
A BILL FOR AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW.

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

1 SECTION 1. Act 170, Session Laws of Hawaii 2009, is
2 amended by amending section 4 to read as follows:

3 "SECTION 4. Section 383-29, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) An unemployed individual shall be eligible to receive
6 benefits with respect to any week only if the department finds
7 that:

8 (1) The individual has made a claim for benefits with
9 respect to that week in accordance with rules the
10 department may prescribe and with section 383-29.7 for
11 partially unemployed individuals;

12 (2) The individual has registered for work, as defined in
13 section 383-1, and thereafter continued to report, at
14 an employment office in accordance with rules the
15 department may prescribe, except that the department,
16 by rule, may waive or alter either or both of the
17 requirements of this paragraph for partially
18 unemployed individuals pursuant to section 383-29.8,



1 individuals attached to regular jobs, and other types
2 of cases or situations with respect to which it finds
3 that compliance with those requirements would be
4 oppressive, or would be inconsistent with the purpose
5 of this chapter; provided that no rule shall conflict
6 with section 383-21;

7 (3) The individual is able to work and is available for
8 work; provided that no claimant shall be considered
9 ineligible with respect to any week of unemployment
10 for failure to comply with this paragraph if the
11 failure is due to an illness or disability, as
12 evidenced by a physician's certificate, which occurs
13 during an uninterrupted period of unemployment with
14 respect to which benefits are claimed and no work
15 which would have been suitable prior to the beginning
16 of the illness and disability has been offered the
17 claimant;

18 (4) The individual has been unemployed for a waiting
19 period of one week within the individual's benefit
20 year. No week shall be counted as a waiting period:

21 (A) If benefits have been paid with respect thereto;



1 (B) Unless the individual was eligible for benefits
2 with respect thereto as provided in this section
3 and section 383-30, except for the requirements
4 of this paragraph;

5 (5) In the case of an individual whose benefit year
6 begins:

7 (A) On or after January 2, 1966, but prior to October
8 1, 1989, the individual has had during the
9 individual's base period a total of fourteen or
10 more weeks of employment, as defined in section
11 383-1, and has been paid wages for insured work
12 during the individual's base period in an amount
13 equal to at least thirty times the individual's
14 weekly benefit amount as determined under section
15 383-22(b). For the purposes of this
16 subparagraph, wages for insured work shall
17 include wages paid for services:

18 (i) Which were not employment, as defined in
19 section 383-2, or pursuant to an election
20 under section 383-77 prior to January 1,
21 1978, at any time during the one-year period
22 ending December 31, 1975; and



1 (ii) Which are agricultural labor, as defined in
2 section 383-9 except service excluded under
3 section [383-7(a)(1)], or are domestic
4 service except service excluded under
5 section [383-7(a)(2)]; except to the extent
6 that assistance under Title II of the
7 Emergency Jobs and Unemployment Assistance
8 Act of 1974 was paid on the basis of those
9 services;

10 (B) On and after October 1, 1989, to January 4, 1992,
11 the individual has been employed, as defined in
12 section 383-2, and has been paid wages for
13 insured work during the individual's base period
14 in an amount equal to not less than thirty times
15 the individual's weekly benefit amount, as
16 determined under section 383-22(b), and the
17 individual has been paid wages for insured work
18 during at least two quarters of the individual's
19 base period; provided that no otherwise eligible
20 individual who established a prior benefit year
21 under this chapter or the unemployment
22 compensation law of any other state, shall be



1 eligible to receive benefits in a succeeding
2 benefit year until, during the period following
3 the beginning of the prior benefit year, that
4 individual worked in covered employment for which
5 wages were paid in an amount equal to at least
6 five times the weekly benefit amount established
7 for that individual in the succeeding benefit
8 year; and

9 (C) After January 4, 1992, the individual has been
10 employed, as defined in section 383-2, and has
11 been paid wages for insured work during the
12 individual's base period in an amount equal to
13 not less than twenty-six times the individual's
14 weekly benefit amount, as determined under
15 section 383-22(b), and the individual has been
16 paid wages for insured work during at least two
17 quarters of the individual's base period;
18 provided that no otherwise eligible individual
19 who established a prior benefit year under this
20 chapter or the unemployment compensation law of
21 any other state, shall be eligible to receive
22 benefits in a succeeding benefit year until,



1 during the period following the beginning of the
2 prior benefit year, that individual worked in
3 covered employment for which wages were paid in
4 an amount equal to at least five times the weekly
5 benefit amount established for that individual in
6 the succeeding benefit year.

