

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 351 entitled “An act relating to workers’
4 compensation, unemployment insurance” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 * * * Workers’ Compensation * * *

8 Sec. 1. 21 V.S.A. § 711 is amended to read:

9 § 711. WORKERS’ COMPENSATION ADMINISTRATION FUND

10 (a) The Workers’ Compensation Administration Fund is created pursuant
11 to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for
12 the administration of the workers’ compensation and for costs of the
13 occupational ~~disease~~ safety and health programs that are not funded by federal
14 OSHA grants and matching State General Fund appropriations. The Fund
15 shall consist of contributions from employers made at a rate of 1.4 percent of
16 the direct calendar year premium for workers’ compensation insurance, one
17 percent of self-insured workers’ compensation losses, and one percent of
18 workers’ compensation losses of corporations approved under this chapter.
19 Disbursements from the Fund shall be on warrants drawn by the Commissioner
20 of Finance and Management in anticipation of receipts authorized by this
21 section.

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* * * Short-Time Compensation Program * * *

Sec. 2. FINDINGS

The General Assembly finds:

(1) The Short-Time Compensation Program was enacted in 1986 to assist employers in avoiding layoffs by temporarily reducing the hours worked by some of their employees.

(2) The Program provides partial unemployment insurance benefits to the employees who are working reduced hours.

(3) In 2014, the General Assembly amended 21 V.S.A. § 1338a to change the formula by which partially unemployed individuals who are not covered by a short-time compensation plan are paid partial unemployment benefits. By changing a claimant’s so-called “disregarded earnings” from 30 percent to 50 percent of the claimant’s weekly wage, the amount of unemployment benefits available to a partially employed individual increased significantly.

(4) Because of the change in disregarded earnings, employers and employees both have less to gain from short-time compensation plans.

(5) The application and approval process for short-time compensation plans is an administrative burden for employers.

1 (6) Since 2014, only one employer in Vermont has established a Short-
2 Time Compensation Program.

3 (7) Therefore, the General Assembly finds that 21 V.S.A. chapter 17,
4 subchapter 3, which establishes the Short-Time Compensation Program,
5 should be repealed.

6 Sec. 3. REPEAL

7 21 V.S.A. chapter 17, subchapter 3 is repealed.

8 * * * Self-Employment Assistance Program * * *

9 Sec. 4. 21 V.S.A. § 1340a is added to read:

10 § 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

11 (a) As used in this section:

12 (1) “Full-time basis” means that the individual is devoting the necessary
13 time as determined by the Commissioner to establish a business that will serve
14 as a full-time occupation for that individual.

15 (2) “Regular benefits” shall have the same meaning as in subdivision
16 1421(5) of this title.

17 (3) “Self-employment assistance activities” means activities approved
18 by the Commissioner in which an individual participates for the purpose of
19 establishing a business and becoming self-employed, including entrepreneurial
20 training, business counseling, and technical assistance.

1 (4) “Self-employment assistance allowance” means an allowance
2 payable in lieu of regular benefits from the Unemployment Compensation
3 Trust Fund to an individual who meets the requirements of this section.

4 (5) “Self-Employment Assistance Program” means the program under
5 which an individual who meets the requirements of subsection (d) of this
6 section is eligible to receive an allowance in lieu of regular benefits for the
7 purpose of assisting that individual in establishing a business and becoming
8 self-employed.

9 (b) The weekly amount of the self-employment assistance allowance
10 payable to an individual shall be equal to the weekly benefit amount for regular
11 benefits otherwise payable pursuant to this title.

12 (c) The maximum amount of the self-employment assistance allowance
13 paid pursuant to this section shall not exceed the maximum amount of benefits
14 established pursuant to section 1340 of this title with respect to any benefit
15 year.

16 (d)(1) An individual may receive a self-employment assistance allowance if
17 that individual:

18 (A) is eligible to receive regular benefits or would be eligible to
19 receive regular benefits except for the requirements described in subdivisions

20 (2)(A) and (B) of this subsection (d);

1 (B) is identified by a worker profiling system as an individual likely
2 to exhaust regular benefits;

3 (C) has received the approval of the Commissioner to participate in a
4 program providing self-employment assistance activities;

5 (D) is engaged actively on a full-time basis in activities that
6 may include training related to establishing a business and becoming
7 self-employed; and

8 (E) has filed a weekly claim for the self-employment assistance
9 allowance and provided the information the Commissioner requires.

