

## HB535 INTRODUCED



1 HB535  
2 TBDA811-1  
3 By Representative Tillman  
4 RFD: Commerce and Small Business  
5 First Read: 08-Apr-25



SYNOPSIS:

Under existing law, an employee is disqualified from collecting unemployment benefits during a labor dispute.

This bill would carve out instances where the employer locks out employees during a labor dispute from the unemployment benefits disqualification.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to unemployment benefits; to amend Section 25-4-78, Code of Alabama 1975, to allow unemployment benefits when an employer locks out employees during a labor dispute.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 25-4-78, Code of Alabama 1975, is amended to read as follows:

"§25-4-78

An individual shall be disqualified for total or partial unemployment for any of the following:

(1) LABOR DISPUTE IN PLACE OF EMPLOYMENT OTHER THAN EMPLOYER LOCKOUTS. For any week in which an individual's total or partial unemployment is directly due to a labor dispute



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29 still in active progress in the establishment in which he or  
30 she is or was last employed, unless the total or partial  
31 unemployment is directly due to an employer lockout. For the  
32 purposes of this section only, the term labor dispute includes  
33 any controversy concerning terms, tenure, or conditions of  
34 employment, or concerning the association or representation of  
35 persons in negotiating, fixing, maintaining, changing, or  
36 seeking to arrange terms or conditions of employment,  
37 regardless of whether the disputants stand in the proximate  
38 relation of employer and employee. This definition shall not  
39 relate to a dispute between an individual worker and his or  
40 her employer.

41 (2) VOLUNTARILY QUITTING WORK. If an individual has  
42 left his or her most recent bona fide work voluntarily without  
43 good cause connected with such work.

44 a.1. However, an individual shall not be disqualified  
45 if he or she was forced to leave work because he or she was  
46 sick or disabled, notified his or her employer of the fact as  
47 soon as it was reasonably practicable so to do, and returned  
48 to that employer and offered himself or herself for work as  
49 soon as he or she was again able to work; provided, however,  
50 this exception shall not apply if the employer had an  
51 established leave of absence policy covering sickness or  
52 disability and:

53 (i) The individual fails to comply with the same as  
54 soon as it is reasonably practicable to do so; or

55 (ii) Upon the expiration of a leave of absence ~~shall~~  
56 ~~fail~~ fails to return to the employer and offer himself or



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57 herself for work, if the individual ~~shall then be~~ is able to  
58 work, or if he or she is not ~~then~~ able to work, he or she  
59 fails to so notify his or her employer of that fact and  
60 request an extension of his or her leave of absence as soon as  
61 it is reasonably practicable so to do.

62 2. In case of doubt that an individual was sick or  
63 disabled, or as to the duration of any ~~such~~ sickness or  
64 disability, the secretary may, or if the employer requests it,  
65 the secretary shall require a doctor's certificate to  
66 establish the fact or facts in doubt.

67 3. An established leave of absence policy shall be any  
68 leave of absence policy covering sickness and disability  
69 communicated to the employee by the customary means used by  
70 the employer for communicating with his or her employees.

71 4. Nothing herein shall be construed or interpreted as  
72 authorizing the payment of benefits to any individual during,  
73 or for, unemployment due to sickness or disability or during  
74 any period in which he or she is on a leave of absence granted  
75 in accordance with an established leave of absence policy, the  
76 duration of which leave was set in accordance with his or her  
77 request or in accordance with a collective bargaining  
78 agreement; except, that if ~~such~~ the leave of absence is on  
79 account of pregnancy and extends beyond the tenth week  
80 following termination of ~~such~~ the pregnancy, the individual  
81 shall not be denied benefits under this subdivision beyond  
82 ~~such~~ the tenth week if she has given the employer three weeks'  
83 notice of her desire to return to work, is then able to work,  
84 and has not refused reinstatement to a job which under



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subdivision (5) would be deemed suitable for her.

b. When an individual is disqualified under this subdivision:

1. He or she shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until:

(i) He or she has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10), or (18) of subsection (b) of Section 25-4-10; and

(ii) For which employment he or she has earned wages equal to at least 10 times his or her weekly benefit amount for the benefit year in which ~~such~~the disqualification is assessed; and

(iii) He or she has been separated from such employment under nondisqualifying conditions.

2. The total amount of benefits to which an individual may otherwise be entitled as determined in accordance with Sections 25-4-74 and 25-4-75 shall be reduced by an amount equal to not less than three nor more than nine times his or her weekly benefit amount.

