

1 H.684

2 Introduced by Representative Marcotte of Coventry

3 Referred to Committee on

4 Date:

5 Subject: Labor; unemployment compensation; contributions

6 Statement of purpose: This bill proposes to make changes to the  
7 unemployment compensation laws. It raises the taxable wage base for  
8 assessing employer contributions to the unemployment compensation fund  
9 until the base reaches \$16,000.00 in 2012. It reduces the maximum weekly  
10 benefit to \$409.00 and imposes a one-week waiting period before an individual  
11 can receive benefits. It also requires the commissioner of labor to make a  
12 yearly report to the house committees on commerce and economic  
13 development and on ways and means, and the senate committees on finance  
14 and on economic development, housing and general affairs.

15 An act relating to unemployment insurance

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 21 V.S.A. § 1301 is amended to read:

18 § 1301. DEFINITIONS

19 The following words and phrases, as used in this chapter, shall have the  
20 following meanings unless the context clearly requires otherwise:

\* \* \*

(17)(A) For benefit years beginning prior to January 3, 1988, the “base period” is the period of 52 weeks ending with the day immediately preceding the first day of a claimant’s benefit year. Such period shall be extended by one week for each week, not to exceed 18, in which the claimant had no earnings because of sickness or disability as certified by a duly licensed physician.

(B) For benefit years beginning on January 3, 1988 and subsequent thereto the “base period” shall be the period made up of the first four of the most recently completed five calendar quarters immediately preceding the first day of a claimant’s benefit year, and for any individual who fails to meet the eligibility requirements of section 1338 of this title in this base period, the commissioner shall make a redetermination of entitlement based upon a base period which consists of the last four completed calendar quarters immediately preceding the first day of the claimant’s benefit year.

~~(C) For any individual who fails to qualify for benefits under subdivision (B) above, the commissioner shall make a redetermination of entitlement based upon a base period which consists of the last three completed calendar quarters and all wages paid prior to the effective date of the claimant’s initial claim in the calendar quarter in which the initial claim was filed.~~

\* \* \*

## § 1309. –REPORTS

VT LEG 251343.1

## § 1314. –REPORTS AND RECORDS

\* \* \*

\* \* \*

## § 1321. CONTRIBUTIONS

\* \* \*

VT LEG 251343.1

1 against which credit may be taken for contributions required to be paid into a  
2 state unemployment fund. When the unemployment contribution rate schedule  
3 established by subdivision 1326(e) of this title is reduced to schedule I, the  
4 base of contributions amount shall be reduced to \$15,000.00, or the federal  
5 taxable wage base, whichever is higher, effective January 1 of the following  
6 year. For the purposes of this subsection:

7 ~~(1)~~(A) Any employer who acquired the entire or a distinct and severable  
8 portion of the organization, trade, or business of an employer shall be treated  
9 as a single unit with its predecessor for the calendar year in which such  
10 acquisition occurs; and

11 ~~(2)~~(B) The term employment shall include service constituting  
12 employment under any unemployment compensation law of another state.

13 (2) When the unemployment contribution rate schedule established by  
14 subsection 1326(e) of this title is reduced to schedule III, the base of  
15 contribution amount shall be adjusted annually on every January 1 thereafter  
16 by the same percentage as any increase in the state average annual wage, as  
17 calculated by subsection 1338(g) of this title. The adjustment shall not be  
18 made in the year immediately following a reduction in the unemployment  
19 contribution rate to schedule I.

20 \* \* \*



1 of July, the maximum weekly benefit amount shall be adjusted by a percentage  
2 equal to the percentage change during the preceding calendar year in the state  
3 average weekly wage as determined by subsection (g) of this section, provided  
4 the maximum weekly benefit amount shall not increase in any year that  
5 advances made to the State Unemployment Compensation Fund pursuant to  
6 Title XII of the Social Security Act, as amended, remain unpaid.

7 \* \* \*

8 (i) Income tax withholding.

9 (1) An individual filing a new claim for unemployment compensation  
10 shall, at the time of filing of such claim, be advised that:

11 (A) unemployment compensation is subject to federal and state  
12 income tax;

13 (B) requirements exist pertaining to estimated tax payments;

14 (C) the individual may elect to have federal income tax deducted and  
15 withheld from the individual's payment of unemployment compensation in the  
16 amount specified in the federal Internal Revenue Code;

17 (D) the individual who elects to have federal income tax deducted  
18 and withheld shall have state income tax withheld ~~in accordance with the rates~~  
19 ~~shown at section 5822 of Title 32~~ at 24 percent of the federal rate; and

20 (E) the individual shall be permitted to change a previously elected  
21 withholding once during each benefit year.

1           (2) Amounts deducted and withheld from unemployment compensation  
2 shall remain in the unemployment trust fund until transferred to the federal and  
3 state taxing authority as a payment of income tax.

