 D. Work shall not be considered suitable work under this section if  
31 it would not be considered suitable under section 23-776, subsection ~~E~~ G.

32 E. For the purposes of this section, an individual shall be treated  
33 as actively engaged in seeking work during any week if the department  
34 finds from tangible evidence provided by the individual that ~~he~~ THE  
35 INDIVIDUAL has engaged in a systematic and sustained effort to obtain work  
36 during such week.

37 F. The department shall refer an individual entitled to extended  
38 benefits under this chapter to any work ~~which~~ THAT is suitable work.

39 G. For the purposes of this section, "suitable work" with respect  
40 to any individual means work within the individual's capabilities in  
41 which:

42 1. The gross average weekly wages payable for the work exceed the  
43 sum of the individual's weekly benefit amount plus the amount of any  
44 supplemental unemployment benefits payable to the individual for such  
45 week.

1           2. The wages for the work are at least equal to the higher of:  
2           (a) The minimum wages provided by section 6(a)(1) of the fair labor  
3 standards act of 1938, without regard to any exemption.

4           (b) The state or local minimum wage.

5           Sec. 2. Section 23-773, Arizona Revised Statutes, is amended to  
6 read:

7           23-773. Examination and determination of claims

8           A. A representative designated by the department as a deputy shall  
9 promptly examine any claim for benefits and, on the basis of the facts  
10 found by the deputy, shall determine whether ~~or not~~ the claim is valid.  
11 If the claim is valid, the deputy shall also determine the week with  
12 respect to which the benefit year shall commence, the weekly benefit  
13 amount payable and the maximum duration of the benefit.

14           B. The deputy shall promptly notify the claimant and any other  
15 interested parties of the determination and the reasons for the  
16 determination. Except as provided in subsection D of this section, unless  
17 the claimant or an interested party, within seven calendar days after the  
18 delivery of notification, or within fifteen calendar days after  
19 notification was mailed to the claimant's or interested party's last known  
20 address, files an appeal from the determination, it shall become final,  
21 and benefits shall be paid or denied in accordance with the determination.  
22 The department shall adopt rules to allow an appeal to be filed in  
23 writing, electronically or by telephone. If an appeal tribunal affirms a  
24 determination of the deputy allowing benefits, or the appeals board  
25 affirms a determination or decision allowing benefits, the benefits shall  
26 be paid regardless of any appeal that may thereafter be taken, but if that  
27 decision is finally reversed, no employer's account shall be charged with  
28 benefits so paid.

29           C. On receipt of a request from an interested party for information  
30 about a deputy's determination made pursuant to this section or section  
31 23-673, the department shall make available by memorandum or other written  
32 document within five days after receipt of the request the following  
33 information:

34           1. The facts considered and the facts relied on in making the  
35 determination.

36           2. The specific statutes, regulations or other authority relied on  
37 in making the determination.

38           3. The reasoning applied in making the determination.

39           D. Before the time for appeal as prescribed in subsection B of this  
40 section has expired, an interested party may request a reconsidered  
41 determination. The department shall examine the request and, within seven  
42 calendar days, deny the request or issue a reconsidered determination.  
43 The interested party may prove that a response was timely filed by using  
44 evidence of fax records that documents the date and time when a faxed  
45 response was transmitted and received by the department. A request for

1 reconsideration that is denied shall be treated as an appeal, and the same  
2 procedure shall be followed as provided for in case of appeal from the  
3 original determination. If a reconsidered determination is issued, the  
4 time for appeal shall run from the date of issuance of the reconsidered  
5 determination. The employer and the claimant shall each be ~~permitted no~~  
6 ~~permitted~~ ALLOWED NOT more than one request for reconsideration on each case.

7 E. Before the actual filing of an appeal under subsection B of this  
8 section, but not later than the time ~~permitted~~ ALLOWED to appeal, the  
9 department on its own motion may issue a reconsidered determination.  
10 After the time for appeal has expired, but within one year after the  
11 issuance of the original determination, the department with authorization  
12 of the unemployment insurance program administrator may issue a  
13 reconsidered determination, on the basis of newly discovered evidence that  
14 by due diligence could not have been previously discovered, if no  
15 administrative or judicial review has occurred or is pending on the  
16 original determination. If a redetermination is based on fraud, the ~~one~~  
17 ~~year~~ ONE-YEAR limitation on the issuance of redeterminations does not  
18 apply.

