H.97


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

An act relating to miscellaneous unemployment insurance amendments

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

Sec. 1. 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 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.

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

* * *

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

(2) An individual may, at any time, request that the Commissioner reduce or waive the amount for which the individual is liable pursuant to subsections (a), (b), and (c). Upon receipt of a request, the Commissioner may
reduce or waive the amount for which an individual is liable for good cause or
as he or she deems appropriate and just.

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

§ 1348. PROCEDURE

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

(2)(A) Any interested party may, within 30 days after notice thereof of
the determination, file an appeal from the determination with an appeals
referee employed by the Commissioner. The appeal shall, after notice to
the claimant, his or her last employer, and all other interested parties, be heard
at a place as convenient to the parties as, in the judgment of the referee, is
practical, within 30 days after such the appeal is filed with the referee; after
(B) After the hearing, the determination shall be sustained, modified, or set aside by the referee as may be warranted. Prompt The referee shall provide the parties with prompt notice in writing of the decision of the referee and the reasons therefor shall be given for it.

* * *

Sec. 3. 21 V.S.A. § 1349 is amended to read:

§ 1349. APPEALS TO BOARD; SUPREME COURT APPEAL

(a)(1) Within 30 days after date thereof it is issued, an interested party may appeal from the decision of the referee to the Board, by filing a written request therefor in the manner prescribed by regulations the rules of the Board.

(2) The appeal shall be heard by the Board, after notice to the claimant and his or her last employer, within a reasonable time after notice of the appeal is filed, and the Board directs to be taken.

(3) The Board may affirm, modify, or reverse the decision of the referee solely on the basis of evidence in the record transferred to it by the referee, which shall include any recording created pursuant to subdivision 1348(a)(1) of this chapter, or upon the basis of evidence in the record, including the recording, and such additional evidence as it may direct to be taken.
(b) Upon motion made by the Commissioner, a review may be initiated by the Board. The Board may, upon a motion by the Commissioner, review a decision of the referee or a benefit determination.

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

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

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

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

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

Sec. 5. PROSPECTIVE REPEAL

Sec. 4 shall be repealed 30 days after the termination of the state of emergency declared in response to COVID-19 pursuant to Executive Order 01-20.
Sec. 6. 21 V.S.A. § 1346 is amended to read:

§ 1346. CLAIMS FOR BENEFITS; RULES; NOTICE

(a)(1) Claims for benefits shall be made in accordance with rules adopted by the Board.

(2) Upon receiving a new claim, the Department shall provide the claimant with confirmation that his or her claim has been received.

(3) Upon making the initial payment of benefits for a claimant’s benefit year, the Department shall provide an eligible claimant with a detailed explanation of the benefits that he or she is receiving. The explanation of benefits shall include, at a minimum, the weekly benefit that the Department has determined that the claimant is eligible to receive and the number of weeks of benefits that the individual is receiving as part of the initial payment.

* * *

(d) Each employing unit that is not an employer pursuant to subdivision 1301(5) of this chapter, or that employs individuals whose services are not covered employment pursuant to subdivision 1301(6) of this chapter, shall inform each affected prospective employee in writing, at the time that an offer of employment is made, that wages earned by the individual in the employ of the employing unit cannot be used for the purpose of establishing monetary eligibility for benefits under this chapter.
Sec. 7. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

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

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

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

1. specific ways in which the training of claims staff could be improved;
2. opportunities for cross-training in order to improve the ability of the Department of Labor to reallocate staff in response to a surge in claims;
3. specific ways to streamline the claims process and to make it more user friendly and transparent for claimants; and
4. any resources and legislative changes necessary to accomplish the potential changes and improvements identified.
Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.