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H.

Representative Kornheiser of Brattleboro moves that the bill be amended after Sec. \_\_\_\_, [more complete description], by inserting Secs. \_\_\_\_ and \_\_\_\_ to read as follows:

Sec. \_\_\_\_ 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) The Commissioner may cancel or reduce the period of disqualification imposed pursuant to this subsection for good cause or as he or she deems appropriate and just.

1           (3) The period of disqualification imposed pursuant to this subsection  
2           shall expire three years after the date of the determination.

3   \* \* \*

4           Sec. \_\_\_\_ . DEFERRAL OF PERIOD OF DISQUALIFICATION DURING  
5   COVID-19 PUBLIC HEALTH EMERGENCY

6           (a) Notwithstanding any provision of law to the contrary, all periods of  
7           disqualification pursuant to 21 V.S.A. § 1347(e) that were in effect on March  
8           13, 2020 or imposed subsequent to March 13, 2020 shall be deferred until the  
9           first full calendar week following the termination of the state of emergency  
10           declared in relation to COVID-19 by Executive Order 01-20, as amended.

11           (b)(1) The Commissioner of Labor shall pay all unemployment insurance  
12           benefits and Federal Pandemic Unemployment Compensation benefits that  
13           individuals were determined to be disqualified from during the state of  
14           emergency declared in relation to COVID-19 by Executive Order 01-20  
15           because of a period of disqualification imposed pursuant to 21 V.S.A.  
16           § 1347(e).

17           (2) The period of disqualification for any week that an individual  
18           receives benefits for pursuant to subdivision (1) of this subsection shall be  
19           reimposed and deferred until the first full calendar week following the  
20           termination of the state of emergency declared in relation to COVID-19 by  
21           Executive Order 01-20, as amended, unless the period of disqualification is

1 canceled or reduced pursuant to 21 V.S.A. § 1347(e)(2) or expires pursuant to  
2 21 V.S.A. § 1347(e)(3) prior to such time.

3 (c) The Commissioner shall provide all individuals whose period of  
4 disqualification is deferred or reimposed and deferred, or both, pursuant to this  
5 section with notice of the provisions of this section.

6 (d) Nothing in this section shall be construed to prevent the Commissioner  
7 from withholding, in whole or in part, the benefits paid to an individual whose  
8 period of disqualification has been deferred or reimposed and deferred, or both,  
9 pursuant to this section and crediting the amount withheld against the amount  
10 of any outstanding amount due from the individual pursuant to 21 V.S.A.  
11 § 1347, less the amount of any penalties assessed pursuant to 21 V.S.A.  
12 § 1347(c).

13 Sec. \_\_\_\_ 21 V.S.A. § 1344 is amended to read:

14 § 1344. DISQUALIFICATIONS

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

16 \* \* \*

17 (2) For any week benefits are claimed, except as provided in subdivision  
18 (a)(3) of this section, until he or she has presented evidence to the satisfaction  
19 of the Commissioner that he or she has performed services in employment for  
20 a bona fide employer and has had earnings in excess of six times his or her

1 weekly benefit amount if the Commissioner finds that such individual is  
2 unemployed because:

3 \* \* \*

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

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

20 (ii) Notwithstanding any other factors the Commissioner may  
21 consider in determining the degree of risk to an individual's health or safety,

1 the Commissioner shall determine that work or employment that an individual  
2 has failed to apply for or declined to accept an offer for is not suitable for the  
3 individual based on the risk to his or her health or safety, or both, under the  
4 following circumstances:

5 (I) the individual is self-isolating or quarantining at the  
6 recommendation of a health care 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 (aa) the individual has been diagnosed with COVID-19;

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

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

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

19 (III) the individual is caring for or assisting a family member  
20 who is self-isolating or quarantining at the recommendation of a health care  
21 provider or pursuant to a specific recommendation, directive, or order issued

1 by a public health authority with jurisdiction, the Governor, or the President  
2 for one of the following reasons:

3 (aa) the family member has been diagnosed with COVID-  
4 19;

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

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

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

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

18 \* \* \*

19 Sec. \_\_\_\_\_. 2020 Acts and Resolves No. 91, Sec. 33 is amended to read:

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

21 § 1344. DISQUALIFICATIONS

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

2 \* \* \*

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

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

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

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

20 ~~(ii)~~ holds a commission in the U.S. Foreign Service and is  
21 assigned overseas, and when such relocation would make it impractical or

1 impossible, as determined by the Commissioner, for the individual to continue  
2 working for such employing unit;

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

7 ~~(I) the individual has been diagnosed with COVID-19;~~  
8 ~~(II) the individual is experiencing the symptoms of COVID-19;~~  
9 ~~(III) the individual has been exposed to COVID-19; or~~  
10 ~~(IV) the individual belongs to a specific class or group of~~  
11 ~~persons that have been identified as being at high risk if exposed to or infected~~  
12 ~~with COVID-19;~~

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

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

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



1                   ~~(H) the family member is experiencing the symptoms of~~  
2                   ~~COVID-19;~~

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

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

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

11                  ~~(vi) the individual left such employment to care for a child under~~  
12                  ~~18 years of age because the child's school or child care has been closed or the~~  
13                  ~~child care provider is unavailable due to a public health emergency related to~~  
14                  ~~COVID-19.~~

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

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

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

20 \* \* \*

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

3   \* \* \*

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

7   \* \* \*

8       Sec. \_\_\_\_ . EFFECTIVE DATES

9           (a) Notwithstanding 1 V.S.A. § 214, Secs. \_\_\_\_ (nondisclosure or  
10 misrepresentation related to unemployment insurance), \_\_\_\_ (deferral of period  
11 of disqualification), and \_\_\_\_ (unemployment insurance disqualifications) shall  
12 take effect on passage and shall apply retroactively to March 30, 2020.

13           (b) Sec. \_\_\_\_ (amendment to 2020 Acts and Resolves No. 91, Sec. 33) shall  
14 take effect on passage.