
A BILL FOR AN ACT

RELATING TO THE HAWAII EMPLOYMENT SECURITY LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 383-29, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) An unemployed individual shall be eligible to receive
4 benefits with respect to any week only if the department finds
5 that:

6 (1) The individual has made a claim for benefits with
7 respect to that week in accordance with rules adopted
8 by the department [~~may prescribe~~] and with section
9 383-29.7 for partially unemployed individuals;

10 (2) The individual has registered for work, [~~as defined in~~
11 ~~section 383-1,~~] and thereafter continued to report, at
12 an employment office in accordance with rules adopted
13 by the department [~~may prescribe~~], or [~~such other~~]
14 another place as the department may approve [~~, except~~];
15 provided that the department may waive or alter either
16 or both of the requirements of this paragraph for:



- 1 (A) Partially unemployed individuals pursuant to
- 2 section 383-29.8;
- 3 (B) Individuals attached to regular jobs;
- 4 (C) Union members in good standing being referred to
- 5 jobs through the labor union job placement
- 6 service; provided that the labor union agrees to
- 7 report to the department all individuals who
- 8 refuse job referrals or offers of work and all
- 9 individuals not ready, willing, and able to work,
- 10 and the labor union is approved by the department
- 11 for the purpose of waiving work registration;
- 12 (D) Individuals involved in a labor dispute and for
- 13 whom an employer-employee relationship continues
- 14 to exist;
- 15 (E) Individuals who are suspended from work and for
- 16 whom an employer-employee relationship continues
- 17 to exist; provided that the waiver shall apply
- 18 only to the period of suspension but shall not
- 19 exceed four consecutive weeks of unemployment
- 20 immediately following the week in which the
- 21 individual was suspended; or



1 (F) Other types of cases or situations in which the
2 department finds that compliance with those
3 requirements would be oppressive, or would be
4 inconsistent with the purpose of this chapter;

5 (3) The individual is able to work and is available for
6 work; provided that no claimant shall be considered
7 ineligible with respect to any week of unemployment
8 for failure to comply with this paragraph if the
9 failure is due to an illness or disability, as
10 evidenced by a physician's certificate, which occurs
11 during an uninterrupted period of unemployment with
12 respect to which benefits are claimed and no work that
13 would have been suitable before the beginning of the
14 illness or disability has been offered to the
15 claimant;

16 (4) The individual has been unemployed for a waiting
17 period of one week within the individual's benefit
18 year; provided that no week shall be counted as a
19 waiting period if benefits have been paid with respect
20 thereto unless the individual was eligible for those
21 benefits [~~with respect thereto~~] as provided in this



1 section and section 383-30, except for the
2 requirements of this paragraph;

3 (5) In the case of an individual whose benefit year begins
4 after January 4, 1992, the individual has been
5 employed [~~as defined in section 383-27~~] and has been
6 paid wages for insured work during the individual's
7 base period in an amount equal to [~~not~~] no less than
8 twenty-six times the individual's weekly benefit
9 amount, as determined under section 383-22(b), and the
10 individual has been paid wages for insured work during
11 at least two quarters of the individual's base period;
12 provided that no otherwise eligible individual who
13 established a prior benefit year under this chapter or
14 the unemployment compensation law of any other
15 state [~~7~~] shall be eligible to receive benefits in a
16 succeeding benefit year until, during the period
17 following the beginning of the prior benefit year,
18 that individual worked in covered employment for which
19 wages were paid in an amount equal to at least five
20 times the weekly benefit amount established for that
21 individual in the succeeding benefit year.



1 For the purposes of this paragraph, wages and
2 weeks of employment shall be counted for benefit
3 purposes with respect to any benefit year only if the
4 benefit year begins subsequent to the dates on which
5 the employing unit by which the wages or other
6 remuneration, as provided in the definition of weeks
7 of employment in section 383-1, were paid has
8 satisfied the conditions of section 383-1 with respect
9 to becoming an employer.

