

House Proposal of Amendment

S. 353

An act relating to expanding the Front-Line Employees Hazard Pay Grant Program.

The House proposes to the Senate to amend the bill as follows:

First: By striking out Sec. 1, 2020 Acts and Resolves No. 136, Sec. 6, and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 2020 Acts and Resolves No. 136, Sec. 6 is amended to read:

Sec. 6. FRONT-LINE EMPLOYEES HAZARD PAY GRANT PROGRAM

(a)(1) There is established in the Agency of Human Services the Front-Line Employees Hazard Pay Grant Program to administer and award grants to certain ~~public safety, public health, health care, and human services~~ employers whose employees were engaged in activities substantially dedicated to mitigating or responding to the COVID-19 public health emergency during the eligible period or were providing essential services to Vermonters.

* * *

(b) As used in this section:

(1) “Agency” means the Agency of Human Services.

(2)(A) “Covered employer” means an entity that employs one or more individuals in Vermont in relation to its operation of one of the following:

* * *

(xv) a cleaning or janitorial service that provides cleaning or janitorial services to a covered employer listed in subdivisions (i)–(v) and (vii)–(x) of this subdivision (b)(2)(A) in locations that are open to the general public or regularly used by the residents or patients of that covered employer, provided that such an employer shall only be permitted to receive a grant to provide hazard pay to its eligible employees who provided cleaning or janitorial services to another covered employer during the eligible period; ~~or~~

(xvi) a food service provider that prepares and provides meals for residents or patients of a covered employer listed in subdivisions (i)–(v) and (vii)–(x) of this subdivision (b)(2)(A), provided that such an employer shall only be permitted to receive a grant to provide hazard pay to its eligible employees who provided food services to the residents or patients of a covered employer during the eligible period;

(xvii) a grocery store;

(xviii) a pharmacy;

(xix) a retailer identified as essential in Sec. 6, paragraphs f and h of Addendum 6 to Executive Order 01-20, provided that, during the eligible period, the retail establishment was open to the general public for in-person sales;

(xx) a wholesale distributor making deliveries to a retailer described in subdivisions (xvii)–(xix) of this subdivision (b)(2)(A);

(xxi) a trash collection, waste management, or septic service;

(xxii) an operator of a privately owned water pollution abatement and control facility, provided that such an employer shall only be permitted to receive a grant to provide hazard pay to its eligible employees who performed work in the water pollution abatement and control facility;

(xxiii) a child care facility as defined in 33 V.S.A. § 3511 that provided child care services to essential service providers pursuant to Directive 2 of Executive Order 01-20;

(xxiv) a vocational rehabilitation service provider;

* * *

(4)(A) “Eligible employee” means an individual who:

* * *

~~(C) “Eligible employee” does not include an individual who has received unemployment insurance benefits for any week during the eligible period.~~

(xxv) a funeral establishment or crematory establishment as defined in 26 V.S.A. § 1211; or

(xxvi) an agency licensed pursuant to 26 V.S.A. § 3172 that provides security services, as defined in 26 V.S.A. § 3151, to another covered employer, provided that such an employer shall only be permitted to receive a grant to provide hazard pay to its eligible employees who provided security services to another covered employer during the eligible period.

* * *

~~(i)(1) The definition of “covered employer” set forth in subdivision (b)(2) of this section shall be deemed to include to the types of employers listed in subdivision (b)(2) of this subsection to the extent permitted by federal law and any applicable guidance if either of the following occurs:~~

~~(A) the permissible uses of monies in the Coronavirus Relief Fund pursuant to Sec. 5001 of the CARES Act, Pub. L. No. 116-136, as amended, and any related guidance are expanded to permit the payment of hazard pay to~~

employees of some or all of the types of employers listed in subdivision (2) of this subsection (i); or

~~(B) a federal program that grants money directly to the State, which may be used to provide hazard pay to employees of some or all of the types of employers listed in subdivision (2) of this subsection (i), is enacted.~~

~~(2) The following types of employers may be deemed to be included within the definition of “covered employer” set forth in subdivision (b)(2) of this section if the requirements of subdivision (1) of this subsection are met:~~

~~(A) a grocery store;~~

~~(B) a pharmacy;~~

~~(C) a retailer identified as essential in Sec. 6, paragraphs f and h of addendum 6 to Executive Order 01-20, provided that, during the eligible period, the majority of the retail establishment was open to the general public for in-person sales rather than curbside pickup or delivery;~~

