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# 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 383-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "attached to a regular  
3 employer" to read as follows:

4           "Attached to a regular employer" means:

5           (1) The employee is being offered work each week by the  
6           employee's regular employer; or

7           (2) If no work is being offered:

8           (A) The employer is maintaining the individual on the  
9           payroll by paying for a medical insurance plan or  
10           by maintaining the employee's sick leave or  
11           vacation credits; or

12           (B) There is a definite or reasonably imminent return  
13           to work date with the same employer [~~within eight~~  
14           ~~weeks~~]."

15           SECTION 2. Section 383-29.7, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17           "(b) [~~Continued claim certifications for partial benefits~~  
18 ~~shall be filed as follows:~~



1        ~~(1)~~] An individual may file a continued claim certification  
2            for partial unemployment benefits in person, by mail,  
3            by telephone, or by using other alternative claim  
4            filing procedures as instructed or authorized by the  
5            department and in the manner prescribed by the  
6            department with respect to each week of the  
7            individual's partial unemployment. A continued claim  
8            certification shall be filed in the same manner as  
9            prescribed in rules of the department for continued  
10           claim certifications for total or part-total  
11           unemployment benefits and not later than twenty-eight  
12           days from the end of the week for which the individual  
13           claims benefits; provided that an individual shall not  
14           be required to file a continued claim certification  
15           earlier than two weeks from the date wages are paid  
16           for a claim period.

17        ~~[(2)~~ If, after a week of partial unemployment, eight or  
18            fewer consecutive weeks of total unemployment follow  
19            the week of partial unemployment, the weeks of total  
20            unemployment may be deemed weeks of partial  
21            unemployment. However, if total unemployment extends



1 ~~beyond eight consecutive weeks, the individual shall~~  
2 ~~be deemed totally unemployed.~~

3 ~~(3) Notwithstanding paragraph (2), the department may~~  
4 ~~extend partial unemployment beyond eight consecutive~~  
5 ~~weeks of total unemployment under conditions including~~  
6 ~~but not limited to:~~

7 ~~(A) The individual is retained in an employer-~~  
8 ~~employee relationship;~~

9 ~~(B) The individual is under obligation to reserve~~  
10 ~~services for the employer; and~~

11 ~~(C) The individual has a definite or reasonably~~  
12 ~~imminent return to work date.] "~~

13 SECTION 3. Section 383-29.8, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]§383-29.8[+] **Partial unemployment; waivers.** (a) The  
16 registration for work requirements under section 383-29(a) [may]  
17 shall be waived for individuals who are partially unemployed, as  
18 defined in section 383-1.

19 (b) An individual [may] shall be exempted from the work  
20 search requirements as determined by rules of the department, or  
21 be subject to modified work search requirements as authorized by



1 the department if the individual is waived from the registration  
2 for work requirements, as defined in section 383-1."

3 SECTION 4. Section 383-30, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§383-30 Disqualification for benefits.** (a) An  
6 individual shall be disqualified for benefits:

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



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

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

- 12 (2) Discharge or suspension for misconduct. For any week  
13 prior to October 1, 1989, in which the individual has  
14 been discharged for misconduct connected with work,  
15 and continuing until the individual has, subsequent to  
16 the week in which the discharge occurred, been  
17 employed for at least five consecutive weeks of  
18 employment. For the week in which the individual has  
19 been suspended for misconduct connected with work and  
20 for not less than one or more than four consecutive  
21 weeks of unemployment which immediately follow such  
22 week, as determined in each case in accordance with



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

- 15 (3) Failure to apply for work, etc. For any week prior to  
16 October 1, 1989, in which the individual failed,  
17 without good cause, either to apply for available,  
18 suitable work when so directed by the employment  
19 office or any duly authorized representative of the  
20 department of labor and industrial relations, or to  
21 accept suitable work when offered and continuing until  
22 the individual has, subsequent to the week in which



