

1
2
3
4
5
6
7
8
9
10
11

12
13
14
15
16
17
18

H.681

Introduced by Representatives Marcotte of Coventry, Bancroft of Westford,
Carroll of Bennington, Dickinson of St. Albans Town, Jerome
of Brandon, Morris of Springfield, O’Sullivan of Burlington,
and Ralph of Hartland

Referred to Committee on

Date:

Subject: Labor; unemployment insurance; employer registration

Statement of purpose of bill as introduced: This bill proposes to grant the
Department of Labor authority to require electronic business registration for
purposes of unemployment insurance.

*An act relating to employer registration for unemployment insurance and
amendments to the unemployment insurance laws to address the COVID-19
outbreak*

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

~~Sec. 1. 21 V.S.A. § 1314a is amended to read:~~

~~§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;~~

~~PENALTIES~~

~~(a)(1) Effective with the calendar quarter ending September 30, 1986 and
all subsequent calendar quarters, each Each employing unit which that is an
employer as defined in subdivision 1301(5) of this chapter, having that has~~

1 ~~individuals in employment as defined in subdivision 1301(6) of this chapter,~~
2 shall file with the Commissioner on forms to be supplied by the Commissioner
3 to each such employer a detailed wage report containing each individual
4 worker's name, Social Security number, gross wages paid during each such
5 calendar quarter, and any other information the Commissioner deems
6 reasonably necessary in the administration of this chapter.

7 (2) ~~Effective with the calendar quarter ending March 31, 2001, and all~~
8 ~~subsequent calendar quarters, in~~ In addition to other information required by
9 this section, the wage reports required by this subsection shall include for each
10 worker paid by the hour, the worker's gender, and the worker's hourly wage.
11 ~~The wage reports may be filed electronically.~~

12 * * *

13 (c) ~~An employing unit, as defined in subdivision 1301(4) of this chapter~~
14 ~~which that~~ is not an employer, as defined in subdivision 1301(5), shall, upon
15 request of the Commissioner, file submit reports on forms furnished by the
16 Commissioner ~~reports respecting regarding~~ employment, wages, hours of
17 employment, and unemployment, and related matters as that the Commissioner
18 deems reasonably necessary in the administration of this chapter.

19 (d) Reports required by subsection (c) of this section shall be ~~returned so as~~
20 ~~to be received by~~ submitted to the Commissioner not later than 10 calendar

1 ~~days after the date of the mailing of the Commissioner's request was mailed to~~
2 the employing unit.

3 (e) On the request of the Commissioner, any employing unit or employer
4 shall report, within 10 days of the mailing or personal delivery of the request,
5 separation information with respect to for a claimant, any disqualifying income
6 the claimant may have received, and any other information that the
7 Commissioner may reasonably require to determine a the claimant's eligibility
8 for unemployment compensation. The Commissioner shall make ~~such~~ a
9 request ~~whenever~~ when:

10 (1) the claimant's eligibility is dependent either upon:

11 (A) wages paid during an incomplete calendar quarter in which the
12 claimant was separated; or

13 (B) ~~upon~~ the last completed quarter; and

14 (2) ~~when to do so would~~ obtaining the information will result in more
15 timely benefit payments.

16 (f)(1) Any employing unit or employer that fails to:

17 (A) File any a report required by this section shall be subject to a an
18 administrative penalty of \$100.00 for each report not received by the
19 prescribed due dates.

20 (B) Properly classify an individual regarding the status of

21 ~~employment is~~ shall be subject to a an administrative penalty of not more than

1 ~~\$5,000.00 for each improperly classified employee. In addition, an employer~~
2 found to have violated this section is prohibited from contracting, directly or
3 indirectly, with the State or any of its subdivisions for up to three years
4 following the date the employer was found to have failed to properly classify,
5 as determined by the Commissioner in consultation with the Commissioner of
6 Buildings and General Services or the Secretary of Transportation, as
7 appropriate. Either the Secretary or the Commissioner, as appropriate, shall be
8 consulted in any appeal relating to prohibiting the employer from contracting
9 with the State or its subdivisions.

10 (2)(A) Penalties under this subsection shall be collected in the same
11 manner ~~provided for the collection of~~ as contributions in under section 1329 of
12 this title and shall be paid into the Contingent Fund ~~provided~~ established in
13 section 1365 of this title.

14 (B) If the employing unit demonstrates that its failure was due to a
15 reasonable cause, the Commissioner may waive or reduce the penalty.

