

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-29, Hawaii Revised Statutes, is amended to read:

“§383-29 Eligibility for benefits. (a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

- (1) **Claim.** He has made a claim for benefits with respect to such week in accordance with such regulations as the department may prescribe.
- (2) **Registration.** He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the department may prescribe, except that the department may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such regulation shall conflict with section 383-21.
- (3) **Availability.** He is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) **Waiting period.** He has been unemployed for a waiting period of one week within his benefit year. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) **Wages for insured work; weeks of employment.**
 - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the

amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.

- (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.
 - (C) In the case of an individual whose benefit year begins on or after January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:
 - (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
 - (D) For the purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer.
- (b) (1) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not

successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performed such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any institution of education in the second of such academic years or terms.

- (2) Benefits based on service in any other capacity for any educational institution shall not be paid to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that, if compensation is denied to any individual under this subsection and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause.
- (3) Benefits based on service in any instructional, research or principal administrative capacity in any educational institution or based on other services in any educational institution shall not be paid to any person for any week of unemployment which begins during an established and customary vacation or recess for a holiday if the person performs service in the period immediately preceding the vacation or recess and there is reasonable assurance that he will be provided employment immediately succeeding the vacation or recess.
- (4) The provisions of paragraphs (1), (2), and (3) apply also to services performed while employed by a governmental agency which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(c) Benefits based on services, substantially all of which consists of participating or preparing or training to participate in sports or athletic events, shall not be paid to an individual for any week of unemployment which begins during the period between two successive sport seasons (or similar periods) if the individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that the individual will perform such services in the second of such seasons (or similar periods).

(d) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for

permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act). Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(e) Notwithstanding any provisions of this chapter to the contrary, a claimant shall not be denied benefits because of his regular attendance at a vocational training or retraining course which the director of labor and industrial relations has approved and continues from time to time to approve for the claimant. The director may approve such course for a claimant only if:

- (1) Reasonable employment opportunities for which the claimant is fitted by training and experience do not exist in the locality or are severely curtailed;
- (2) The training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the locality;
- (3) The training course is offered by a competent and reliable agency; and
- (4) The claimant has the required qualifications and aptitudes to complete the course successfully.”

SECTION 2. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)