19 F. Prompt notice in writing of any reconsidered determination under  
20 subsection E of this section and the reasons for reconsideration shall be  
21 given to all interested parties. An interested party may appeal within  
22 the time prescribed under subsection B of this section, and the same  
23 procedure shall be followed as provided for in case of an appeal from the  
24 original determination.

25 G. IN DETERMINING THE VALIDITY OF CLAIMS PURSUANT TO SUBSECTION A  
26 OF THIS SECTION, THE DEPARTMENT MAY NOT PAY BENEFITS FOR AN INITIAL OR  
27 ONGOING CLAIM UNTIL THE INITIAL CLAIM IS CROSS-CHECKED, OR AN ONGOING  
28 CLAIM IS CROSS-CHECKED ON A WEEKLY BASIS, AGAINST THE FOLLOWING DATA SETS:

- 29 1. THE NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES' INTEGRITY  
30 DATA HUB.
- 31 2. THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES  
32 NATIONAL DIRECTORY OF NEW HIRES.
- 33 3. THE DEPARTMENT OF ECONOMIC SECURITY'S NEW HIRE REPORTING SYSTEM.
- 34 4. THE STATE DEPARTMENT OF CORRECTIONS INMATE DATABASES.
- 35 5. THE SOCIAL SECURITY ADMINISTRATION'S PRISONER UPDATE PROCESSING  
36 SYSTEM.
- 37 6. THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL VITAL  
38 STATISTICS SYSTEM'S DEATH RECORDS DATABASE.
- 39 7. THE DEPARTMENT OF HEALTH SERVICES BUREAU OF VITAL RECORDS DEATH  
40 RECORDS DATABASE.

41 H. IF A CROSS-CHECK PURSUANT TO SUBSECTION G OF THIS SECTION  
42 RESULTS IN INFORMATION INDICATING THAT A CLAIM IS INELIGIBLE OR  
43 FRAUDULENT, THAT CLAIM MAY NOT BE PAID, AND THE CLAIMANT SHALL BE  
44 DISQUALIFIED FROM RECEIVING BENEFITS PURSUANT TO SECTION 23-778 AND  
45 REFERRED FOR PROSECUTION.

1 I. THE DEPARTMENT SHALL EXAMINE ANY INITIAL CLAIM FOR BENEFITS AND  
2 CONFIRM ITS VALIDITY BEFORE BENEFITS ARE PAID IF THE INITIAL CLAIM:

3 1. WAS SUBMITTED ELECTRONICALLY THROUGH AN INTERNET PROTOCOL  
4 ADDRESS LOCATED OUTSIDE OF THIS STATE OR THE UNITED STATES.

5 2. REFERENCES A MAILING ADDRESS OR RESIDENTIAL ADDRESS FOR WHICH  
6 ANOTHER CURRENT CLAIM WAS SUBMITTED.

7 3. IS ASSOCIATED WITH A DIRECT DEPOSIT FOR A BANK ACCOUNT ALREADY  
8 USED FOR ANOTHER CURRENT CLAIM.

9 J. IF A FRAUDULENT CLAIM WAS FILED, THE DEPARTMENT MAY REFER THE  
10 MATTER FOR PROSECUTION.

11 Sec. 3. Section 23-776, Arizona Revised Statutes, is amended to  
12 read:

13 23-776. Disqualification from benefits for failure to accept  
14 suitable work or actively seek work; exceptions

15 A. An individual shall be disqualified for benefits if the  
16 department finds the individual has failed without cause ~~either to apply~~  
17 ~~for available, suitable work, when so directed by the employment office or~~  
18 ~~the department, to actively engage in seeking work, to accept suitable~~  
19 ~~work when offered or to return to the individual's customary~~  
20 ~~self-employment when so directed by the department~~ TO ACTIVELY SEEK AND  
21 APPLY FOR SUITABLE WORK, TO ACCEPT AN OFFER OF SUITABLE WORK OR ACCEPT  
22 REEMPLOYMENT AT THE SAME EMPLOYER, IF OFFERED. The disqualification shall  
23 begin with the week in which the failure occurred and shall continue for  
24 the duration of the individual's unemployment and until the individual has  
25 earned wages in an amount equivalent to eight times the individual's  
26 weekly benefit amount otherwise payable.

