

JAN 21 2010

S.B. NO. 2324

A BILL FOR AN ACT

RELATING TO UNEMPLOYMENT INSURANCE BENEFITS.

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.** (a) An
4 individual 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



1 left the individual's work voluntarily without good
2 cause, and continuing until the individual has,
3 subsequent to the week in which the voluntary
4 separation occurred, been paid wages in covered
5 employment equal to not less than five times the
6 individual's weekly benefit amount as determined under
7 section 383-22(b).

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

- 15 (2) Discharge or suspension for misconduct. For any week
16 prior to October 1, 1989, in which the individual has
17 been discharged for misconduct connected with work,
18 and continuing until the individual has, subsequent to
19 the week in which the discharge occurred, been
20 employed for at least five consecutive weeks of
21 employment. For the week in which the individual has
22 been suspended for misconduct connected with work and



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

- 18 (3) Failure to apply for work, etc. For any week prior to
19 October 1, 1989, in which the individual failed,
20 without good cause, either to apply for available,
21 suitable work when so directed by the employment
22 office or any duly authorized representative of the



1 department of labor and industrial relations, or to
2 accept suitable work when offered and continuing until
3 the individual has, subsequent to the week in which
4 the failure occurred, been employed for at least five
5 consecutive weeks of employment. For the purposes of
6 this paragraph, "weeks of employment" means all those
7 weeks within each of which the individual has
8 performed services in employment for not less than two
9 days or four hours per week, for one or more
10 employers, whether or not such employers are subject
11 to this chapter. For any week beginning on and after
12 October 1, 1989, in which the individual failed,
13 without good cause, either to apply for available,
14 suitable work when so directed by the employment
15 office or any duly authorized representative of the
16 department of labor and industrial relations, or to
17 accept suitable work when offered until the individual
18 has, subsequent to the week in which the failure
19 occurred, been paid wages in covered employment equal
20 to not less than five times the individual's weekly
21 benefit amount as determined under section 383-22(b).



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

17 (B) Notwithstanding any other provisions of this
18 chapter, no work shall be deemed suitable and
19 benefits shall not be denied under this chapter
20 to any otherwise eligible individual for refusing
21 to accept new work under any of the following
22 conditions:



- 1 (i) If the position offered is vacant due
- 2 directly to a strike, lockout, or other
- 3 labor dispute;
- 4 (ii) If the wages, hours, or other conditions of
- 5 the work offered are substantially less
- 6 favorable to the individual than those
- 7 prevailing for similar work in the locality;
- 8 (iii) If as a condition of being employed the
- 9 individual would be required to join a
- 10 company union or to resign from or refrain
- 11 from joining any bona fide labor
- 12 organization.

13 (4) Labor dispute. For any week with respect to which it
14 is found that unemployment is due to a stoppage of
15 work which exists because of a labor dispute at the
16 factory, establishment, or other premises at which the
17 individual is or was last employed; provided that this
18 paragraph shall not apply if it is shown that:

- 19 (A) The individual is not participating in or
- 20 directly interested in the labor dispute which
- 21 caused the stoppage of work; and



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

14 (5) If the department finds that the individual has within
15 the twenty-four calendar months immediately preceding
16 any week of unemployment made a false statement or
17 representation of a material fact knowing it to be
18 false or knowingly failed to disclose a material fact
19 to obtain any benefits not due under this chapter, the
20 individual shall be disqualified for benefits
21 beginning with the week in which the department makes
22 the determination and for each consecutive week during



1 the current and subsequent twenty-four calendar months
2 immediately following such determination, and such
3 individual shall not be entitled to any benefit under
4 this chapter for the duration of such period; provided
5 that no disqualification shall be imposed if
6 proceedings have been undertaken against the
7 individual under section 383-141.

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

18 (b) Effective July 1, 2010, notwithstanding any law or
19 rule to the contrary, an individual shall not be disqualified
20 for benefits for any week in which the individual separates
21 involuntarily or voluntarily without good cause from an employer
22 offering part-time employment, if the individual is:



Report Title:

Unemployment Benefits; Disqualification; Part-time Work

Description:

Authorizes an individual that is attached to a regular employer who is not offering work to still receive unemployment insurance benefits even if that individual voluntarily or involuntarily separates from part-time employment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

