

JAN 21 2011

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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 383-30, 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  
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          (2) Discharge or suspension for misconduct. For any week  
15          prior to October 1, 1989, in which the individual has  
16          been discharged for misconduct connected with work,  
17          and continuing until the individual has, subsequent to  
18          the week in which the discharge occurred, been  
19          employed for at least five consecutive weeks of  
20          employment. For the week in which the individual has  
21          been suspended for misconduct connected with work and  
22          for not less than one or more than four consecutive



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

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



1 accept suitable work when offered and continuing until  
2 the individual has, subsequent to the week in which  
3 the failure occurred, been employed for at least five  
4 consecutive weeks of employment. For the purposes of  
5 this paragraph, "weeks of employment" means all those  
6 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 failed,  
12 without good cause, either to apply for available,  
13 suitable work when so directed by the employment  
14 office or any duly authorized representative of the  
15 department of labor and industrial relations, or to  
16 accept suitable work when offered until the individual  
17 has, subsequent to the week in which the failure  
18 occurred, been paid wages in covered employment equal  
19 to not less than five times the individual's weekly  
20 benefit amount as determined under section 383-22(b).

21 (A) In determining whether or not any work is  
22 suitable for an individual there shall be



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

15          (B) Notwithstanding any other provisions of this  
16          chapter, no work shall be deemed suitable and  
17          benefits shall not be denied under this chapter  
18          to any otherwise eligible individual for refusing  
19          to accept new work under any of the following  
20          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, 2011, 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, with or without good cause, from a





1 secondary employer offering part-time employment, if the  
2 individual is:

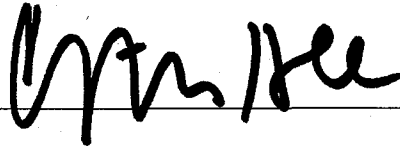
- 3       (1) Receiving benefits while attached to a regular  
4             employer that is not offering work;  
5       (2) Receiving partial unemployment benefits; and  
6       (3) Exempt from work search and registration for work  
7             requirements."

8       SECTION 2. New statutory material is underscored.

9       SECTION 3. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:



**Report Title:**

Unemployment Benefits; Disqualification; Part-Time Work

**Description:**

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.

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