10 (2) A self-employment allowance shall be payable to an individual at the
11 same interval, on the same terms, and subject to the same conditions as regular
12 benefits pursuant to this chapter, except:

13 (A) the requirements of section 1343 of this title, relating to
14 availability for work, efforts to secure work, and refusal to accept work, are not
15 applicable to the individual; and

16 (B)(i) the individual is not considered to be self-employed pursuant
17 to subdivision 1301(24) of this title;

18 (ii) an individual who meets the requirements of this section shall
19 be considered to be unemployed pursuant to section 1338 of this title; and

20 (iii) an individual who fails to participate in self-employment
21 assistance activities or who fails to engage actively on a full-time basis in

1 activities, including training, relating to the establishment of a business and
2 becoming self-employed shall be disqualified from receiving an allowance for
3 the week in which the failure occurs.

4 (e) The self-employment assistance allowance may be paid to up to 35
5 qualified individuals at any time.

6 (f)(1) The self-employment assistance allowance shall be charged to the
7 Unemployment Compensation Trust Fund.

8 (2) In the event that the self-employment assistance allowance cannot be
9 charged to the Unemployment Compensation Trust Fund pursuant to
10 subdivision (1) of this subsection, the allowance shall be charged in
11 accordance with section 1325 of this title.

12 (g) The Commissioner may approve a program upon determining that it
13 will provide self-employment assistance activities to qualified individuals.

14 (h)(1) The Commissioner shall adopt rules to implement this section.

15 (2) The rules adopted pursuant to this subsection shall include a detailed
16 explanation of how an individual may apply for and establish eligibility for the
17 Self-Employment Assistance Program and any criteria that the Commissioner
18 will consider in determining whether to approve a program.

19 (i) The Commissioner may suspend the Self-Employment Assistance
20 Program with approval of the Secretary of Administration and notice to the
21 House Committee on Commerce and Economic Development and the Senate

1 Committee on Finance in the event that the Program presents unintended
2 adverse consequences to the Unemployment Compensation Trust Fund.

3 **Sec. 5. USE OF SELF EMPLOYMENT ASSISTANCE PROGRAM;**

4 **REPORT**

5 On or before January 15, 2021, the Commissioner of Labor shall submit a
6 written report to the House Committee on Commerce and the Senate
7 Committee on Economic Development, Housing and General Affairs regarding
8 the utilization of the Self Employment Assistance Program during the previous
9 18 months, including the number of applications received, programs approved,
10 and programs completed, and any recommendations for legislative action to
11 improve the utilization of the Self Employment Assistance Program. The
12 Commissioner shall also present the report in person to both Committees.

13 * * * Unemployment Insurance * * *

14 **Sec. 6.** 21 V.S.A. § 1325 is amended to read:

15 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

16 DISCLOSURE TO SUCCESSOR ENTITY

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

1 that employer bear to the total base-period wages paid to the individual by all
2 base-period employers. The experience-rating record of an individual subject
3 base-period employer shall not be charged for benefits paid to an individual
4 under any of the following conditions:

5 * * *

6 (E) The individual was paid wages of \$1,000.00 or less by the
7 employer during the individual's base period.

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9 * * * Report on Unemployment Insurance for Small Employers * * *

10 **Sec. 7.** MITIGATING IMPACT OF EXPERIENCE RATING SYSTEM ON
11 SMALL BUSINESSES; REPORT

12 On or before January 15, 2020, the Commissioner of Labor shall submit a
13 written report to the House Committee on Commerce and Economic
14 Development and the Senate Committee on Economic Development, Housing
15 and General Affairs regarding potential approaches to mitigate the impact of a
16 single separation from employment on a small employer's unemployment
17 insurance experience rating and contribution rate. The report shall specifically
18 identify and describe provisions in other states' laws that reduce the impact of
19 a single separation from employment on small employers' unemployment
20 insurance experience ratings and contribution rates, and any resulting effect on
21 the state's unemployment insurance trust fund. The report shall also identify

1 any amendments to the Vermont Statutes Annotated that could reduce the
2 impact of a single separation from employment on a small employer's
3 unemployment insurance experience rating and contribution rate and, if
4 possible, make a recommendation for legislative action to accomplish that
5 goal.

6 * * * Ski Tramways * * *

7 **Sec. 8.** 31 V.S.A. § 707 is amended to read:

8 § 707. REGISTRATION AND FEES

9 * * *

10 (e)(1) All fees collected under this section shall be credited to a special
11 fund for the Department to be expended for carrying out its duties under this
12 chapter and may also be expended as provided pursuant to subdivision (2) of
13 this subsection.

14 (2) The Passenger Tramway Board may expend amounts that it
15 determines to be appropriate from the special fund established pursuant to
16 subdivision (1) of this subsection for the purpose of contributing to ski lift
17 mechanic education, job training, and apprenticeship programs.

18 * * *

19 * * * Effective Date * * *

20 Sec. 9. EFFECTIVE DATE

21 This act shall take effect on July 1, 2019.

1 and that after passage the title of the bill be amended to read: “An act
2 relating to miscellaneous workers’ compensation, unemployment insurance,
3 and ski tramway amendments”

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11 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE