

ACT 219

S.B. NO. 773

A Bill for an Act Relating to Unemployment Insurance.

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

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Alternative base period’ means the four completed calendar quarters immediately preceding the first day of an individual’s benefit year.”

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

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

- (1) ~~[Claim.]~~ The individual has made a claim for benefits with respect to that week in accordance with rules the department may prescribe[-];
- (2) ~~[Registration.]~~ The individual has registered for work at, and thereafter continued to report at, an employment office in accordance with rules the department may prescribe, except that the department, by rule, may waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to other types of cases or situations with respect to which it finds that compliance with those requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such rule shall conflict with section 383-21[-];
- (3) ~~[Availability.]~~ The individual 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 the 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 the illness and disability has been offered the claimant[-];
- (4) ~~[Waiting period.]~~ The individual has been unemployed for a waiting period of one week within the individual’s 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 whose benefit year begins [on];
  - (A) On or after January 2, 1966, but prior to October 1, 1989, the individual has had during the individual’s base period a total of fourteen or more weeks of employment as defined in section

383-1 and has been paid wages for insured work during the individual's base period in an amount equal to at least thirty times the individual's 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 service excluded under section 383-7(1), or are domestic service except 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 those services[-];
- (B) ~~[In the case of an individual whose benefit year begins on]~~ On and after October 1, 1989, to January 4, 1992, the individual has been employed as defined in section 383-2 and has been paid wages for insured work during the individual's base period in an amount equal to not less than thirty times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year[-]; and
- (C) ~~[In the case of an individual whose benefit year begins after]~~ After January 4, 1992, the individual has been employed as defined in section 383-2 and has been paid wages for such insured work during the individual's base period in an amount equal to not less than twenty-six times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year.

~~[(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 the benefit year begins subsequent to the dates on which the employing unit by which the wages or other remuneration as provided in the definition of weeks of employment in section 383-1 were paid has satisfied the conditions of section 383-1 with respect to becoming an employer.

Effective for benefit years beginning January 1, 2004, and thereafter, if an individual fails to establish a valid claim for unemployment insurance benefits under this paragraph, the department shall make a redetermination of entitlement based upon the alternative base period as defined in section 383-1; provided further that the individual shall satisfy the conditions of section 383-29(a)(5) that apply to claims filed using the base period as defined in section 383-1 and the establishment of claims using the alternative base period shall be subject to the terms and conditions of sections 383-33 and 383-94; and

- (6) [~~Worker profiling.~~] Effective November 24, 1994, an individual who has been referred to reemployment services pursuant to the profiling system under section 383-92.5 participates in those services or in similar services. The individual may not be required to participate in reemployment services if the department determines the individual has completed those services, or there is justifiable cause for the claimant's failure to participate in those services.

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

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 2003.)