
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. Chapter 383, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART

5 **SHORT-TIME COMPENSATION PROGRAM**

6 **§383-A Definitions.** For purposes of this part:

7 "Affected unit" means a specified plant, department, shift,
8 or other definable unit consisting of not less than the number
9 of employees to which an approved short time compensation plan
10 applies as determined by the director.

11 "Employers' association" means an association which is a
12 party to a collective bargaining agreement under which the
13 parties may negotiate a short-time compensation plan.

14 "Fringe benefits" include but are not limited to such
15 advantages as health insurance (hospital, medical, and dental
16 services, etc.), retirement benefits under defined benefit
17 pension plans (as defined in Section 3(35) of the Employee
18 Retirement Income Security Act of 1974), paid vacation and



1 holidays, and sick leave, which are incidents of employment in
2 addition to the cash remuneration earned.

3 "Short-time compensation" means the unemployment benefits
4 payable to employees in an affected unit under an approved
5 short-time compensation plan as distinguished from the
6 unemployment benefits otherwise payable under the conventional
7 unemployment compensation provisions of the state law.

8 "Short-time compensation plan" or "plan" means a plan of an
9 employer, or of an employers' association that is a party to a
10 collective bargaining agreement, under which there is a
11 reduction in the number of hours worked by all employees of an
12 affected unit rather than temporary layoffs of some employees.
13 The term "temporary layoffs" for this purpose means the
14 separation of workers in the affected unit for an indefinite
15 period expected to last for more than two months but not more
16 than one year.

17 "Usual weekly hours of work" means the normal hours of work
18 for full-time and permanent part-time employees in the affected
19 unit when that unit is operating on its normally full-time
20 basis, not to exceed forty hours and not including overtime.

21 "Unemployment compensation" means the unemployment benefits
22 payable under this part other than short-time compensation and



1 includes any amounts payable pursuant to an agreement under any
2 federal law providing for compensation, assistance, or
3 allowances with respect to unemployment.

4 **§383-B Criteria for approval of a short-time compensation**
5 **plan.** An employer or employers' association wishing to
6 participate in a short-time compensation plan shall submit a
7 signed written short-time compensation plan to the director for
8 approval. The director shall approve a short-time compensation
9 plan only if the following criteria are met:

- 10 (1) The plan applies to and identifies specified affected
11 units;
- 12 (2) The employees in the affected unit or units are
13 identified by name, social security number, and by any
14 other information required by the director;
- 15 (3) The usual weekly hours of work for employees in the
16 affected unit or units are reduced by not less than
17 ten per cent and not more than a percentage as
18 determined by the director;
- 19 (4) Health benefits and retirement benefits under defined
20 benefit pension plans, as defined in Section 3(35) of
21 the Employee Retirement Income Security Act of 1974),



1 will continue to be provided to employees in affected
2 units as though their work weeks had not been reduced;

3 (5) The plan certifies that the aggregate reduction in
4 work hours is in lieu of temporary layoffs which would
5 have affected at least ten per cent of the employees
6 in the affected unit or units to which the plan
7 applies and which would have resulted in an equivalent
8 reduction in work hours;

9 (6) During the previous four months, the work force in the
10 affected unit has not been reduced by temporary
11 layoffs of more than ten per cent of the workers;

12 (7) The plan applies to at least ten per cent of the
13 employees in the affected unit, and when applicable
14 applies to all employees of the affected unit equally;

15 (8) In the case of employees represented by an exclusive
16 bargaining representative, the plan is approved in
17 writing by the collective bargaining agent, and in the
18 absence of an agent, by representatives of the
19 employees in the affected unit;

20 (9) The plan will not serve as a subsidy of seasonal
21 employment during the off season, nor as a subsidy of
22 temporary part-time or intermittent employment; and



1 (10) The employer agrees to furnish reports relating to the
2 proper conduct of the plan and agrees to allow the
3 director's authorized representatives access to all
4 records necessary to verify the plan prior to approval
5 and, after approval, to monitor and evaluate the
6 application of the plan.