~~(D) a wholesale distributor making deliveries to a retailer described in subdivisions (A)–(C) of this subdivision (i)(2);~~

~~(E) a trash collection or waste management service;~~

~~(F) a janitorial service that provides cleaning or janitorial services to another covered employer;~~

~~(G) a child care facility as defined in 33 V.S.A. § 3511 that is providing child care services to essential service providers pursuant to Directive 2 of Executive Order 01-20;~~

~~(H) a vocational rehabilitation service provider; or~~

~~(I) a funeral establishment or crematory establishment as defined in 26 V.S.A. § 1211.~~

Second: By striking out Sec. 4, effective date, in its entirety and inserting in lieu thereof Secs. 4 through 10 to read as follows:

Sec. 4. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

* * *

(e)(1) In addition to the foregoing, when ~~it is found by~~ the Commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits and in the event the person is not prosecuted under section 1368 of this title and the penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for ~~such number of weeks not exceeding a~~

period of not more than 26 weeks as the Commissioner shall ~~deem~~ deems just. The notice of determination shall also specify the period of disqualification imposed hereunder.

(2) During a state of emergency declared by the Governor in relation to a public health emergency or disaster that has caused the statewide seasonally adjusted unemployment rate for any month to rise to a level that is at least one percentage point above the average statewide seasonally adjusted unemployment rate for the previous 12 months, a period of disqualification imposed pursuant to subdivision (1) of this subsection (e) shall be temporarily suspended until the first full calendar week following the termination of the state of emergency. Nothing in this subdivision shall be construed to diminish the period of disqualification that a person shall be required to serve following the termination of the state of emergency.

* * *

Sec. 5. SUSPENSION OF PERIOD OF DISQUALIFICATION DURING COVID-19 PUBLIC HEALTH EMERGENCY

Notwithstanding any provision of law to the contrary, during the state of emergency imposed pursuant to Executive Order 01-20, as amended, any period of disqualification imposed pursuant to 21 V.S.A. § 1347(e) shall be temporarily suspended until the first full calendar week following the termination of the state of emergency declared in relation to COVID-19 by Executive Order 01-20, as amended. Nothing in this section shall be construed to diminish a period of disqualification imposed pursuant to 21 V.S.A. § 1347.

Sec. 6. 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:

* * *

(C) He or she has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commissioner, or to accept suitable work when offered him or her, or has during the course of a job interview for available employment made verbal

statements ~~which~~ that are either untrue, show an unreasonable lack of interest, or are calculated to preclude an offer of work or a directive being made, or to return to his or her customary self-employment, if any, when so directed by the Commissioner. An individual shall not suffer more than one disqualification for these causes.

(D)(i) In determining whether or not any work or employment is suitable for an individual for purposes of this subdivision, the Commissioner shall consider the degree of risk involved to his or her health, safety, and morals, his or her physical fitness and prior training, his or her experience and prior earnings, his or her length of unemployment and prospects for securing local work in his or her customary occupation, and the distance of the available work from his or her residence.

(ii) Notwithstanding any other factors the Commissioner may consider in determining the degree of risk to an individual's health or safety, the Commissioner shall determine that work or employment that an individual has failed to apply for or declined to accept an offer for is not suitable for the individual based on the risk to his or her health or safety, or both, under the following circumstances:

(I) the individual is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(aa) the individual has been diagnosed with COVID-19;

(bb) the individual is experiencing the symptoms of COVID-19;

(cc) the individual has been exposed to COVID-19; or

(dd) the individual belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19;

(II) there is an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment;

(III) the individual is caring for or assisting a family member who is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(aa) the family member has been diagnosed with COVID-19;

(bb) the family member is experiencing the symptoms of COVID-19;

(cc) the family member has been exposed to COVID-19; or

(dd) the family member belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19;

(IV) the individual is caring for or assisting a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or

(V) the individual is caring for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

* * *

Sec. 7. 2020 Acts and Resolves No. 91, Sec. 33 is amended to read:

Sec. 33. 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)(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;

~~(ii)~~ the individual has left employment to self-isolate or quarantine at the recommendation of a healthcare provider, or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

~~(I)~~ the individual has been diagnosed with COVID-19;

~~(II)~~ the individual is experiencing the symptoms of COVID-19;