3. For the purpose of the experience rating provisions of Section 25-4-54, no portion of the benefits payable to an individual, based upon wages paid to him or her for the period of employment ending with the separation to which the disqualification applies, shall be charged to the employer's experience rating account. If the individual has been separated from employment other than his or her most recent



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bona fide work under conditions which would have been disqualifying under this subdivision ~~(2)~~ had the separation been from his or her most recent bona fide work and the employer answers a notice of payment within 15 days after it is mailed to him or her detailing the facts in connection with the separation, then no portion of any benefits paid to him or her based upon wages for the period of employment ending in ~~such~~ the separation shall be charged to the employer's experience rating account.

4. Any other provision of this chapter to the contrary notwithstanding, ~~effective October 21, 2013,~~ the unemployment compensation account of an employer shall be charged when the unemployment compensation agency determines that an overpayment has been made to a claimant as a result of both of the following:

(i) The overpayment occurred because the employer, or an agent of the employer, failed to respond timely or adequately to a request from the unemployment compensation agency for information relating to an unemployment compensation claim.

(ii) The employer, or an agent of the employer, has established a pattern of failing to respond timely or adequately to a request from the unemployment compensation agency for information relating to an unemployment compensation claim on two or more occasions.

c. An individual shall not be disqualified if he or she left his or her employment and immediately returned to work with his or her regular employer or to employment in which he



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141 or she had prior existing statutory or contractual seniority  
142 or recall rights. When this exception is applied, any benefits  
143 paid to the individual based upon wages paid for that period  
144 of employment immediately preceding the separation to which  
145 the exception is applied, which have not been heretofore  
146 charged to the employer's experience rating account, shall not  
147 be charged to the account of the employer.

148 d. ~~For separation occurring on or after August 1, 2012,~~  
149 ~~an~~ An individual shall not be disqualified if he or she left  
150 his or her employment to permanently relocate as a result of  
151 his or her active duty military-connected spouse's permanent  
152 change of station orders, activation orders, or unit  
153 deployment orders. When this exception is applied, any  
154 benefits paid to the individual based upon wages paid for that  
155 period of employment immediately preceding the separation to  
156 which the exception is applied, which have not been heretofore  
157 charged to the employer's experience rating account, shall not  
158 be charged to the account of the employer.

159 e. For the purposes of this subdivision and subdivision  
160 (3) ~~of this section~~, the secretary, in determining the most  
161 recent bona fide work, shall only consider employment of the  
162 nature described in subsection (a) of Section 25-4-10. The  
163 secretary shall also consider the duration of the most recent  
164 job or jobs, the intent of the individual and his or her  
165 employer as to the permanence of such work, and whether  
166 separation from the immediately preceding employment was under  
167 conditions which would be disqualifying ~~in the event such~~ the  
168 immediately preceding employment ~~should be~~ is determined to be



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the most recent bona fide work.

### (3) DISCHARGE FOR MISCONDUCT.

a. If an individual was discharged or removed from his or her work for a dishonest or criminal act committed in connection with his or her work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous warning or for the refusal to submit to or cooperate with a blood or urine test after previous warning. Disqualification under this paragraph may be applied to separations prior to separation from the most recent bona fide work only if the employer has filed a notice with the secretary alleging that the separation was under conditions described in this paragraph in such manner and within such time as the secretary may prescribe.

(i) A confirmed positive drug test that is conducted and evaluated according to standards set forth for the conduct and evaluation of such tests by the U.S. Department of Transportation in 49 C.F.R. Part 40 or standards shown by the employer to be otherwise reliable shall be a conclusive presumption of impairment by illegal drugs. No unemployment compensation benefits shall be allowed to an employee having a confirmed positive drug test if the employee had been warned that such a positive test could result in dismissal pursuant to a reasonable drug policy. A drug policy shall be deemed reasonable if the employer shows that all employees of the employer, regardless of position or classification, are subject to testing under the policy, and in those instances in which the employer offers as the basis for disqualification





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from unemployment compensation benefits the results obtained pursuant to additional testing imposed on some but not all classifications, if the employer can also offer some rational basis for conducting ~~such~~ the additional testing. Further, no unemployment compensation benefits shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above, or if the employee knowingly alters or adulterates the blood or urine specimen.