7 In addition to the matters specified above, the director shall
8 take into account any other factors which may be pertinent to
9 proper implementation of the plan.

10 **§383-C Approval or rejection of the plan.** The director
11 shall approve or reject a plan in writing within thirty days of
12 its receipt. The reasons for rejection shall be final and non-
13 appealable, but the employer shall be allowed to submit another
14 plan for approval not earlier than sixty days from the date of
15 the earlier rejection.

16 **§383-D Effective date and duration of plan.** A plan shall
17 be effective on the date specified in the plan or on a date
18 mutually agreed upon by the employer and the director. The plan
19 shall expire at the end of the twelfth full calendar month after
20 its effective date or on the date specified in the plan,
21 whichever is earlier; provided that the plan is not previously
22 revoked by the director. If a plan is revoked by the director,



1 it shall terminate on the date specified in the director's
2 written order of revocation.

3 **§383-E Revocation of approval.** The director may revoke
4 approval of a plan for good cause. The revocation order shall
5 be in writing and shall specify the date the revocation is
6 effective and the reasons therefor.

7 Good cause shall include but not be limited to failure to
8 comply with the assurances given in the plan, unreasonable
9 revision of productivity standards for the affected unit,
10 conduct or occurrences tending to defeat the intent and
11 effective operation of the plan, and violation of any criteria
12 on which approval of the plan was based.

13 Action may be taken at any time by the director on the
14 director's own motion, on the motion of any of the affected
15 unit's employees, or on the motion of the appropriate collective
16 bargaining agent; provided that the director shall review the
17 operation of each qualified employer's plan at least once during
18 the period the plan is in effect to assure its compliance with
19 the requirements of these provisions.

20 **§383-F Modification of an approved plan.** An operational
21 approved plan may be modified by the employer with the
22 acquiescence of employee representatives if the modification is



1 not substantial and in conformity with the plan approved by the
2 director; provided that the modifications are reported promptly
3 to the director. If the hours of work are increased or
4 decreased substantially beyond the level in the original plan,
5 or any other conditions are changed substantially, the director
6 shall approve or disapprove the modifications, without changing
7 the expiration date of the original plan. If the substantial
8 modifications do not meet the requirements for approval, the
9 director shall disallow that portion of the plan in writing as
10 specified in section 386-E.

11 **§383-G Eligibility for short-time compensation.** (a) An
12 individual is eligible to receive short-time compensation
13 benefits with respect to any week only if, in addition to
14 monetary entitlement, the director finds that:

15 (1) During the week, the individual is employed as a
16 member of an affected unit under an approved short-
17 time compensation plan which was approved prior to
18 that week, and the plan is in effect with respect to
19 the week for which short-time compensation is claimed;
20 and

21 (2) The individual is able to work and is available for
22 the normal work week with the short-time employer.



1 (b) Notwithstanding any other provisions of this part to
2 the contrary, an individual is deemed unemployed in any week for
3 which remuneration is payable to the individual as an employee
4 in an affected unit for ninety per cent or less than his normal
5 weekly hours of work as specified under the approved short-time
6 compensation plan in effect for the week.

7 (c) Notwithstanding any other provisions of this part to
8 the contrary, an individual shall not be denied short-time
9 compensation benefits for any week by reason of the application
10 of provisions relating to availability for work and active
11 search for work with an employer other than the short-time
12 employer.

13 **§383-H Benefits.** (a) The short-time weekly benefit
14 amount shall be the product of the regular weekly unemployment
15 compensation amount multiplied by the percentage of reduction of
16 at least ten per cent in the individual's usual weekly hours of
17 work.

18 (b) An individual may be eligible for short-time
19 compensation benefits or unemployment compensation, as
20 appropriate, except that no individual shall be eligible for
21 combined benefits in any benefit year in an amount more than the
22 maximum entitlement established for unemployment compensation,



1 nor shall an individual be paid short-time compensation benefits
2 for more than twenty-six weeks, whether or not consecutive, in
3 any benefit year pursuant to a short-time plan.

