

H.169

Introduced by Representatives Clarkson of Woodstock, Manwaring of
Wilmington, Christie of Hartford, Ellis of Waterbury, Gallivan
of Chittenden, Goodwin of Weston, Haas of Rochester,
Komline of Dorset, Marek of Newfane, Moran of Wardsboro,
Poirier of Barre City, Stevens of Waterbury, Taylor of Barre
City, and Townsend of South Burlington

Referred to Committee on

Date:

Subject: Labor; unemployment compensation; employers' experience-rating
records

Statement of purpose of bill as introduced: This bill proposes to relieve
employers' experience-rating record of charges incurred as a result of Tropical
Storm Irene.

An act relating to relieving employers' experience-rating records

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

~~Sec. 1. PURPOSE~~

~~The purpose of this act is to provide relief to businesses paying a higher rate
of unemployment compensation contributions due to layoffs caused by
Tropical Storm Irene. The act would ensure that the experience rating records~~

~~of businesses affected by Irene will not be charged for layoffs caused by the
storm. It would also ensure that in the future, businesses' experience rating
records would not be increased due to layoffs necessitated by natural disasters.
Businesses paying a higher contribution rate due to Irene will have their
contribution rates recalculated and apply a credit for those payments against
future contributions.~~

Sec. 2. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY; EMPLOYEE PAID

\$1,000.00 OR LESS DURING BASE PERIOD

(a) The ~~commissioner~~ Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

1 ~~(6) The individual:~~
2 ~~(A) was unemployed as the direct result of a major natural disaster~~
3 ~~declared by the President of the United States pursuant to 42 U.S.C. § 5122;~~
4 ~~and~~
5 ~~(B) would have been eligible for the receipt of federal disaster~~
6 ~~unemployment assistance benefits but for the individual's receipt of regular~~
7 ~~benefits.~~
8 * * *
9 Sec. 3. EFFECTIVE DATES
10 ~~This act shall take effect on passage and shall apply retroactively to all~~
11 ~~benefits charged to an employer's experience record after August 29, 2011.~~

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY; EMPLOYEE PAID

\$1,000.00 OR LESS DURING BASE PERIOD

(a)(1) The ~~commissioner~~ Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period

~~wages paid to the individual by all base period employers. The~~

~~experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:~~

~~(1)(A) The individual's employment with that employer was terminated under disqualifying circumstances.~~

~~(2)(B) The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.~~

~~(3)(C) As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.~~

~~(4)(D) The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.~~

~~(5)(E) [Repealed.]~~

~~(2) If an individual's unemployment is directly caused by a major natural disaster declared by the President of the United States pursuant to 42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of four weeks.~~

~~* * *~~

~~Sec. 2. UNEMPLOYMENT COMPENSATION; EMPLOYERS AFFECTED BY NATURAL DISASTERS OCCURRING IN 2011~~

~~(a) The Department of Labor shall establish a system to provide unemployment compensation tax relief to employers paying a higher rate of contributions due to layoffs directly caused by federally declared natural disasters occurring in 2011.~~

~~(b) Unemployment compensation tax relief shall be available to an employer provided that the employer's employees were separated from employment as a direct result of the disaster. Benefits paid beyond eight weeks shall remain chargeable to the employer.~~

~~(c) The relief described in subsection (b) of this section shall not be available to employers electing to make payments in lieu of contributions pursuant to 21 V.S.A. § 1321.~~

~~(d) Benefit charge relief provided under subsections (a) and (b) of this section shall not result in the recalculation of previously assigned rate classes for non-disaster-impacted employers.~~

~~(e) The Department shall notify employers in the counties covered by the federal disaster relief declaration of the provisions of this section. An employer seeking relief shall apply to the Department within 20 days of notification by the Department. The application shall be made in a manner prescribed and approved by the Commissioner and shall be accompanied by a certified statement of the employer that the employees were separated from employment as a direct result of the disaster and would have not been otherwise. False statements made in connection with the certification shall subject the employer to the provisions of 21 V.S.A. § 1369. The employer shall provide the Department with the name, address, last known phone number, and social security number of each employee alleged to have been separated from employment as a result of the disaster.~~

~~(f) If an employer's application for relief is denied, the employer may appeal the decision pursuant to 21 V.S.A. §§ 1348 and 1349.~~

Sec. 3. APPROPRIATION

~~Of the appropriations made to the Department of Labor in Sec. B.400 of House Bill 530 (An act relating to making appropriations for the support of government), the amount of \$60,000.00 is appropriated for the costs of postage~~

~~and for hiring temporary positions necessary to implement the unemployment
compensation tax relief program described in Sec. 2 of this act.~~