10 Effective for benefit years beginning January 1,
11 2004, and thereafter, if an individual fails to
12 establish a valid claim for unemployment insurance
13 benefits under this paragraph, the department shall
14 make a redetermination of entitlement based upon the
15 alternative base period[~~, as defined in section~~
16 ~~383-1~~]; provided [~~further~~] that the individual shall
17 satisfy the conditions of this paragraph that apply to
18 claims filed using the base period[~~, as defined in~~
19 ~~section 383-1,~~] and the establishment of claims using
20 the alternative base period shall be subject to the



1 terms and conditions of sections 383-33 and 383-94;
2 and
3 (6) Effective November 24, 1994, an individual who has
4 been referred to reemployment services pursuant to the
5 profiling system under section 383-92.5 shall
6 participate in those services or in similar services.
7 The individual [~~may~~] shall not be required to
8 participate in reemployment services if the department
9 determines the individual has completed those
10 services, or there is justifiable cause for the
11 claimant's failure to participate in those services.

12 For the purposes of this subsection, employment and wages
13 used to establish a benefit year shall not thereafter be reused
14 to establish another benefit year."

15 SECTION 2. Section 383-44, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) The individual liable, in the discretion of the
18 department, shall repay the overpaid amount and the penalty
19 assessment amount to the department for the fund or have the
20 overpaid amount only deducted from any future benefits payable
21 to the individual under this chapter [~~within two years after the~~



1 ~~date of mailing of the notice of redetermination or the final~~
2 ~~decision on an appeal from the redetermination. Effective~~
3 ~~April 1, 2013, the]; provided that a deduction shall not exceed~~
4 fifty per cent of the weekly benefit amount paid for that week
5 and shall not reduce the weekly benefit amount below \$250. The
6 overpaid benefits amount and the penalty assessment amount,
7 costs, and administrative fees may be deducted from federal
8 income tax refunds."

9 SECTION 3. Section 383-70, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§383-70 Contributions; levy; returns; assessments.** (a)
12 Contributions are hereby levied against employers as provided in
13 this chapter. Except as may be provided to the contrary in
14 accordance with [~~such regulations as~~] rules adopted by the
15 department [~~of labor and industrial relations may prescribe~~],
16 contributions shall be paid quarterly on or before the last day
17 of the month succeeding the last month of each quarter.

18 (b) Each employer shall make at the time and in the manner
19 prescribed by the department a full, true, and correct report
20 with respect to the wages paid by the employer, which report
21 shall contain other information as may be prescribed by the



1 department. For each calendar quarter beginning July 1, 1988,
2 [~~such~~] the report shall include wage information for each
3 employee in accordance with [~~such~~] the rules [~~as~~] adopted by the
4 department [~~may prescribe~~]. The report shall be made by the
5 employer even though the employer is not required to pay
6 contributions.

7 (c) If any return filed is erroneous, or is so deficient
8 as not to disclose the full liability, or if the employer
9 disclaims liability for contributions with respect to any wages
10 upon which contributions are required to be paid, the department
11 shall assess the correct amount of contributions and shall
12 notify the employer thereof; and if any employer fails,
13 neglects, or refuses to make a return, the department shall
14 proceed as it deems best to obtain information on which to base
15 the assessment of contributions and shall assess the same and
16 notify the employer [~~thereof~~]. The amount [~~so~~] assessed shall
17 be paid on the twenty-first day after the notice was mailed,
18 properly addressed to the employer at the employer's last known
19 place of business.

20 (d) Notices of assessment of contributions, records of
21 contributions assessed and payments thereon, and delinquent



1 contributions lists showing unpaid contributions assessed
2 against any employer shall be prima facie proof of the
3 assessment of the person assessed, the amount of contributions
4 due and unpaid, and the delinquency in payment, and that all
5 requirements of law in relation to the assessment of the
6 contributions have been complied with.

7 (e) If the department determines that any reason exists
8 why the collection of any contributions accrued will be
9 jeopardized by delaying collection, it may make an immediate
10 assessment [~~thereof~~] and the director [~~of labor and industrial~~
11 ~~relations~~] may proceed to enforce collection immediately, but
12 interest shall not begin to accrue upon any contributions until
13 the date when [~~such~~] the contributions would normally have
14 become delinquent.