4 (c) The short-time compensation benefits paid to an
5 individual shall be deducted from the maximum entitlement amount
6 established for that individual's benefit year.

7 (d) Claims for short-time compensation benefits shall be
8 filed in the same manner as claims for unemployment compensation
9 or as prescribed in rules by the director.

10 (e) Provisions applicable to unemployment compensation
11 claimants shall apply to short-time compensation claimants to
12 the extent that they are not inconsistent with the short-time
13 compensation provisions of this part. An individual who files
14 an initial claim for short-time compensation benefits shall be
15 provided, if eligible therefor, a monetary determination of
16 entitlement to short-time compensation benefits, and shall serve
17 a waiting week.

18 (f) If an individual works in the same week for an
19 employer other than the short-time employer and the individual's
20 combined hours of work for both employers are equal to or
21 greater than the usual hours of work with the short-time
22 employer, the individual shall not be entitled to benefits under



1 these short-time provisions or the unemployment compensation
2 provisions.

3 If an individual works in the same week for both the short-
4 time employer and another employer and the individual's combined
5 hours of work for both employers are equal to or less than
6 ninety per cent of the usual hours of work for the short-time
7 employer, the benefit amount payable for that week shall be the
8 weekly unemployment compensation amount reduced by the same
9 percentage that the combined hours are of the usual hours of
10 work. A week for which benefits are paid under this provision
11 shall count as a week of short-time compensation.

12 If an individual did not work during any portion of the
13 work week, other than the reduced portion covered by the short-
14 time plan, with the approval of the employer, the individual
15 shall not be disqualified for the absence or deemed ineligible
16 for short-time compensation benefits for that reason alone.

17 An individual who performs no services during a week for
18 the short-time employer and is otherwise eligible, shall be paid
19 the full weekly unemployment compensation amount. Such a week
20 shall not be counted as a week with respect to which short-time
21 compensation benefits were received.



1 An individual who does not work for the short-time employer
2 during a week but works for another employer and is otherwise
3 eligible, shall be paid benefits for that week under the partial
4 unemployment compensation provisions of this chapter. Such a
5 week shall not be counted as a week with respect to which short-
6 time compensation benefits were received.

7 **§383-I Charging shared work benefits.** Short-time
8 compensation benefits shall be charged to employers' experience
9 rating accounts in the same manner as unemployment compensation
10 is charged under this chapter. Employers liable for payments in
11 lieu of contributions shall have short-time compensation
12 benefits attributed to service in their employ in the same
13 manner as unemployment compensation is attributed.

14 **§383-J Extended benefits.** An individual who has received
15 all of the short-time compensation benefits or combined
16 unemployment compensation and short-time compensation benefits
17 available in a benefit year shall be considered an exhaustee for
18 purposes of extended benefits, as provided under the provisions
19 of section 383-168, and, if otherwise eligible under those
20 provisions, shall be eligible to receive extended benefits.



1 **§383-K Benefit charging.** No contributory employer with a
2 negative reserve ratio or delinquent reimbursable shall be
3 eligible to participate in the short-time compensation program."

4 SECTION 2. The department of labor and industrial
5 relations shall adopt rules to effectuate the purposes of this
6 Act.

7 SECTION 3. If any provision of this Act is found to be in
8 conflict with federal requirements that are a prescribed
9 condition for the allocation of federal funds to the State, the
10 conflicting provision of this Act shall be held inoperative
11 solely to the extent of the conflict and the federal
12 requirements shall govern.

13 SECTION 4. In codifying the new sections added by section
14 1 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 5. This Act shall take effect on July 1, 2112.



Report Title:

Employment Security

Description:

Establishes provisions to implement and regulate short-time compensation plans. Effective July 1, 2012. (HB113 HD1)

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

