



## Legal Alert: Important Changes to Florida's Unemployment Compensation Law

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**Executive Summary:** Florida Governor Rick Scott has signed new unemployment compensation legislation broadening the meaning of misconduct and adding additional requirements claimants must meet to be eligible for unemployment compensation benefits.

### **Background**

On June 27, 2011, Governor Scott signed into law significant reforms to Florida's Unemployment Compensation Law. Included in these reforms is the new definition of misconduct provided by the Agency for Workforce Innovation. The Agency now defines misconduct as: "any action that demonstrates conscious disregard of an employer's interests and is found to be a deliberate disregard or violation of reasonable standards of behavior, and may include activities that did not occur at the workplace or during working hours." Notably, this broader definition extends misconduct to activities that occur during an employee's personal time outside of the workplace. The new law also makes it easier for employers to prove misconduct by reducing the standard from "willful and wanton disregard" of an employer's interests, to "conscious disregard of an employer's interest."

The definition also includes as misconduct:

- Chronic absenteeism or tardiness;
- Willful and deliberate violation of a state standard or regulation which would jeopardize the employer's Florida license or certification; and
- Violation of an employer's rules under certain circumstances.

### **Additional Changes**

- **Internet Filing:** Claimants will now be required to file their claims over the internet.
- **Active Work Search:** Claimants are now required to search for work by contacting at least five potential employers weekly and to provide records of such contact on-line during their bi-weekly certification of benefits.
- **Skill Assessment:** Claimants filing new claims must complete an on-line initial skills evaluation in order to be eligible to receive benefits.

- **Effects of Severance Pay:** Severance pay is now considered disqualifying income if the claimant's severance pay per week is equal to or greater than his or her weekly benefit amount.

- **Duration of Benefits:** Effective January 1, 2012, the duration of benefits for new claims will be adjusted from the current maximum of 26 weeks to a range of 12 to 23 weeks, "based upon the average unemployment rate in Florida for the third calendar quarter of the previous year."

**Employers' Bottom Line:**

Overall the changes represent a big win for Florida employers because it may now be easier for employers to show that employees were discharged for misconduct and, accordingly, are not qualified for unemployment compensation benefits. All of the revisions, other than the duration of benefits provision, are currently in effect.

If you have any questions regarding these developments in the Florida Unemployment Compensation Law please contact the author of this Alert, Luis Santos, [lsantos@fordharrison.com](mailto:lsantos@fordharrison.com), an attorney in our Tampa office, or the Ford & Harrison attorney with whom you usually work.