7 For purposes of this paragraph, wages and weeks of
8 employment shall be counted for benefit purposes with
9 respect to any benefit year only if the benefit year
10 begins subsequent to the dates on which the employing
11 unit by which the wages or other remuneration, as
12 provided in the definition of weeks of employment in
13 section 383-1, were paid has satisfied the conditions
14 of section 383-1 with respect to becoming an employer.

15 Effective for benefit years beginning January 1,
16 2004, and thereafter, if an individual fails to
17 establish a valid claim for unemployment insurance
18 benefits under this paragraph, the department shall
19 make a redetermination of entitlement based upon the
20 alternative base period, as defined in section 383-1;
21 provided further that the individual shall satisfy the
22 conditions of section 383-29(a)(5) that apply to



1 claims filed using the base period, as defined in
2 section 383-1, and the establishment of claims using
3 the alternative base period shall be subject to the
4 terms and conditions of sections 383-33 and 383-94;
5 [~~and~~]

6 (6) Effective November 24, 1994, an individual who has
7 been referred to reemployment services pursuant to the
8 profiling system under section 383-92.5 shall
9 participate in those services or in similar services.
10 The individual may not be required to participate in
11 reemployment services if the department determines the
12 individual has completed those services, or there is
13 justifiable cause for the claimant's failure to
14 participate in those services[~~-~~] and

15 (7) The individual is able to volunteer and shall
16 volunteer at least twenty hours of work at no wage or
17 salary compensation to the claimant from an employer;
18 provided that no claimant shall be considered
19 ineligible with respect to any week of unemployment
20 for failure to comply with this paragraph if the
21 failure is due to an illness or disability, as
22 evidenced by a physician's certificate, which occurs



1 during an uninterrupted period of unemployment with
2 respect to which benefits are claimed and no work
3 which would have been suitable prior to the beginning
4 of the illness and disability has been offered the
5 claimant.

6 (A) In order to meet the criteria of this
7 subparagraph, an individual shall have an active
8 registration for volunteering for work with an
9 employment office in the local community in which
10 the individual is seeking volunteering
11 opportunities or, if prior to or within seven
12 calendar days after applying for benefits or as
13 instructed by the department, the individual
14 registers at an employment office or such other
15 place as the department may approve and completes
16 registration procedures as authorized by the
17 department.

18 (B) A person shall be deemed able to volunteer and
19 volunteering within the meaning of this section
20 if the individual is able and actually volunteers
21 during the customary work week which falls within
22 the week for which a claim is filed.



1 (C) A person may be considered able to volunteer and
2 volunteering within the meaning of this section

3 if:

4 (i) the individual makes a minimum of three
5 volunteer search contacts each week, unless
6 otherwise provided in this subparagraph; and

7 (ii) the individual maintains a record of all
8 volunteer search contacts and may be
9 required to submit such record upon request
10 by the department.

11 If an individual is injured in the course of volunteering
12 pursuant to subparagraph (7), reasonable hospital and medical
13 expenses shall be provided pursuant to section 386-171.

14 Volunteering for high-risk industries or occupations, such
15 as window washers, explosives transporters, construction
16 workers, or hazardous materials workers and volunteering for a
17 position with an employer previously held by the individual or
18 volunteering for a position created by an employer through
19 laying off a current employee, displacement of current
20 employees, reduction of work hours for current employees, or
21 infringement on promotion of regular employees shall not be



1 defined as "able to volunteer and shall volunteer" in
2 subparagraph (7).

3 Nothing in this section shall create an obligation or
4 mandate for an employer to retain a volunteer under subparagraph
5 (7) for any reason. No civil or criminal cause of action shall
6 arise from an employer choosing not to retain a volunteer.

7 For the purposes of this subsection, employment and wages
8 used to establish a benefit year shall not thereafter be reused
9 to establish another benefit year."

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on July 1, 2010,
13 provided that the amendments made to section 383-29 by section 1
14 of this Act shall not be repealed when section 383-29 is
15 repealed and reenacted on July 1, 2012 by Act 170, Session Laws
16 of Hawaii 2009, section 7.

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18

INTRODUCED BY: 

JAN 27 2010



Report Title:

Employment security

Description:

Provides criteria of volunteerism to qualification for unemployment benefits.

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