

ACT 138

An Act to Amend Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

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

SECTION 1. Chapter 93, Revised Laws of Hawaii 1955, is hereby amended by adding thereto, immediately after Section 93-76, a new section to be numbered 93-77, reading as follows:

"Sec. 93-77. (a) An employer may apply to the director for the exclusion from employment within the meaning of this chapter of all services performed for him which constitute agricultural labor as defined in section 93-9. The director shall grant such exclusion if the applicant:

(1) Files with the director a written election that the benefits payable with respect to all services performed for such employer which constitute agricultural labor as defined in section 93-9 shall be governed by and determined under the provisions of chapter 93A. The written election shall be in a form prescribed by the director.

(2) Also furnishes proof satisfactory to the director of his solvency and financial ability to pay to the director the amount of all benefits paid by the director pursuant to chapter 93A for his account or furnishes a bond or other security acceptable to the director conditioned upon the making of such payments.

(b) Any exclusion granted pursuant to this section shall be retroactive to the beginning of the calendar quarter in which such written election was filed with the director. Such exclusion shall remain in effect for a period of not less than four consecutive calendar quarters and thereafter until the employer gives written notice to the director of his election to terminate such exclusion; provided, that the director may terminate such exclusion if he finds that the employer fails to continue to meet the requirements of section 93-77(a) (2). Termination of such exclusion under this section shall not become effective until the end of the quarter in which notice is given.

(c) During the effective period of the exclusion granted to such employer pursuant to this section, no agricultural labor performed for such employer shall be deemed to be employment within the meaning of this chapter. The benefits payable to any individual with respect to agricultural labor performed for such employer during such period shall be governed by and determined under the provisions of chapter 93A.

(d) If the services performed during more than one-half of any pay period by an individual for the person employing him constitute agricultural labor, all the services of such individual for such period shall be deemed, for the purposes of this section, to be agricultural labor; but if the services performed during one-half or more of any such pay period by an individual for the person employing him do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed, for the purposes of this section, to be agricultural labor. As used in this paragraph, the term 'pay period' means a period (of not more than thirty-one consecutive days) for which a payment or remuneration is ordinarily made to the individual by the person employing him."

SECTION 2. This Act shall take effect upon its approval.
(Approved July 5, 1961.) S.B. 796.