(ii) For purposes of paragraph a. and item a.(i) ~~of paragraph a.~~ of this subdivision, "warning" ~~shall mean~~ means that the employee has been advised in writing of the provisions of the employer's drug policy and that either testing positive pursuant to the standards referenced above or the refusal to submit to or cooperate with a blood or urine test as set out in the above referenced standards could result in termination of employment. This written notification as herein described shall constitute a warning as used in paragraph a. and item a.(i) ~~of paragraph a.~~ of this subdivision.

(iii) To the extent that the issue is a positive drug test or the refusal to submit to or cooperate with a blood or urine test, or if the employee knowingly alters or adulterates the blood or urine sample, as distinguished from some other aspect of the employer's drug policy, this disqualification under paragraph a. and item a.(i) ~~of paragraph a.~~ shall be the only disqualification to apply, in connection with an individual's separation from employment. Other non-separation disqualifications may apply.



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When an individual is disqualified under this paragraph:

1. He or she shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until he or she has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10), or (18) of subsection (b) of Section 25-4-10, has earned wages equal at least to 10 times his or her weekly benefit amount, and has been separated from such employment for a nondisqualifying reason.

2. He or she shall not thereafter be entitled to any benefits under this chapter on account of wages paid to him or her for the period of employment by the employer by whom he or she was employed when the disqualifying event occurred.

3. For the purposes of the experience rating provisions of Section 25-4-54:

(i) No portion of any benefits based upon wages paid to the individual for the period of employment by the employer by whom he or she was employed when the disqualifying event occurred shall be charged to the employer's experience rating account.

(ii) In the case of a separation prior to the separation from the most recent bona fide work, if the only reason disqualification under this paragraph a. was not assessed was the failure of the employer to properly file a timely separation report with the secretary and the employer files such a report within 15 days after the mailing of a notice of payment, then no portion of any benefits paid based



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upon the wages paid for the period of employment ending in ~~such~~the prior separation shall be charged to the employer's experience rating account.

b. If an individual was discharged from his or her most recent bona fide work for actual or threatened misconduct committed in connection with his or her work, other ~~+~~ than acts mentioned in paragraph a. of this subdivision, + repeated after previous warning to the individual. When an individual is disqualified under this paragraph, or exempt from disqualification for a separation under such conditions prior to his or her most recent bona fide work, the effect shall be the same as provided in paragraph (2) ~~b. of subdivision (2)~~ for disqualification or exemption from disqualification respectively.

c. If an individual was discharged from his or her most recent bona fide work for misconduct connected with his or her work, other ~~+~~ than acts mentioned in paragraphs a. and b. of this subdivision~~+~~:

1. He or she shall be disqualified from receipt of benefits for the week in which he or she was discharged and for not less than the following week nor more than the four next following weeks, as determined by the secretary in each case according to the seriousness of the conduct.

2. The total amount of benefits to which an individual may otherwise be entitled as determined in accordance with Sections 25-4-74 and 25-4-75 shall be reduced by an amount equal to the product of the number of weeks for which an individual shall be disqualified multiplied by his or her



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281 weekly benefit amount.

282 3. Only one-half of the benefits paid to an individual  
283 based upon wages for that period of employment immediately  
284 preceding the separation to which the disqualification applies  
285 shall be charged to the employer for the purposes of the  
286 experience rating provisions of Section 25-4-54. If the  
287 individual has been separated from employment, other than his  
288 or her most recent bona fide work, under conditions which  
289 would have been disqualifying under this paragraph, had the  
290 separation been from his or her most recent bona fide work and  
291 the employer answers a notice of payment within 15 days after  
292 it is mailed to him or her detailing the facts in connection  
293 with the separation, then only one-half of the benefits paid  
294 to him or her for that period of employment immediately  
295 preceding the separation shall be charged to the employer for  
296 the purposes of the experience rating provisions of Section  
297 25-4-54, unless the employer, or an agent of the employer,  
298 failed to respond timely or adequately to written requests  
299 pursuant to subparagraph (2)b.4. ~~of paragraph b. of~~  
300 ~~subdivision (2).~~

301 d. If an individual has been suspended as a  
302 disciplinary measure connected with his or her work, or for  
303 misconduct connected with his or her work, he or she shall be  
304 disqualified from benefits for the week or weeks, and ~~not to~~  
305 exceed four weeks, and ~~in which~~ or for which ~~he or she is so~~  
306 suspended, and the total amount of benefits to which he or she  
307 may otherwise be entitled shall be reduced in the same manner  
308 and to the same extent as provided in subparagraph c.2. ~~of~~



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309 ~~paragraph c.~~ of this subdivision ~~(3)~~.

