

ACT 165

S.B. NO. 1088

A Bill for an Act Relating to Unemployment Insurance Benefits.

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

SECTION 1. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§383- Good cause for separation from part-time employment. (a) In applying the provisions of section 383-30(1), an individual who has established eligibility based on full-time employment may be found to have good cause for voluntarily separating from subsequent part-time employment based on any of the following conditions:

- (1) Loss of full-time work with a regular employer made it economically unfeasible to continue part-time employment;
- (2) The part-time employment was outside the individual's customary occupation and would not have been considered suitable work at the time the individual accepted part-time employment. In determining whether an individual is reasonably fitted for a particular job, the department shall consider:
 - (A) The degree of risk involved to the individual's health, safety, and morals;
 - (B) The individual's physical fitness;
 - (C) The individual's prior training;
 - (D) The individual's experience;
 - (E) The individual's prior earnings;
 - (F) The length of the individual's unemployment;
 - (G) The individual's prospects for obtaining work in the individual's customary occupation;
 - (H) The distance of available work from the individual's residence; and
 - (I) The individual's prospects for obtaining local work.

As used in this paragraph, "suitable work" means work in the individual's usual occupation or work for which the individual is reasonably fitted;
- (3) The employer failed to provide sufficient advance notice of a work schedule change;
- (4) There was a work schedule conflict with other concurrent part-time or full-time employment;
- (5) A real, substantial, or compelling reason, or a reason that would cause a reasonable and prudent employee, genuinely and sincerely desirous of maintaining employment, to take similar action and to try reasonable alternatives before terminating the employment relationship;
- (6) Change in working conditions and the change is prejudicial or detrimental to the health, safety, or morals of the employee;
- (7) Change in terms and conditions of employment, including change in rate of pay, position or grade, duties, days of work, or hours of work;
- (8) Discrimination that violates federal or state laws regarding equal employment opportunity practices;
- (9) Change in the employee's marital or domestic status;

- (10) Acceptance of a definite, firm offer made of other employment where the offer is subsequently withdrawn and the former employer refuses to rehire the employee;
- (11) Retirement under a mandatory requirement imposed by a collective bargaining agreement;
- (12) Evidence that the employee was a victim of domestic or sexual violence, including any circumstance that causes a reasonable employee to believe that other available alternatives, such as a leave of absence, a transfer of jobs, or an alternate work schedule, would not be sufficient to guarantee the safety of the employee and that separation from employment was necessary to address the resulting physical and psychological effects, to seek or reside in an emergency shelter, or to avoid future domestic or sexual violence. Evidence includes police records, court records, statements from the individual, a volunteer of a victim services organization, the employee's attorney or advocate, a member of the clergy, medical, or other professional from whom the employee has sought assistance related to the domestic or sexual violence, or other corroborating evidence. As used in this paragraph, "domestic or sexual violence" includes domestic abuse, sexual assault, or stalking; or
- (13) Any other factor relevant to a determination of good cause.
 - (b) For purposes of this section:
"Part-time" means less than twenty hours per week or on-call or casual or intermittent."

SECTION 2. Section 383-1, Hawaii Revised Statutes, is amended by amending the definition of "attached to a regular employer" to read as follows:
"Attached to a regular employer" means:

- (1) The employee is being offered work each week by the employee's regular employer; or
- (2) If no work is being offered:
 - (A) The employer is maintaining the individual on the payroll by paying for a medical insurance plan or by maintaining the employee's sick leave or vacation credits; or
 - (B) There is a definite return to work date with the same employer [within eight weeks]."

SECTION 3. Section 383-29.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

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

- (2) If, after a week of partial unemployment, eight or fewer consecutive weeks of total unemployment follow the week of partial unemployment, the weeks of total unemployment may be deemed weeks of partial unemployment. However, if total unemployment extends beyond eight consecutive weeks, the individual shall be deemed totally unemployed.
- (3) Notwithstanding paragraph (2), the department may extend partial unemployment beyond eight consecutive weeks of total unemployment under conditions including but not limited to:
- (A) The individual is retained in an employer employee relationship;
 - (B) The individual is under obligation to reserve services for the employer; and
 - (C) The individual has a definite or reasonably imminent return to work date.]”

SECTION 4. Section 383-29.8, Hawaii Revised Statutes, is amended to read as follows:

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

~~(b) An individual [may] shall be exempted from the work search requirements as determined by rules of the department, or be subject to modified work search requirements as authorized by the department if the individual is waived from the registration for work requirements, as defined in section 383-1.”~~

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

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

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on July 1, 2011.

(Approved June 27, 2011.)

Note

1. Edited pursuant to HRS §23G-16.5.