

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

H.681

Representative Marcotte of Coventry moves to amend the bill striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

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)(i) The individual was temporarily separated from employment with that employer 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

1 because of COVID-19 or because the employer voluntarily ceases operations
2 due to the actual or suspected exposure of workers at that place of employment
3 to COVID-19; or

4 (II) the individual has been requested by a medical
5 professional, local health official, or the Commissioner of Health to be isolated
6 or quarantined as a result of COVID-19, regardless of whether the individual
7 has been diagnosed with COVID-19; and

8 (ii) the individual is subsequently rehired by the employer when
9 the employer resumes operations at the individual's place of employment or
10 upon the completion of the individual's period of isolation or quarantine.

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

15 (2) If an individual's unemployment is directly caused by a major
16 disaster declared by the President of the United States pursuant to 42 U.S.C. §
17 5122 and the individual would have been eligible for federal disaster
18 unemployment assistance benefits but for the receipt of regular benefits, an
19 employer shall be relieved of charges for benefits paid to the individual with
20 respect to any week of unemployment occurring due to the natural disaster up
21 to a maximum amount of four weeks.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

* * *

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

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

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

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

10 * * *

11 (3) For not more than six weeks nor less than one week immediately
12 following the filing of a claim for benefits ~~(in addition to the waiting period),~~
13 as may be determined by the Commissioner according to the circumstances in
14 each case, if the Commissioner finds that he or she has left the employ of his or
15 her last employing unit, without good cause attributable to such employing
16 unit, because of a health condition, as certified by a health care provider, as
17 defined in 18 V.S.A. § 9432(9), ~~which that~~ precludes the discharge of duties
18 inherent in such employment; a request by a health care provider, as defined in
19 18 V.S.A. § 9432(9), a local health official, or the Commissioner of Health that
20 the individual be isolated or quarantined as a result of COVID-19.

21 * * *

1 defined in 18 V.S.A. § 9432(9), that precludes the discharge of duties inherent
2 in such employment; ~~a request by a health care provider, as defined in 18~~
3 ~~V.S.A. § 9432(9), a local health official, or the Commissioner of Health that~~
4 ~~the individual be isolated or quarantined as a result of COVID-19.~~

5 * * *

6 Sec. 6. 21 V.S.A. § 643a is amended to read:

7 § 643a. DISCONTINUANCE OF BENEFITS

8 (a) Unless an injured worker has successfully returned to work, an
9 employer shall notify both the Commissioner and the employee prior to
10 terminating benefits under either section 642 or 646 of this title. The notice of
11 intention to discontinue payments shall be filed on forms prescribed by the
12 Commissioner and shall include the date of the proposed discontinuance, the
13 reasons for it, and, if the employee has been out of work for 90 days, a
14 verification that the employer offered vocational rehabilitation screening and
15 services as required under this chapter. All relevant evidence, including
16 evidence that does not support discontinuance in the possession of the
17 employer not already filed, shall be filed with the notice. The liability for the
18 payments shall continue for seven days after the notice is received by the
19 Commissioner and the employee. If the claimant disputes the discontinuance,
20 the claimant may file with the Commissioner an objection to the
21 discontinuance and seek an extension of 14 days. The objection to the

1 discontinuance shall be specific as to the reasons and include supporting
2 evidence. A copy of the objection shall be provided to the employer at the
3 time the request is made to the Commissioner. Those payments shall be made
4 without prejudice to the employer and may be deducted from any amounts due
5 pursuant to section 648 of this title if the Commissioner determines that the
6 discontinuance is warranted or if otherwise ordered by the Commissioner.
7 Every notice shall be reviewed by the Commissioner to determine the
8 sufficiency of the basis for the proposed discontinuance. If, after review of all
9 the evidence in the file, the Commissioner finds that a preponderance of all the
10 evidence in the file does not reasonably support the proposed discontinuance,
11 the Commissioner shall order that payments continue until a hearing is held
12 and a decision is rendered. Prior to a formal hearing, an injured worker may
13 request reinstatement of benefits by providing additional new evidence to the
14 Department that establishes that a preponderance of all evidence now supports
15 the claim. If the Commissioner's decision, after a hearing, is that the employee
16 was not entitled to any or all benefits paid between the discontinuance and the
17 final decision, upon request of the employer, the Commissioner may order that
18 the employee repay all benefits to which the employee was not entitled. The

1 employer may enforce a repayment order in any court of law having
2 jurisdiction.

3 (b) Notwithstanding subsection (a) of this section, for any notice of
4 intention to discontinue payments that is filed between March 13, 2020 and
5 March 13, 2021, the liability for payments shall continue until the
6 Commissioner reviews the notice and determines that the basis for the
7 proposed discontinuance is sufficient.

8 Sec. 7. EFFECTIVE DATES

9 (a) This section and Secs. 2, 3, and 6 shall take effect on passage.

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

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

12 and that after passage the title of the bill be amended to read: “An act
13 relating to employer registration for unemployment insurance and amendments
14 to the unemployment insurance and workers’ compensation laws to address the
15 COVID-19 outbreak”