

1 **HB 1749 - H AMD 319 ADOPTED 3/14/95**

2 By Representative Clements and others

3 On page 2, beginning on line 1, strike all of subsections (a)
4 through (c) and insert the following:

5 "(a) Has a reasonable and direct relation to the conduct of
6 the employer's business;

7 (b) Results in some harm to the employer's interest;

8 (c) Was done with intent or knowledge that the employer's
9 interest would suffer; and

10 (d) Meets the requirements of subsection (1)(a) and (b) of
11 this section.

12 (3) If a determination of an allowance of benefits is appealed
13 by an employer on the grounds that the employee's conduct was
14 misconduct that violated an unwritten rule of the employer, this
15 subsection shall apply. The employer shall have the burden of
16 establishing by a preponderance of the evidence that: (a) Except
17 for the requirement of a written rule, the requirements of
18 subsection (1) or (2) of this section, whichever applies, are met;
19 and (b) as established by at least two competent witnesses, both
20 the rule in issue and the expectation that the rule would be
21 followed were communicated to the employee."

EFFECT: The amendment (1) provides an additional test for establishing misconduct for unemployment insurance purposes. In addition to the other tests, the employee's off-the-job misconduct must have a reasonable and direct relation to the conduct of the employer's business; and (2) provides a procedure for contesting the allowance of a claim if the employee has violated an unwritten employer rule. The burden of proof is on the employer to establish that the rule and the expectation that the rule would be followed were communicated to the employee.