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

19 (A) In determining whether or not any work is  
20 suitable for an individual there shall be  
21 considered among other factors and in addition to  
22 those enumerated in paragraph (3)(B), the degree



1 of risk involved to the individual's health,  
2 safety, and morals, the individual's physical  
3 fitness and prior training, the individual's  
4 experience and prior earnings, the length of  
5 unemployment, the individual's prospects for  
6 obtaining work in the individual's customary  
7 occupation, the distance of available work from  
8 the individual's residence, and prospects for  
9 obtaining local work. The same factors so far as  
10 applicable shall be considered in determining the  
11 existence of good cause for an individual's  
12 voluntarily leaving work under paragraph (1).

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

19 (i) If the position offered is vacant due  
20 directly to a strike, lockout, or other  
21 labor dispute;





1 (ii) If the wages, hours, or other conditions of  
2 the work offered are substantially less  
3 favorable to the individual than those  
4 prevailing for similar work in the locality;

5 (iii) If as a condition of being employed the  
6 individual would be required to join a  
7 company union or to resign from or refrain  
8 from joining any bona fide labor  
9 organization.

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

16 (A) The individual is not participating in or  
17 directly interested in the labor dispute which  
18 caused the stoppage of work; and

19 (B) The individual does not belong to a grade or  
20 class of workers of which, immediately before the  
21 commencement of the stoppage, there were members  
22 employed at the premises at which the stoppage



1 occurs, any of whom are participating in or  
2 directly interested in the dispute; provided that  
3 if in any case separate branches of work, which  
4 are commonly conducted as separate businesses in  
5 separate premises, are conducted in separate  
6 departments of the same premises, each such  
7 department shall, for the purpose of this  
8 paragraph, be deemed to be a separate factory,  
9 establishment, or other premises.

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



1 that no disqualification shall be imposed if  
2 proceedings have been undertaken against the  
3 individual under section 383-141.

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

14 (b) Effective July 1, 2011, notwithstanding any law or  
15 rule to the contrary, an individual shall not be disqualified  
16 for benefits for any week in which the individual separates  
17 involuntarily or voluntarily, with or without good cause, from a  
18 secondary employer offering part-time employment, if the  
19 individual is:

20 (1) Receiving benefits while attached to a regular  
21 employer that is not offering work;

22 (2) Receiving partial unemployment benefits; and



1        (3) Exempt from work search and registration for work  
2                    requirements."

3            SECTION 5. Act 170, Session Laws of Hawaii 2009, section  
4        7, as amended by Act 76, Session Laws of Hawaii 2010, section 3,  
5        is amended to read as follows:

6            "SECTION 7. This Act shall take effect on July 1, 2009[  
7        ~~and shall be repealed on July 1, 2012; provided that on July 1,~~  
8        ~~2012, sections 383-1 and 383-29(a), Hawaii Revised Statutes,~~  
9        ~~shall be reenacted in the same form in which they read on~~  
10       ~~June 30, 2009; provided further that the definition of~~  
11       ~~"registered for work" shall not be repealed when this Act is~~  
12       ~~repealed and section 383-1 is reenacted pursuant to this~~  
13       ~~section]."~~

14            SECTION 6. Statutory material to be repealed is bracketed  
15        and stricken. New statutory material is underscored.

16            SECTION 7. This Act shall take effect on July 1, 2050.

17



**Report Title:**

Unemployment Benefits; Disqualification; Part-Time Work

**Description:**

Repeals the June 30, 2012 sunset date of provisions related to partial unemployment benefits. Removes the eight-week limitation on partial unemployment benefit status. Makes mandatory, rather than discretionary, the waiver of registration and work search requirements for individuals who are partially employed. Authorizes an individual that is attached to a regular employer that is not offering work to continue to be eligible to receive unemployment insurance benefits even if that individual voluntarily or involuntarily separates from part-time employment, with or without good cause from a secondary employer during that week. Effective 7/1/2050. (Proposed SD1)

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