27 B. AN INDIVIDUAL SHALL CONDUCT AT LEAST FIVE WORK SEARCH ACTIONS  
28 EACH WEEK IN ORDER TO QUALIFY AS ACTIVELY SEEKING AND APPLYING FOR  
29 SUITABLE WORK. THE ACTIONS SHALL INCLUDE ANY OF THE FOLLOWING:

- 30 1. SUBMITTING RESUMES.  
31 2. COMPLETING JOB APPLICATIONS.  
32 3. ATTENDING JOB FAIRS.  
33 4. ATTENDING INTERVIEWS WITH POTENTIAL EMPLOYERS.  
34 5. ATTENDING A DEPARTMENT-APPROVED TRAINING PROGRAM, WHICH SHALL  
35 COUNT AS ONE WORK SEARCH ACTION FOR THE WEEK THE INDIVIDUAL ATTENDED THE  
36 TRAINING PROGRAM.

37 C. IF AN INDIVIDUAL IS APPLYING FOR A WEEKLY BENEFIT, THE  
38 INDIVIDUAL SHALL PROVIDE A WEEKLY REPORT TO THE DEPARTMENT THAT DETAILS  
39 THE INDIVIDUAL'S WORK SEARCH ACTIONS FOR EVERY WEEK A BENEFIT IS SOUGHT.

40 D. AN EMPLOYER SHALL REPORT TO THE DEPARTMENT WHEN AN INDIVIDUAL  
41 WHO WAS PREVIOUSLY EMPLOYED WITH THAT EMPLOYER DOES ANY OF THE FOLLOWING:

- 42 1. REFUSES TO RETURN TO WORK.  
43 2. REFUSES TO ACCEPT AN OFFER OF SUITABLE WORK.  
44 3. FAILS, WITHOUT CAUSE, TO APPEAR FOR A SCHEDULED INTERVIEW.  
45 4. FAILS TO RESPOND TO AN OFFER OF EMPLOYMENT.

1 E. THE DEPARTMENT SHALL ALLOW EMPLOYERS TO SUBMIT THE REPORTS  
2 PURSUANT TO SUBSECTION D OF THIS SECTION DIGITALLY OR THROUGH EMAIL AND  
3 SHALL CONDUCT AN INDEPENDENT REVIEW OF EACH REPORT TO DETERMINE WHETHER AN  
4 INDIVIDUAL SHOULD BE DISQUALIFIED FROM RECEIVING BENEFITS.

5 ~~B.~~ F. In determining whether ~~or not~~ work is suitable for an  
6 individual:

7 1. During the first four weeks of a benefit period, the department  
8 shall consider the degree of risk involved to the individual's health,  
9 safety and morals, the individual's physical fitness and prior training,  
10 the individual's experience and prior earnings, the individual's length of  
11 unemployment and prospects for securing local work in the individual's  
12 customary occupation and the distance of the available work from the  
13 individual's residence.

14 2. After the first four weeks of a benefit period, the department  
15 shall consider any employment offer that pays one hundred twenty percent  
16 of the individual's weekly benefit amount to be suitable work.

17 ~~C.~~ G. Notwithstanding any other provisions of this chapter, work  
18 shall not be deemed suitable and benefits shall not be denied under this  
19 chapter to an otherwise eligible individual for refusing to accept new  
20 work under any of the following conditions:

21 1. The position offered is vacant due directly to a strike, lockout  
22 or other labor dispute.

23 2. The wages, hours or other conditions of the work offered are  
24 substantially less favorable to the individual than those prevailing for  
25 similar work in the locality.

26 3. As a condition of being employed, the individual would be  
27 required to join a company union or to resign from or refrain from joining  
28 a bona fide labor organization.

29 ~~D.~~ H. An individual is considered to have refused an offer of  
30 suitable work under subsection A of this section if an offer of work is  
31 withdrawn by an employer after an individual either:

32 1. Tests positive for drugs after a drug test given pursuant to  
33 chapter 2, article 14 of this title by or on behalf of a prospective  
34 employer as a condition of an offer of employment.

35 2. Refuses, without good cause, to submit to a drug test that is  
36 required by a prospective employer as a condition of an offer of  
37 employment.