15 (f) The department shall assess and collect a service
16 charge for any assessment made under this section that is
17 dishonored for any reason. The service charge collected shall
18 be deposited into the special unemployment insurance
19 administration fund established under section 383-127."

20 SECTION 4. Section 383-94, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**S383-94 Records and reports.** (a) Each employing unit
2 shall keep true and accurate work records, for [~~such periods~~] a
3 period of time and containing [~~such~~] information as the
4 department [~~of labor and industrial relations~~] may prescribe.
5 The records shall be open to inspection and be subject to being
6 copied by the authorized representatives of the department at
7 any reasonable time and as often as may be necessary. Any
8 authorized representative of the department, or the referee, may
9 require from any employing unit any sworn or unsworn reports,
10 with respect to persons employed by [~~it, which such~~] the
11 employing unit, as the authorized representative, or the
12 referee, deems necessary for the effective administration of
13 this chapter.

14 ~~[(b) Each employer shall report all new employees hired~~
15 ~~subject to procedures prescribed by the department, within five~~
16 ~~working days after the first day of employment of such~~
17 ~~individual. If any employer fails to report with respect to a~~
18 ~~newly hired employee within five working days after the first~~
19 ~~day of employment, the employer shall pay a penalty in the~~
20 ~~amount of \$10. Effective October 1, 1998, employers need not~~
21 ~~report all new hires to the department.~~



1 ~~(e)~~ (b) Each employer shall report the separation of any
2 employee or the wages paid to ~~[such]~~ the employee, or both, upon
3 request of the department within five calendar days from the
4 date that the request was mailed or transmitted by electronic
5 notification to the employer. If any employer fails to report
6 with respect to the separation of an individual~~[7]~~ or the
7 remuneration ~~[which]~~ that the employer paid to the individual,
8 or both, within five calendar days after mailing of notice or
9 electronic notification from the department, the employer shall
10 pay a penalty in the amount of ~~[\$10.]~~ \$300.

11 ~~(d)~~ (c) Each employer or employing unit ~~[as defined in~~
12 ~~section 383-1]~~ shall furnish the department with wage
13 information for each employee in accordance with rules ~~[as]~~
14 adopted by the department ~~[of labor and industrial relations may~~
15 ~~prescribe, except]~~; provided that no report shall be filed with
16 respect to an employee of a state or local agency performing
17 intelligence or counterintelligence functions, if the head of
18 that agency has determined that filing ~~[such a]~~ the report could
19 endanger the safety of the employee or compromise an ongoing
20 investigation or intelligence mission. ~~[Such]~~ The quarterly
21 wage report shall be filed with the department on or before the



1 last day of the month succeeding the last month of each quarter.
2 Any employer who fails to file a report of wages paid to each of
3 the employer's employees for any period in the manner and within
4 the time prescribed by this chapter and the rules of the
5 department, or any employer who the department finds has filed
6 an insufficient report, shall pay a penalty of [~~\$30.~~] \$300.

7 [~~(e)~~] (d) Penalties shall be assessed, collected, and paid
8 into the fund in the same manner as contributions. The
9 director, in a case of excusable failure to file any report
10 under this section within the required time, may remit the
11 penalty."

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

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

17 SECTION 7. This Act shall take effect on January 1, 2077;
18 provided that sections 2, 3, and 4, shall take effect on
19 April 1, 2027.



Report Title:

DLIR; Hawaii Employment Security Law; Unemployment Benefits;
Recovery of Benefits; Assessments; Records and Reports

Description:

Amends the qualifications for unemployed individuals who are able to receive unemployment benefits. Beginning 4/1/2027, removes the two-year limitation on the recoupment of overpayments and limits the amount of overpaid amount and the penalty assessment amount that can be deducted from future benefits payable to the individual. Beginning 4/1/2027, requires the Department of Labor and Industrial Relations to assess and collect a service charge for dishonored unemployment insurance assessments. Beginning 4/1/2027, specifies that employers must report separation and wage information within five calendar days of notice being sent, whether by mail or electronic notification. Beginning 4/1/2027, increases the penalty for failure to report separations or wages and for failure to file or for filing insufficient wage reports. Effective 1/1/2077. (SD1)

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