310 (4) REVOCATION OR SUSPENSION OF REQUIRED LICENSE, ETC.

311 For the week in which an individual has become unemployed  
312 because a license, certificate, permit, bond, surety, or  
313 insurability which is necessary for the performance of his or  
314 her employment and which he or she is responsible to maintain  
315 or supply has been revoked, suspended, or otherwise become  
316 lost to him or her for a cause other than one which would fall  
317 within the meaning of subdivision (3), but one which was  
318 within his or her power to control, guard against, or prevent,  
319 and for each week thereafter until:

320 a. The license, certificate, permit, bond, or surety,  
321 or insurability, has been restored to him or her and he or she  
322 has reapplied to his or her employer for employment; or

323 b. He or she has reentered insured employment or  
324 employment of the nature described in subdivisions (5), (6),  
325 (7), (8), (9), (10), or (18) of subsection (b) of Section  
326 25-4-10, whichever is the earlier.

327 c. Nothing in this subdivision shall be construed as a  
328 basis for disqualification of an individual who is without  
329 fault and who has made a reasonable effort to obtain his or  
330 her initial license, certificate, permit, bond, surety, or  
331 insurability required for the performance of assigned duties.

332 (5) FAILURE TO ACCEPT AVAILABLE SUITABLE WORK, ETC. If  
333 an individual fails, without good cause, either to apply for  
334 or to accept available suitable work or to return to his or  
335 her customary self-employment when so directed by the  
336 secretary or when an individual is notified of suitable work



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337 or it is offered him or her through a state employment office  
338 or the United States ~~Employment Service~~ Department of Labor,  
339 or directly or by written notice or offer to any such  
340 employment office or employment ~~service~~ agency by an employer  
341 by whom the individual was formerly employed. Such  
342 disqualification shall be for a period of not less than one  
343 nor more than five weeks from the date of failure. This  
344 disqualification shall not apply unless the individual has an  
345 established benefit year, or is seeking to establish one or is  
346 seeking extended benefits at the time he or she fails without  
347 good cause, to do any of the acts set out in this subdivision.

348 a. In determining whether or not any work is suitable  
349 for an individual, the secretary shall consider:

350 1. The degree of risk involved to his or her health,  
351 safety, and morals, his or her physical fitness, and his or  
352 her prior training.

353 2. His or her experience and prior earnings.

354 3. His or her length of unemployment.

355 4. His or her prospects for securing local work in his  
356 or her customary occupation.

357 5. The distance of the available work from his or her  
358 residence; provided, that no work or employment shall be  
359 deemed unsuitable because of its distance from the  
360 individual's residence, if such work or employment is in the  
361 same or substantially the same locality as was his or her last  
362 previous regular place of employment and if the employee left  
363 ~~such~~ his or her work or employment voluntarily without good  
364 cause connected with ~~such~~ the employment.



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b. Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

1. If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

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

3. If as a condition of being employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization.

c. Notwithstanding any other provisions of this section, benefits shall not be denied an individual, by reason of the application of this subdivision—(5), with respect to any week in which he or she is in training with the approval of the secretary as described in subdivision (a)(3) of Section 25-4-77.

(6) RECEIPT OF BACK PAY AWARD, ETC. For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award. Notwithstanding Section 25-4-91, any benefits previously paid for weeks of unemployment with respect to which back pay awards are made shall constitute an overpayment, and such amounts shall be deducted from the award by the employer prior to payment to the employee and shall be transmitted promptly to the secretary by the employer for application against the



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overpayment and credit to the claimant's maximum benefit amount and prompt deposit into the fund; provided, however, the removal of any charges made against the employer as a result of ~~such~~ the previously paid benefits shall be applied to the calendar year and the calendar quarter in which the overpayment is received by the secretary, and no attempt shall be made to relate such a credit to the period to which the award applies. Any amount of overpayment deducted by the employer shall be subject to the same procedures for collection as is provided for contributions by Section 25-4-134.

(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT COMPENSATION FROM ANOTHER STATE, ETC. For any week with respect to which, or a part of which, an individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that the individual is not entitled to such unemployment benefits, and this disqualification shall not apply.

