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## A BILL FOR AN ACT

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RELATING TO UNEMPLOYMENT 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.** An individual  
4 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



1 left the individual's work voluntarily without good  
2 cause, and continuing until the individual has,  
3 subsequent to the week in which the voluntary  
4 separation occurred, been paid wages in covered  
5 employment equal to not less than five times the  
6 individual's weekly benefit amount as determined under  
7 section 383-22(b).

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

15 (2) Discharge or suspension for misconduct. For any week  
16 prior to October 1, 1989, in which the individual has  
17 been discharged for misconduct connected with work,  
18 and continuing until the individual has, subsequent to  
19 the week in which the discharge occurred, been  
20 employed for at least five consecutive weeks of  
21 employment. For the week in which the individual has



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

19          (3) Failure to apply for work, etc. For any week prior to  
20          October 1, 1989, in which the individual failed,  
21          without good cause, either to apply for available,



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



1 to not less than five times the individual's weekly  
2 benefit amount as determined under section 383-22(b).

3 (A) In determining whether or not any work is  
4 suitable for an individual there shall be  
5 considered among other factors and in addition to  
6 those enumerated in paragraph (3)(B), the degree  
7 of risk involved to the individual's health,  
8 safety, and morals, the individual's physical  
9 fitness and prior training, the individual's  
10 experience and prior earnings, the length of  
11 unemployment, the individual's prospects for  
12 obtaining work in the individual's customary  
13 occupation, the distance of available work from  
14 the individual's residence, and prospects for  
15 obtaining local work. The same factors so far as  
16 applicable shall be considered in determining the  
17 existence of good cause for an individual's  
18 voluntarily leaving work under paragraph (1).

19 (B) Notwithstanding any other provisions of this  
20 chapter, no work shall be deemed suitable and  
21 benefits shall not be denied under this chapter



1 to any otherwise eligible individual for refusing  
2 to accept new work under any of the following  
3 conditions:

4 (i) If the position offered is vacant due  
5 directly to a strike, lockout, or other  
6 labor dispute;

7 (ii) If the wages, hours, or other conditions of  
8 the work offered are substantially less  
9 favorable to the individual than those  
10 prevailing for similar work in the locality;

11 or

12 (iii) If as a condition of being employed the  
13 individual would be required to join a  
14 company union or to resign from or refrain  
15 from joining any bona fide labor  
16 organization.

17 ~~[(4) Labor dispute. For any week with respect to which it~~  
18 ~~is found that unemployment is due to a stoppage of~~  
19 ~~work which exists because of a labor dispute at the~~  
20 ~~factory, establishment, or other premises at which the~~



1 ~~individual is or was last employed; provided that this~~  
2 ~~paragraph shall not apply if it is shown that:~~

3 ~~(A) The individual is not participating in or~~  
4 ~~directly interested in the labor dispute which~~  
5 ~~caused the stoppage of work; and~~

6 ~~(B) The individual does not belong to a grade or~~  
7 ~~class of workers of which, immediately before the~~  
8 ~~commencement of the stoppage, there were members~~  
9 ~~employed at the premises at which the stoppage~~  
10 ~~occurs, any of whom are participating in or~~  
11 ~~directly interested in the dispute; provided that~~  
12 ~~if in any case separate branches of work, which~~  
13 ~~are commonly conducted as separate businesses in~~  
14 ~~separate premises, are conducted in separate~~  
15 ~~departments of the same premises, each such~~  
16 ~~department shall, for the purpose of this~~  
17 ~~paragraph, be deemed to be a separate factory,~~  
18 ~~establishment, or other premises.~~

19 ~~(5)]~~ (4) If the department finds that the individual has  
20 within the twenty-four calendar months immediately  
21 preceding any week of unemployment made a false



1 statement or representation of a material fact knowing  
2 it to be false or knowingly failed to disclose a  
3 material fact to obtain any benefits not due under  
4 this chapter, the individual shall be disqualified for  
5 benefits beginning with the week in which the  
6 department makes the determination and for each  
7 consecutive week during the current and subsequent  
8 twenty-four calendar months immediately following such  
9 determination, and such individual shall not be  
10 entitled to any benefit under this chapter for the  
11 duration of such period; provided that no  
12 disqualification shall be imposed if proceedings have  
13 been undertaken against the individual under section  
14 383-141.

15 [~~4~~6] (5) Other unemployment benefits. For any week or  
16 part of a week with respect to which the individual  
17 has received or is seeking unemployment benefits under  
18 any other employment security law, but this paragraph  
19 shall not apply[~~+~~]:[~~+~~]





1           (A) If the appropriate agency finally determines that  
2           the individual is not entitled to benefits under  
3           such other law; or

4           (B) If benefits are payable to the individual under  
5           an act of Congress which has as its purpose the  
6           supplementation of unemployment benefits under a  
7           state law."

8           SECTION 2. Section 383-44, Hawaii Revised Statutes, is  
9           amended by amending subsection (b) to read as follows:

10          "(b) Determinations or redeterminations dated on or after  
11          October 1, 2013, that an individual has been overpaid benefits  
12          under any state or federal unemployment compensation program and  
13          is disqualified under section [~~383-30(5)~~] 383-30(4) shall  
14          include a penalty assessment amount equal to fifteen per cent of  
15          the overpaid amount. Penalty assessments collected under this  
16          section shall be deposited in the unemployment compensation  
17          fund."

18          SECTION 3. Section 383-141, Hawaii Revised Statutes, is  
19          amended to read as follows:

20          "**§383-141 Falsely obtaining benefits, etc.** Whoever makes  
21          a false statement or representation knowing it to be false or



1 knowingly fails to disclose a material fact, to obtain or  
2 increase any benefit or other payment under this chapter or  
3 under the unemployment compensation law of any state or of the  
4 federal government, either for oneself or for any other person,  
5 shall be charged with a misdemeanor if the value of the benefit  
6 obtained or increased is \$300 or less, or shall be charged with  
7 a class C felony if the value of the benefit obtained or  
8 increased exceeds \$300; and each such false statement or  
9 misrepresentation or failure to disclose a material fact shall  
10 constitute a separate offense; provided that no fine or  
11 imprisonment shall be imposed in any case in which  
12 disqualification has been determined under section [~~383-30(5).~~]  
13 383-30(4)."

14 SECTION 4. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

Unemployment Benefits; Striking Workers; Eligibility

**Description:**

Allows striking workers to be eligible for unemployment benefits. Effective 7/1/3000. (HD1)

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