4           (3) The commissioner shall follow all procedures specified by the  
5 United States Department of Labor and the federal Internal Revenue Service  
6 pertaining to the deducting and withholding of income tax.

7           (4) Amounts shall be deducted and withheld under this section only after  
8 amounts are deducted and withheld for any overpayments of unemployment  
9 compensation, child support obligations, or other amounts required to be  
10 deducted and withheld under this chapter.

11       Sec. 6. 21 V.S.A. § 1338a is amended to read:

12       § 1338a. DISREGARDED EARNINGS

13       (a) An individual shall be deemed “partially unemployed” in any week of  
14 less than full-time work if the wages earned by the individual with respect to  
15 such week are less than the weekly benefit amount the individual would be  
16 entitled to receive if totally unemployed and eligible. As used in this section  
17 “wages” in any one week includes only that amount of remuneration to the  
18 nearest dollar which is in excess of ~~30~~ 20 percent of the individual’s weekly  
19 benefit, or \$40.00, whichever amount is greater.

20       (b) Notwithstanding subsection (a) of this section, an individual shall not  
21 be deemed to be “partially unemployed” if the individual performed less than

1 full-time work only because there was a holiday in that week for which the  
2 individual was entitled to holiday pay.

3 Sec. 7. 21 V.S.A. § 1343 is amended to read:

4 § 1343. CONDITIONS

5 (a) An unemployed individual shall be eligible to receive benefits with  
6 respect to any week only if the commissioner finds that all of the following  
7 requirements are met and the individual:

8 (1) Has registered for work at and thereafter has continued to report at  
9 an employment office in accordance with such regulations as the board may  
10 prescribe.

11 (2) Has made a claim for benefits in accordance with the provisions of  
12 section 1346 of this title.

13 (3) Is able to work, and is available for work; provided, that in  
14 determining the availability of any individual during any week, the  
15 commissioner may require, in addition to registration at any employment  
16 office, that the individual participate in reemployment services, or at any time  
17 make such other efforts to secure suitable work as the commissioner may  
18 reasonably direct under the circumstances and to supply proper evidence  
19 thereof; and shall, if the individual fails without good cause to do so, be  
20 ineligible for each week such failure continues; provided further that no  
21 claimant shall be considered ineligible in any week of unemployment for

1 failure to comply with the provisions of this subdivision if such failure is due  
2 to an illness or disability which occurs after the claimant has registered for  
3 work, filed a claim for benefits and during a week for which the individual was  
4 entitled to waiting period credit or benefit payments, and no work which would  
5 have been considered suitable but for the illness or disability has been offered  
6 after the beginning of such illness or disability.

7 (4) [Repealed.]

8 (5) Qualifies for a weekly benefit computed in accordance with section  
9 1338 of this title.

10 (6) Participates in ~~re-employment~~ reemployment services, such as job  
11 search assistance services, if he or she has been determined to be likely to  
12 exhaust regular benefits and needs ~~re-employment~~ reemployment services  
13 pursuant to a profiling system established by the commissioner.

14 (7) Is not self-employed or engaged in self-employment to the extent  
15 that it makes him or her unavailable for work.

16 (8) Prior to any week for which the individual claims benefits, has been  
17 totally or partially unemployed for a waiting period of one week during his or  
18 her benefit year and any extended eligibility period. No week shall be counted  
19 as a week of total or partial unemployment:

20 (A) If benefits have been paid in that week.

(C) Unless it occurs after benefits first could become payable to any individual under this chapter.

Sec. 8. 21 V.S.A. § 1344 is amended to read:

(a) An individual shall be disqualified for benefits:

(A) He or she has been discharged by his or her last employing unit for misconduct connected with his or her work; or

(B) He or she was separated from his or her last employing unit because he or she became unable to perform all or an essential part of his or

1 her normal duties in such employment without good cause attributable to such  
2 employing unit because of the consequences which flow from his or her  
3 conviction of a felony or misdemeanor or from an action or order of a judge or  
4 court in any criminal or civil matter. In the event a conviction or the action or  
5 order of any judge or court in any criminal or civil matter is rescinded or  
6 expunged, the individual may be eligible for benefits from the time the  
7 individual would have otherwise been eligible for benefits.

8 \* \* \*

9 (5) For any week with respect to which he or she is receiving or has  
10 received remuneration in the form of:

11 (A) Wages in lieu of notice; or

12 (B) Vacation pay or holiday pay; or

13 (i) Vacation pay due at time of separation in accordance with a  
14 work agreement (whether a formal contract or established custom) shall be  
15 allocated to the period immediately following separation, or if due subsequent  
16 to separation, it shall be allocated to the week in which due or the next  
17 following week, and that number of weeks immediately following as required  
18 to equal the total of the weeks of pay due. Any mutual agreement between the  
19 employer and employee(s) (whether or not payment is made), allocating such  
20 remuneration to any period during which work is performed, within four weeks  
21 prior to the date of separation, shall not be valid for the purpose of determining

1 unemployment compensation entitlement or waiting period credit purposes and  
2 such payment shall be allocated to the period immediately following  
3 separation.