(8) RECEIPT OF PENSION PAYMENT. For any week with respect to which, or a part of which, an individual has received or has, except for the determination of an exact or specific amount, been determined eligible to receive, and ~~+~~ during a period for which benefits are being claimed, and ~~+~~ governmental or other pension, retirement or retired pay, annuity, or similar periodic payment which is based on the previous work of the individual; except, ~~that~~





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~~a. For weeks of unemployment which begin prior to April 26, 1982, as was prescribed by this subsection prior to the date, and~~

~~b. For weeks of unemployment which begin on or after April 26, 1982,~~ the amount of any benefits payable to an individual for any week which begins in a period with respect to which the disqualifying provisions of this subdivision apply, shall be reduced, but not below zero, by an amount equal to the amount of the pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to the week, provided, however, the reduction required by this paragraph shall apply to any pension, retirement or retired pay, annuity, or other similar payment only if:

~~1a.~~ The payment is made under a plan that is maintained ~~for contributed to~~ by a base period employer and 100 percent employer-financed and not contributed to by the worker, and

~~2b.~~ In the case of ~~such~~ a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 ~~for the corresponding provisions of prior law~~, services performed for the employer by the individual after the beginning of his or her base period, for remuneration for the services, affect eligibility for, or increase the amount of, the payment.

~~c. 1.~~ The other provisions of this subdivision to the contrary notwithstanding, ~~beginning with the weeks ending October 7, 1995,~~ the amount of any pension, retirement or retired pay, annuity, or other similar periodic payment under the Social Security Act or the Railroad Retirement Act shall not result in a reduction of benefits under this subdivision.



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d. 2. If in accordance with this subdivision any individual is awarded pension payments retroactively covering the same period for which the individual received benefits, the retroactive payments shall constitute cause for disqualification, and any benefits paid during the period shall be recovered only if the retroactive pension payments were made under a plan that is maintained ~~for~~ contributed to by a base period employer, 100 percent employer-financed, and not contributed to by the worker.

(9) RECEIPT OF OR APPLICATION FOR WORKERS' COMPENSATION. For any week with respect to which, or a part of which, an individual has received or is seeking compensation for temporary disability under any workers' compensation law; provided, that if it is finally determined the individual is not entitled to such compensation, this disqualification shall not apply; and provided further, that if ~~such~~ the compensation is less than the benefits which would otherwise be due under this chapter, the individual shall be entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the payment.

(10) EMPLOYMENT BY PUBLIC WORKS AGENCY, ETC. For any week that an individual is engaged or employed by ~~the Works Progress Administration, the National Youth Administration, or~~ any federal or state unit, agency, or instrumentality in charge of public works, assistance through public employment, or work relief.

(11) SELF-EMPLOYMENT. For any week in which an individual is self-employed and each week thereafter until he



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477 or she shall establish that he or she is no longer  
478 self-employed.

(12) RECEIPT OF, OR APPLICATION FOR, TRAINING ALLOWANCE, ETC. For any week with respect to which, or a part of which, an individual who is enrolled in a course of training with the approval of the secretary, within the meaning of subdivision (a)(3) of Section 25-4-77, has applied for, or is entitled to receive, any wage or subsistence or training allowance or other form of remuneration, other than reimbursement for travel expenses, for a course of training under any public or private training program; provided, that if it is finally determined that an individual is not entitled to such remuneration, this disqualification shall not apply. If the remuneration, the receipt of which is disqualifying under this subdivision, is less than the weekly benefits which he or she would otherwise be due under this chapter, he or she shall be entitled to receive, if otherwise eligible, weekly benefits reduced by the amount of the remuneration. It is further provided that receipt of training allowances under the Trade Readjustment Act shall not be cause for disqualification under this subdivision.

(13) PARTICIPATION IN PROFESSIONAL SPORTS. For any week which commences during the period between two successive sport seasons, or similar periods, to any individual for which benefits claimed are on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such individual performed services in the first of such



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seasons, or similar periods, and there is a reasonable assurance that such individual will perform such services in the later of such seasons, or similar periods.

### (14) ALIENS.

a. For any week for which benefits claimed are on the basis of services performed by an alien unless:

1. The alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, and was lawfully present for purposes of performing the services; or,

2. The alien was permanently residing in the United States under color of law at the time services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act; or,

3. The alien was lawfully admitted for temporary residence as provided for under Section 245A(a) of the Immigration Reform and Control Act of 1986 (PL 99-603).

b. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

c. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence."



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533                   Section 2. This act shall become effective on October  
534    1, 2025.