Sec. 4. EFFECTIVE DATE

~~*This act shall take effect on passage*~~

Sec. 1. 21 V.S.A. § 1325 is amended to read:

*§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY;—EMPLOYEE PAID
\$1,000.00 OR LESS DURING BASE PERIOD*

*(a)(1) The ~~commissioner~~ Commissioner shall maintain an
experience-rating record for each employer. Benefits paid shall be charged
against the experience-rating record of each subject employer who provided
base-period wages to the eligible individual. Each subject employer's
experience-rating charge shall bear the same ratio to total benefits paid as the
total base-period wages paid by that employer bear to the total base-period
wages paid to the individual by all base-period employers. The
experience-rating record of an individual subject base-period employer shall
not be charged for benefits paid to an individual under any of the following
conditions:*

*(~~1~~)(A) The individual's employment with that employer was terminated
under disqualifying circumstances.*

~~(2)(B)~~ *The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.*

~~(3)(C)~~ *As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.*

~~(4)(D)~~ *The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.*

~~(5)(E)~~ *[Repealed.]*

(2) If an individual's unemployment is directly caused by a major natural disaster declared by the President of the United States pursuant to 42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of four weeks.

* * *

*Sec. 2. UNEMPLOYMENT COMPENSATION; EMPLOYERS AFFECTED
BY NATURAL DISASTERS OCCURRING IN 2011*

(a) The Department of Labor shall establish a system to provide unemployment compensation tax relief to employers paying a higher rate of contributions due to layoffs directly caused by federally declared natural disasters occurring in 2011.

(b) Unemployment compensation tax relief shall be available to an employer provided that the employer's employees were separated from employment as a direct result of the disaster. Benefits paid beyond eight weeks shall remain chargeable to the employer.

(c) The relief described in subsection (b) of this section shall not be available to employers electing to make payments in lieu of contributions pursuant to 21 V.S.A. § 1321.

(d) Benefit charge relief provided under subsections (a) and (b) of this section shall not result in the recalculation of previously assigned rate classes for nondisaster-impacted employers.

(e) The Department shall notify employers in the counties covered by the federal disaster relief declaration of the provisions of this section. An employer seeking relief shall apply to the Department within 20 days of notification by the Department. The application shall be made in a manner prescribed and

approved by the Commissioner and shall be accompanied by a certified statement of the employer that the employees were separated from employment as a direct result of the disaster and would have not been otherwise. False statements made in connection with the certification shall subject the employer to the provisions of 21 V.S.A. § 1369. The employer shall provide the Department with the name, address, last known phone number, and social security number of each employee alleged to have been separated from employment as a result of the disaster.

(f) If an employer's application for relief is denied, the employer may appeal the decision pursuant to 21 V.S.A. §§ 1348 and 1349.

Sec. 3. APPROPRIATION

Of the appropriations made to the Department of Labor in Sec. B.400 of House Bill 530 (An act relating to making appropriations for the support of government), the amount of \$60,000.00 is appropriated for the costs of postage and for hiring temporary positions necessary to implement the unemployment compensation tax relief program described in Sec. 2 of this act.

**Sec. 4. DEPARTMENT OF LABOR; ENFORCEMENT OF
UNEMPLOYMENT INSURANCE COVERAGE RULE**

The Department of Labor shall not implement proposed rule 12P044, unemployment insurance coverage for direct sellers and newspaper carriers, and shall not propose or adopt any rule, issue any bulletin, or take any other

action regarding unemployment compensation and newspaper carriers prior to July 1, 2014.

Sec. 5. STUDY COMMITTEE; UNEMPLOYMENT COMPENSATION

(a) The Office of Legislative Council shall study the issue of unemployment compensation, its application to newspaper carriers, and the relationship between state and federal exemptions to the unemployment compensation statutes.

(b) The Office of Legislative Council shall examine:

(1) the history of how newspaper carriers have been treated for purposes of unemployment compensation in Vermont and the newspaper industry practice of utilizing independent contractors to distribute newspapers or shopping news and the history and rationale behind the 2006 Department of Labor bulletin treating newspaper carriers as direct sellers;

(2) the potential economic impacts the proposed rule would have on newspaper publishers, newspaper carriers, and the unemployment compensation trust fund;

(3) the approaches taken by other states regarding unemployment compensation for newspaper carriers;

(4) an analysis of both state and federal exemptions to the unemployment compensation statutes; and

(5) how the unemployment compensation statutes should apply to individuals who do not earn enough wages to qualify for unemployment benefits.

(c) The Office of Legislative Council shall report its findings to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2014.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.