

JAN 23 2009

A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 383-30, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§383-30 Disqualification for benefits.** An individual
4 shall be disqualified for benefits:

5 (1) Voluntary separation. [~~For any week prior to~~
6 ~~October 1, 1989, in which the individual has left work~~
7 ~~voluntarily without good cause, and continuing until~~
8 ~~the individual has, subsequent to the week in which~~
9 ~~the voluntary separation occurred, been employed for~~
10 ~~at least five consecutive weeks of employment. For~~
11 ~~the purposes of this paragraph, "weeks of employment"~~
12 ~~means all those weeks within each of which the~~
13 ~~individual has performed services in employment for~~
14 ~~not less than two days or four hours per week, for one~~
15 ~~or more employers, whether or not such employers are~~
16 ~~subject to this chapter.] For any week beginning on~~
17 and after October 1, 1989, in which the individual has
18 left the individual's work voluntarily without good



1 cause, and continuing until the individual has,
2 subsequent to the week in which the voluntary
3 separation occurred, been paid wages in covered
4 employment equal to not less than five times the
5 individual's weekly benefit amount as determined under
6 section 383-22(b).

7 An owner-employee of a corporation who brings
8 about the owner-employee's unemployment by divesting
9 ownership, leasing the business interest, terminating
10 the business, or by other similar actions where the
11 owner-employee is the party initiating termination of
12 the employment relationship, has voluntarily left
13 employment.

14 An individual who is the spouse of a full-time
15 member of the United States armed forces and who
16 leaves work due to the military duty reassignment of
17 that member of the United States armed forces to a
18 different geographic location shall be deemed to have
19 voluntarily left employment with good cause.

- 20 (2) Discharge or suspension for misconduct. [~~For any week~~
21 ~~prior to October 1, 1989, in which the individual has~~
22 ~~been discharged for misconduct connected with work,~~



1 ~~and continuing until the individual has, subsequent to~~
2 ~~the week in which the discharge occurred, been~~
3 ~~employed for at least five consecutive weeks of~~
4 ~~employment. For the week in which the individual has~~
5 ~~been suspended for misconduct connected with work and~~
6 ~~for not less than one or more than four consecutive~~
7 ~~weeks of unemployment which immediately follow such~~
8 ~~week, as determined in each case in accordance with~~
9 ~~the seriousness of the misconduct. For the purposes~~
10 ~~of this paragraph, "weeks of employment" means all~~
11 ~~those weeks within each of which the individual has~~
12 ~~performed services in employment for not less than two~~
13 ~~days or four hours per week, for one or more~~
14 ~~employers, whether or not such employers are subject~~
15 ~~to this chapter.] For any week beginning on and after~~
16 ~~October 1, 1989, in which the individual has been~~
17 ~~discharged for misconduct connected with work, and~~
18 ~~until the individual has, subsequent to the week in~~
19 ~~which the discharge occurred, been paid wages in~~
20 ~~covered employment equal to not less than five times~~
21 ~~the individual's weekly benefit amount as determined~~
22 ~~under section 383-22(b).~~



1 (3) Failure to apply for work, etc. [~~For any week prior~~
2 ~~to October 1, 1989, in which the individual failed,~~
3 ~~without good cause, either to apply for available,~~
4 ~~suitable work when so directed by the employment~~
5 ~~office or any duly authorized representative of the~~
6 ~~department of labor and industrial relations, or to~~
7 ~~accept suitable work when offered and continuing until~~
8 ~~the individual has, subsequent to the week in which~~
9 ~~the failure occurred, been employed for at least five~~
10 ~~consecutive weeks of employment. For the purposes of~~
11 ~~this paragraph, "weeks of employment" means all those~~
12 ~~weeks within each of which the individual has~~
13 ~~performed services in employment for not less than two~~
14 ~~days or four hours per week, for one or more~~
15 ~~employers, whether or not such employers are subject~~
16 ~~to this chapter.] For any week beginning on and after~~
17 October 1, 1989, in which the individual failed,
18 without good cause, either to apply for available,
19 suitable work when so directed by the employment
20 office or any duly authorized representative of the
21 department of labor and industrial relations, or to
22 accept suitable work when offered until the individual



1 has, subsequent to the week in which the failure
2 occurred, been paid wages in covered employment equal
3 to not less than five times the individual's weekly
4 benefit amount as determined under section 383-22(b).

