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H.97

Introduced by Representatives Jessup of Middlesex, Kornheiser of
Brattleboro, Ode of Burlington, Bluemle of Burlington,
Brumsted of Shelburne, Burrows of West Windsor, Christie of
Hartford, Cina of Burlington, Coffey of Guilford, Colston of
Winooski, Cordes of Lincoln, Hooper of Burlington, Houghton
of Essex, Howard of Rutland City, James of Manchester,
Masland of Thetford, Mrowicki of Putney, Mulvaney-Stanak of
Burlington, Patt of Worcester, Scheu of Middlebury, Squirrel
of Underhill, Surprenant of Barnard, Toleno of Brattleboro,
Townsend of South Burlington, Vyhovsky of Essex, Wood of
Waterbury, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Labor; unemployment insurance; payment of benefits; appeals;
disqualification; notification of ineligibility for benefits

Statement of purpose of bill as introduced: This bill proposes to permit the
Commissioner of Labor to reduce or cancel a period of disqualification
imposed for an intentional misrepresentation of facts material to an
unemployment claim and to provide that such a period of disqualification will
expire three years after it is imposed. This bill also proposes to prevent

1 individuals from having to repay unemployment benefits that were paid
2 because of the Department of Labor's error, to temporarily extend the time to
3 appeal an unemployment insurance determination from 30 to 90 days, to
4 require the Department to record communications related to an unemployment
5 insurance determination, to require the Department to provide unemployment
6 insurance claimants with confirmation that their claim has been submitted and
7 with an explanation of the benefits the claimant is receiving, to require
8 employers that are exempt from the unemployment insurance system to inform
9 their prospective employees of that fact, to temporarily extend COVID-19-
10 related experience rating relief and good cause reasons for quitting
11 employment, and to require the Commissioner of Labor to report to the
12 General Assembly regarding opportunities to improve the Department's ability
13 to process unemployment claims in a timely and transparent manner.

14 An act relating to miscellaneous unemployment insurance amendments

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 21 V.S.A. § 1347 is amended to read:

17 § 1347. NONDISCLOSURE OR MISREPRESENTATION

18 * * *

19 (e)(1) In addition to the foregoing, when ~~it is found by~~ the Commissioner
20 finds that a person intentionally misrepresented or failed to disclose a material

1 fact with respect to his or her claim for benefits and in the event the person is
2 not prosecuted under section 1368 of this title and the penalty provided in
3 section 1373 of this title is not imposed, the person shall be disqualified and
4 shall not be entitled to receive benefits to which he or she would otherwise be
5 entitled after the determination for ~~such number of weeks not exceeding a~~
6 period of not more than 26 weeks as the Commissioner ~~shall deem~~ deems just.
7 The notice of determination shall ~~also~~ specify the period of disqualification
8 imposed ~~hereunder~~.

9 (2) The Commissioner may cancel or reduce the period of
10 disqualification imposed pursuant to this subsection for good cause or as he or
11 she deems appropriate and just.

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

14 * * *

15 (g)(1) Notwithstanding any provision of subsection (a) or (b) of this section
16 to the contrary, an individual shall not be liable to repay any overpayment of
17 benefits that resulted from something other than the individual's own act or
18 omission.

19 (2) An individual may, at any time, request that the Commissioner
20 reduce or waive the amount for which the individual is liable pursuant to
21 subsections (a), (b), and (c). Upon receipt of a request, the Commissioner may

1 reduce or waive the amount for which an individual is liable for good cause or
2 as he or she deems appropriate and just.

3 Sec. 2. 21 V.S.A. § 1348 is amended to read:

4 § 1348. PROCEDURE

5 (a)(1) An authorized representative of the Commissioner shall pass upon
6 each claim for benefits as provided in this chapter and shall, after such filing,
7 promptly award such benefits as shall be found to be payable under the
8 provisions of this chapter. Any verbal communications between the
9 Commissioner's representative and a claimant shall be recorded, and in the
10 event of an appeal pursuant to subdivision (2) of this subsection, a copy of the
11 recording shall be provided to the parties at no cost. Prompt notice in writing
12 of the determination of such representative and reasons therefor in respect to
13 such claim shall be given to the claimant, his or her last employer, all other
14 interested parties, and the Commissioner.

15 (2)(A) Any interested party may, within 30 days after notice ~~thereof~~ of
16 the determination, file an appeal from the determination with an appeals
17 referee employed by the Commissioner. ~~Such~~ The appeal shall, after notice to
18 the claimant, his or her last employer, and all other interested parties, be heard
19 at a place as convenient to the parties as, in the judgment of the referee, is
20 practical, within 30 days after ~~such~~ the appeal is filed with the referee; ~~after~~.

1 ~~(b) Upon motion made by the Commissioner, a review may be initiated by~~
2 ~~the Board of~~ The Board may, upon a motion by the Commissioner, review a
3 decision of the referee or a benefit determination.

4 (c) The Board shall make its findings of fact and conclusions thereon on
5 each matter that comes before it. Prompt In each matter, the Board shall
6 provide the parties with prompt notice of the its findings of fact, ruling of law,
7 conclusions, and decision of the Board shall be given as hereinabove provided.

8 (d) The decision shall be final unless an appeal to the Supreme Court is
9 taken.

10 (e) Testimony given at any each hearing upon a disputed claim shall be
11 recorded, but the record need not be transcribed unless ordered.

12 Sec. 4. TEMPORARY EXTENSION OF TIME FOR APPEAL DURING
13 COVID-19 EMERGENCY

14 Notwithstanding any provision of 21 V.S.A. § 1348 to the contrary, a
15 claimant may file an appeal from a determination within 90 days after
16 receiving notice of the determination.

17 Sec. 5. PROSPECTIVE REPEAL

18 Sec. 4 shall be repealed 30 days after the termination of the state
19 of emergency declared in response to COVID-19 pursuant to Executive Order
20 01-20.

1 Sec. 7. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

2 (3) Secs. 32 and 33 shall take effect ~~on March 31, 2021~~ 30 days after the
3 termination of the state of emergency declared in response to COVID-19
4 pursuant to Executive Order 01-20.

5 Sec. 8. UNEMPLOYMENT INSURANCE; IMPROVEMENTS IN
6 TRAINING AND CLAIMANT EXPERIENCE; REPORT

7 On or before January 15, 2022, the Commissioner of Labor shall submit a
8 written report to the House Committee on Commerce and Economic
9 Development and the Senate Committee on Economic Development, Housing
10 and General Affairs that identifies issues in the Department's staff training,
11 systems, and claims procedures that delayed the processing of benefits during
12 the COVID-19 pandemic and related opportunities for improvement. In
13 particular, the report shall identify:

14 (1) specific ways in which the training of claims staff could be
15 improved;

16 (2) opportunities for cross-training in order to improve the ability of the
17 Department of Labor to reallocate staff in response to a surge in claims;

18 (3) specific ways to streamline the claims process and to make it more
19 user friendly and transparent for claimants; and

20 (4) any resources and legislative changes necessary to accomplish the
21 potential changes and improvements identified.

1 Sec. 9. EFFECTIVE DATE

2 This act shall take effect on passage.