

1 S.353

2 Representatives Marcotte of Coventry, Bancroft of Westford, Bock of
3 Chester, Carroll of Bennington, Dickinson of St. Albans Town, Kimbell of
4 Woodstock, Jerome of Brandon, Morris of Springfield, O’Sullivan of
5 Burlington, Ralph Watson of Hartland, and Toleno of Brattleboro move that
6 the bill be amended by striking out Sec. 4, effective date, in its entirety and
7 inserting in lieu thereof Secs. 4 through 10 to read as follows:

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

9 § 1347. NONDISCLOSURE OR MISREPRESENTATION

10 * * *

11 (e)(1) In addition to the foregoing, when ~~it is found by~~ the Commissioner
12 finds that a person intentionally misrepresented or failed to disclose a material
13 fact with respect to his or her claim for benefits and in the event the person is
14 not prosecuted under section 1368 of this title and the penalty provided in
15 section 1373 of this title is not imposed, the person shall be disqualified and
16 shall not be entitled to receive benefits to which he or she would otherwise be
17 entitled after the determination for ~~such number of weeks not exceeding a~~
18 period of not more than 26 weeks as the Commissioner ~~shall deem~~ deems just.
19 The notice of determination shall ~~also~~ specify the period of disqualification
20 imposed ~~hereunder~~.

1 Sec. 6. 21 V.S.A. § 1344 is amended to read:

2 § 1344. DISQUALIFICATIONS

3 (a) An individual shall be disqualified for benefits:

4 * * *

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

11 * * *

12 (C) He or she has failed, without good cause, either to apply for
13 available, suitable work when so directed by the employment office or the
14 Commissioner, or to accept suitable work when offered him or her, or has
15 during the course of a job interview for available employment made verbal
16 statements ~~which~~ that are either untrue, show an unreasonable lack of interest,
17 or are calculated to preclude an offer of work or a directive being made, or to
18 return to his or her customary self-employment, if any, when so directed by the
19 Commissioner. An individual shall not suffer more than one disqualification
20 for these causes.

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

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

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

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

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

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

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

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

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

12 (aa) the family member has been diagnosed with COVID-
13 19;

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

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

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

20 (IV) the individual is caring for or assisting a family member
21 who has left employment because of an unreasonable risk that they could be

1 exposed to or become infected with COVID-19 at their place of
2 employment; or

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

6 * * *

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

8 Sec. 33. 21 V.S.A. § 1344 is amended to read:

9 § 1344. DISQUALIFICATIONS

10 (a) An individual shall be disqualified for benefits:

11 * * *

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

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

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

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

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

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

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

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

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

19 ~~(IV) the individual belongs to a specific class or group of~~

20 ~~persons that have been identified as being at high risk if exposed to or infected~~
21 ~~with COVID-19;~~

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

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

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

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

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

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

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

20 ~~(vi) the individual left such employment to care for a child under~~
21 ~~18 years of age because the child's school or child care has been closed or the~~

1 ~~child care provider is unavailable due to a public health emergency related to~~
2 ~~COVID-19.~~

3 * * *

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

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

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

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

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

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

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

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

21 * * *

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

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

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

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

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

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

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

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

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

12 ~~(aa) the family member has been diagnosed with COVID-~~
13 ~~19;~~

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

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

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

20 ~~(IV) the individual is caring for or assisting a family member~~
21 ~~who has left employment because of an unreasonable risk that they could be~~

1 ~~exposed to or become infected with COVID-19 at their place of employment;~~

2 ~~or~~

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

6 * * *

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

9 * * *

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

13 * * *

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

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

20 (b) The provisions of this section shall not apply if, on April 15, 2021, the
21 balance of the Unemployment Insurance Trust Fund is either below

1 \$90,000,000.00 or projected to drop below that amount on or before December
2 31, 2021.

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

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

7 (b) On or before March 15, 2021, the Commissioner of Labor shall submit
8 a report to the House Committee on Commerce and Economic Development
9 and the Senate Committee on Economic Development, Housing and General
10 Affairs that provides an assessment and recommendation regarding whether
11 the base of contributions for calendar year 2022 can be reduced to the amount
12 that, but for the provisions of subsection (a) of this section, it would have been
13 set at for calendar year 2021 pursuant to the provisions of 21 V.S.A. § 1321(b).

14 Sec. 10. EFFECTIVE DATE

15 This act shall take effect on passage.