5 (A) In determining whether or not any work is
6 suitable for an individual there shall be
7 considered among other factors and in addition to
8 those enumerated in [~~paragraph (3)(B),~~]
9 subparagraph (B), the degree of risk involved to
10 the individual's health, safety, and morals, the
11 individual's physical fitness and prior training,
12 the individual's experience and prior earnings,
13 the length of unemployment, the individual's
14 prospects for obtaining work in the individual's
15 customary occupation, the distance of available
16 work from the individual's residence, and
17 prospects for obtaining local work. The same
18 factors so far as applicable shall be considered
19 in determining the existence of good cause for an
20 individual's voluntarily leaving work under
21 paragraph (1).



1 (B) Notwithstanding any other provisions of this
2 chapter, no work shall be deemed suitable and
3 benefits shall not be denied under this chapter
4 to any otherwise eligible individual for refusing
5 to accept new work under any of the following
6 conditions:

7 (i) If the position offered is vacant due
8 directly to a strike, lockout, or other
9 labor dispute;

10 (ii) If the wages, hours, or other conditions of
11 the work offered are substantially less
12 favorable to the individual than those
13 prevailing for similar work in the locality;

14 (iii) If as a condition of being employed the
15 individual would be required to join a
16 company union or to resign from or refrain
17 from joining any bona fide labor
18 organization.

19 (4) Labor dispute. For any week with respect to which it
20 is found that unemployment is due to a stoppage of
21 work which exists because of a labor dispute at the
22 factory, establishment, or other premises at which the



1 individual is or was last employed; provided that this
2 paragraph shall not apply if it is shown that:

3 (A) The individual is not participating in or
4 directly interested in the labor dispute which
5 caused the stoppage of work; and

6 (B) The individual does not belong to a grade or
7 class of workers of which, immediately before the
8 commencement of the stoppage, there were members
9 employed at the premises at which the stoppage
10 occurs, any of whom are participating in or
11 directly interested in the dispute; provided that
12 if in any case separate branches of work, which
13 are commonly conducted as separate businesses in
14 separate premises, are conducted in separate
15 departments of the same premises, each such
16 department [~~shall~~], for the purpose of this
17 paragraph, shall be deemed to be a separate
18 factory, establishment, or other premises.

19 (5) If the department finds that the individual has within
20 the twenty-four calendar months immediately preceding
21 any week of unemployment made a false statement or
22 representation of a material fact knowing it to be



1 false or knowingly failed to disclose a material fact
2 to obtain any benefits not due under this chapter, the
3 individual shall be disqualified for benefits
4 beginning with the week in which the department makes
5 the determination and for each consecutive week during
6 the current and subsequent twenty-four calendar months
7 immediately following such determination, and such
8 individual shall not be entitled to any benefit under
9 this chapter for the duration of such period; provided
10 that no disqualification shall be imposed if
11 proceedings have been undertaken against the
12 individual under section 383-141.

13 (6) Other unemployment benefits. For any week or part of
14 a week with respect to which the individual has
15 received or is seeking unemployment benefits under any
16 other employment security law, but this paragraph
17 shall not apply (A) if the appropriate agency finally
18 determines that the individual is not entitled to
19 benefits under such other law, or (B) if benefits are
20 payable to the individual under an act of Congress
21 which has as its purpose the supplementation of
22 unemployment benefits under a state law."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: Will Egan
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Report Title:

Employment Security

Description:

Removes the disqualification for unemployment benefits where the separation was voluntary if the separation was due to a military spouse's reassignment to a different geographic location.