16 (g) Notwithstanding any other provisions of this section, the Commissioner
17 may where practicable require of any employing unit ~~that to file~~ the reports
18 ~~required to be filed~~ pursuant to subsections (a) through (d) of this section be
19 filed, or any departmental registration required prior to submitting the reports
20 ~~required by this section, in an electronic media form.~~

Sec. 1. 21 V.S.A. § 1314a is amended to read:

*§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;
PENALTIES*

(a)(1) ~~Effective with the calendar quarter ending September 30, 1986 and all subsequent calendar quarters, each~~ Each ~~employing unit which that is an employer as defined in subdivision 1301(5) of this chapter, having that has individuals in employment as defined in subdivision 1301(6) of this chapter,~~ shall file with the Commissioner on forms ~~to be supplied by the Commissioner to each such employer~~ a detailed wage report ~~containing for each calendar quarter that contains~~ each individual worker's name, Social Security number, gross wages paid during each ~~such~~ calendar quarter, and any other information the Commissioner deems ~~reasonably~~ necessary in the administration of this chapter.

(2) ~~Effective with the calendar quarter ending March 31, 2001, and all subsequent calendar quarters, in~~ In addition to other information required by this section, the wage reports required by this subsection shall include for each worker paid by the hour, the worker's gender, and the worker's hourly wage. ~~The wage reports may be filed electronically.~~

* * *

(c) ~~An employing unit, as defined in subdivision 1301(4) of this chapter which that is not an employer, as defined in subdivision 1301(5), shall, upon request of the Commissioner, file~~ submit reports on forms furnished by the Commissioner ~~reports respecting regarding~~ employment, wages, hours of employment, and unemployment, and related matters ~~as that~~ the Commissioner deems ~~reasonably~~ necessary in the administration of this chapter.

(d) Reports required by subsection (c) of this section shall be ~~returned so as to be received by~~ submitted to the Commissioner not later than 10 calendar days after the date ~~of the mailing of the Commissioner's request~~ was mailed to the employing unit.

(e) ~~On the request of the Commissioner, any employing unit or employer shall report, within 10 days of the mailing or personal delivery of the request, separation information with respect to~~ for a claimant, any disqualifying income the claimant may have received, and any other information that the Commissioner may ~~reasonably~~ require to determine ~~a~~ the claimant's eligibility for unemployment compensation. The Commissioner shall make ~~such~~ a request ~~whenever~~ when:

(1) the claimant's eligibility is dependent either upon:

(A) wages paid during an incomplete calendar quarter in which the claimant was separated; or

(B) ~~upon~~ the last completed quarter; and

(2) ~~when to do so would~~ obtaining the information will result in more timely benefit payments.

(f)(1) Any employing unit or employer that fails to:

(A) File ~~any~~ a report required by this section shall be subject to a an administrative penalty of \$100.00 for each report not received by the prescribed due dates.

(B) Properly classify an individual regarding the status of employment ~~is~~ shall be subject to a an administrative penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the Secretary or the Commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions.

(2)(A) Penalties under this subsection shall be collected in the same manner provided for the collection of as contributions ~~in~~ under section 1329 of this title and shall be paid into the Contingent Fund ~~provided~~ established in section 1365 of this title.

(B) If the employing unit demonstrates that its failure was due to a reasonable cause, the Commissioner may waive or reduce the penalty.

(g)(1) Notwithstanding any other provisions of this section, the Commissioner may where practicable require ~~of any employing unit that~~ to file the reports required ~~to be filed~~ pursuant to subsections (a) through (d) of this section ~~be filed~~, or any departmental registration required prior to submitting the reports required by this section, in an electronic media form.

(2) The Commissioner may waive the requirement that an employing unit submit a report in an electronic media form if the employing unit attests that it is unable to file the required report in that form.

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

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The 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:

** * **

(G) The individual voluntarily separated from that employer to care for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child who has been diagnosed with COVID-19 as provided by subdivision 1344(a)(2)(A) of this chapter.

(2) If an individual's unemployment is directly caused by a major 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.

(3)(A) Subject to the provisions of subdivision (B) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual for a maximum amount of four weeks with respect to benefits paid because:

(i) the employer temporarily ceased operation at the individual's place of employment in response to a request from a local health official or the Commissioner of Health that the employer cease operations because of COVID-19 or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19; or

(ii) the individual has been requested by a medical professional, local health official, or the Commissioner of Health to be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B) An employer shall only be eligible for relief of charges for benefits paid under the provisions of this subdivision (a)(3) if the individual is rehired by the employer when the employer resumes operations at the individual's place of employment or upon the completion of the individual's period of isolation or quarantine.

* * *

Sec. 3. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

~~(i)(I)~~ is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

~~(ii)(II)~~ holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner; for the individual to continue working for such employing unit-; or

(ii) the individual left such employment to care for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child who has been diagnosed with COVID-19.

* * *

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

* * *

(F) Sick pay.

* * *

Sec. 4. REPEAL

21 V.S.A. § 1325(a)(1)(G) and (a)(3) are repealed.

Sec. 5. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

** * **

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

~~(i) is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or~~

~~(ii) holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or~~

~~(ii) the individual left such employment to care for parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child who has been diagnosed with COVID-19.~~

** * **

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 2 and 3 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2020.

(c) Secs. 4 and 5 shall take effect on March 31, 2021.