**Section 2765.330 Chargeability Where The Individual Is Discharged As A Result Of His Incarceration**

Effective with respect to the payment of benefits for weeks which begin after September 22, 1992, an employer shall not be the chargeable employer, if that employer would otherwise be the chargeable employer but the individual is separated from that employer as a result of the individual's detention, incarceration or imprisonment under State, local or federal law. The benefit charges or payments in lieu of contributions with respect to this individual for this period shall be pooled and not chargeable to any employer.

a) Example: An individual is arrested on his way to work. He calls the employer to inform it that he cannot make bail so he cannot report to work. The employer replaces the individual because it needs to continue its production uninterrupted. The charges are later dismissed against the individual, and he files a new benefit year claim effective November 1, 1992. Because he was discharged for a reason other than misconduct connected with his work, the individual is eligible for benefits. It is determined that the employer would otherwise be the chargeable employer. Any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual shall be pooled and not chargeable to any employer.

b) Example: The individual informs his employer that he has been sentenced to jail for 30 days for a non-work related offense. He requests a leave of absence for this period, but it is denied because he does not meet the employer's criteria for such a leave. While the claimant is in jail, the employer, Company A, replaces the individual. After he is released from jail, the individual returns to the employer, but no work is available. He then files a new benefit year claim effective January 10, 1993. The individual is eligible for benefits, and is paid for the period from January 17, 1993 through January 30, 1993, when he goes to work for another employer, Company B. Any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for the period from January 17, 1993 through January 30, 1993 shall be pooled and not chargeable to any employer. If this individual is subsequently separated from Company B and if Company B is determined to be the chargeable employer for any subsequent weeks, any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for the subsequent weeks will be charged to Company B. However, if Company A would otherwise be the chargeable employer with respect to this subsequent period, any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for this subsequent period shall be pooled.

c) Examples: An individual is arrested on his way to work. He calls the employer to inform it that he cannot make bail so he cannot report to work. The employer replaces the individual because it needs to continue its production uninterrupted. The charges are later dismissed against the individual, and he files a new benefit year claim effective March 1, 1992. Because he was discharged for a reason other than misconduct connected with his work, the individual is eligible for benefits. It is determined that the employer is the chargeable employer. However, any benefit charges or payments in lieu of contributions as a result of benefits paid to this individual for weeks beginning on or after September 22, 1992 shall be pooled and not chargeable to any employer. This employer remains the chargeable employer for weeks beginning prior to September 22, 1992.

(Source: Added at 17 Ill. Reg. 614, effective January 4, 1993)