~~(III)~~ the individual has been exposed to COVID-19; or

~~(IV)~~ the individual belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19;

~~(iii)~~ the individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment;

~~(iv)~~ the individual has left employment to care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a healthcare provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

~~(I)~~ the family member has been diagnosed with COVID-19;

~~(II)~~ the family member is experiencing the symptoms of COVID-19;

~~(III)~~ the family member has been exposed to COVID-19; or

~~(IV)~~ the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19;

~~(v)~~ the individual has left employment to care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or

~~(vi)~~ the individual left such employment to care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

* * *

~~(G) As used in this subdivision (a)(2):~~

~~(i) “Family member” means an individual’s parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), “spouse” includes a domestic partner or civil union partner.~~

~~(ii) “An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual’s place of employment” shall include the individual’s place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.~~

~~(H)(i) Except as otherwise provided pursuant to subdivision (2) of this subdivision (a)(2)(H), an unemployed individual who is eligible for benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection shall be ineligible for benefits under those subdivisions if the individual becomes eligible for benefits provided pursuant to:~~

~~(I) enacted federal legislation that amends or establishes a federal program providing benefits for unemployed individuals that are similar to the benefits provided pursuant to subdivisions (2)(A)(ii)–(vi); or~~

~~(II) a national emergency declared by the President that results in the provision of benefits pursuant to Disaster Unemployment Assistance, Emergency Unemployment Compensation, Extended Unemployment Compensation, or any similar type program.~~

~~(ii) An individual who is receiving benefits pursuant to a federal program as set forth in subdivision (i) of this subdivision (a)(2)(H) shall not receive benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection except when and to the extent that the benefits provided by the applicable federal program are different from or are not in lieu of the benefits that are available pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection, in which case the benefits provided under subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.~~

~~(iii) Nothing in this subdivision (a)(2)(H) shall be construed to prevent an individual from receiving benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection if the individual’s employer refuses or fails to pay the individual for leave under the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

* * *

(D)(i) In determining whether or not any work or employment is suitable for an individual for purposes of this subdivision, the Commissioner shall consider the degree of risk involved to his or her health, safety, and morals, his or her physical fitness and prior training, his or her experience and prior earnings, his or her length of unemployment and prospects for securing local work in his or her customary occupation, and the distance of the available work from his or her residence.

~~(ii) Notwithstanding any other factors the Commissioner may consider in determining the degree of risk to an individual's health or safety, the Commissioner shall determine that work or employment that an individual has failed to apply for or declined to accept an offer for is not suitable for the individual based on the risk to his or her health or safety, or both, under the following circumstances:~~

~~(I) the individual is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:~~

~~(aa) the individual has been diagnosed with COVID-19;~~

~~(bb) the individual is experiencing the symptoms of COVID-19;~~

~~(cc) the individual has been exposed to COVID-19; or~~

~~(dd) the individual belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19;~~

~~(II) there is an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment;~~

~~(III) the individual is caring for or assisting a family member who is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:~~

~~(aa) the family member has been diagnosed with COVID-19;~~

~~(bb) the family member is experiencing the symptoms of COVID-19;~~

~~(cc) the family member has been exposed to COVID-19; or~~

~~(dd) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19;~~

~~(IV) the individual is caring for or assisting a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or~~

~~(V) the individual is caring for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.~~

* * *

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

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~~(F) Sick pay or pay received pursuant to the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

* * *

Sec. 8. UNEMPLOYMENT INSURANCE RATE SCHEDULE FOR BENEFIT YEAR BEGINNING JULY 1, 2021

(a) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the unemployment insurance contribution rate schedule for the benefit year beginning on July 1, 2021 shall not be more than two schedules higher than the contribution rate schedule for the previous benefit year.

(b) The provisions of this section shall not apply if, on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below \$90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

Sec. 9. UNEMPLOYMENT INSURANCE; BASE OF CONTRIBUTIONS FOR 2021

(a) Notwithstanding 21 V.S.A. § 1321(b), the base of contributions for calendar year 2021 shall be the same amount as for calendar year 2020.

(b) On or before March 15, 2021, the Commissioner of Labor shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs that provides an assessment and recommendation regarding whether the base of contributions for calendar year 2022 can be reduced to the amount

that, but for the provisions of subsection (a) of this section, it would have been set at for calendar year 2021 pursuant to the provisions of 21 V.S.A. § 1321(b).

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.