4 (ii) There shall be no disqualification amount for any holiday.

5 (C) ~~Back pay~~ Severance pay, back pay award, or back pay  
6 settlement; or

7 (i) Back pay awards and back pay settlements shall be allocated to  
8 the week(s) and in the manner as specified in the order or agreement, or, in the  
9 absence of such specificity, to the week(s) and in the manner which, in the  
10 judgment of the commissioner, would be reasonable.

11 \* \* \*

12 (F) ~~A cash severance payment, unless and to the extent the paying~~  
13 ~~employer elects to treat it as nondisqualifying or unless it is paid in accordance~~  
14 ~~with a work agreement (whether a formal contract or established custom).~~

15 \* \* \*

16 Sec. 9. 21 V.S.A. § 1347 is amended to read:

17 § 1347. ~~NONDISCLOSURE OR MISREPRESENTATION~~ REPAYMENT  
18 OF BENEFITS

19 (a) Any person who ~~fails, without good cause, to make reasonable effort to~~  
20 ~~secure suitable work when directed to do so by the employment office or the~~  
21 ~~commissioner and has received any amount as benefits under this chapter with~~

1     ~~respect to weeks for which the person is determined to be ineligible for such~~  
2     ~~failure, and any person who by nondisclosure or misrepresentation by him or~~  
3     ~~her, or by another, of a material fact (irrespective of whether such~~  
4     ~~nondisclosure or misrepresentation was known or fraudulent)~~ has received any  
5     amount as of benefits under this chapter ~~while any conditions for the receipt of~~  
6     ~~benefits imposed by this chapter were not fulfilled in his or her case or while~~  
7     ~~he or she was disqualified from receiving benefits~~ and is later determined to be  
8     ineligible for those benefits, shall be liable for such amount. Notice of  
9     determination in such cases shall specify that the person is liable to repay to  
10    the fund the amount of overpaid benefits, the basis of the overpayment, and the  
11    week or weeks for which such benefits were paid. The determination shall be  
12    made within three years from the date of such overpayment.

13       (b) ~~Any person who receives remuneration described in subdivisions (A),~~  
14     ~~(B), (C), (D), (E), or (F) of section 1344(a)(5) of this title which is allocable in~~  
15     ~~whole or in part to prior weeks during which he or she received any amounts as~~  
16     ~~benefits under this chapter shall be liable for all such amounts of benefits or~~  
17     ~~those portions of such amounts equal to the portions of such remuneration~~  
18     ~~properly allocable to the weeks in question. Notice of determination in such~~  
19     ~~cases shall specify that the person is liable to repay to the fund the amount of~~  
20     ~~overpaid benefits, the basis of the overpayment, and the week or weeks for~~  
21     ~~which such benefits were paid. The determination shall be made within three~~

1 ~~years from the date of such overpayment or within one year from the date of~~  
2 ~~receipt of the remuneration, whichever period is longer.~~

3 (e) The person liable under this section shall repay such amount to the  
4 commissioner for the fund. Such amount may be collectible by civil action in  
5 a Vermont district or superior court, in the name of the commissioner. No  
6 action shall be commenced for the collection of such amount more than five  
7 years after the date of such determination under this section or the final  
8 decision confirming the liability of such person on an appeal from such  
9 determination.

10 ~~(d)~~(c) In any case in which under this section a person is liable to repay any  
11 amount to the commissioner for the fund, the commissioner may withhold, in  
12 whole or in part, any future benefits payable to such person, and credit such  
13 withheld benefits against the amount due from such person until it is repaid in  
14 full. No benefits shall be withheld after five years from the date of such  
15 determination or the date of the final decision confirming the liability of such  
16 person on an appeal from such determination.

17 ~~(e)~~(d) In addition to the foregoing, when it is found by the commissioner  
18 that a person intentionally misrepresented or failed to disclose a material fact  
19 with respect to his or her claim for benefits and in the event the person is not  
20 prosecuted under section 1368 of this title and penalty provided in section  
21 1373 of this title is not imposed, the person shall be disqualified and shall not

1 be entitled to receive benefits to which he or she would otherwise be entitled  
2 after the determination for such number of weeks not exceeding 26 as the  
3 commissioner shall deem just; provided, however, that no benefits shall be  
4 denied to a claimant because of such determination after three years from the  
5 date thereof or the date of final decision on an appeal from such determination.

6 The notice of determination shall also specify the period of disqualification  
7 imposed hereunder.

8 ~~(f)~~(e) Interested parties shall have the right to appeal from any  
9 determination under this section and the same procedure shall be followed as  
10 provided for in ~~sections~~ subsection 1348(a) and section 1349 of this title.