

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/19/01

A Bill

Act 1367 of 2001
SENATE BILL 822

5 By: Senators B. Walker, Cash
6 By: Representatives Teague, J. Elliott
7

For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
11 EMPLOYMENT SECURITY LAW.

Subtitle

14 AN ACT TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS EMPLOYMENT SECURITY LAW.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 11-10-314(e)(5)(B) is amended to read as
21 follows:

22 (B) ~~The provisions of this subdivision shall cease to be~~
23 ~~effective on and after October 1, 1994, unless otherwise extended by federal~~
24 ~~law. The requesting agency shall reimburse the department for the costs~~
25 ~~incurred in providing the requested information.~~
26

27 SECTION 2. Arkansas Code 11-10-314 is amended by adding the following
28 additional subsections to read as follows:

29 (p) The State of Arkansas Disability Determination for Social Security
30 Administration may be provided employee wage files and unemployment claim
31 records for the purpose of investigations for potential fraud. The
32 administration is strictly prohibited from making any disclosure or
33 redisclosure of the confidential information which may be made available to
34 them under this subsection. Reasonable costs will be required for producing
35 this information.

36 (q) The Arkansas Insurance Department Workers' Compensation Fraud

1 Investigation Unit (WCFIU) may be furnished, pursuant to a subpoena, any
 2 individual's wage file and unemployment benefit payment record as contained
 3 in the records of the Employment Security Department. These records are
 4 being provided for the sole purpose of investigating potential Workers'
 5 Compensation Fraud. The WCFIU is strictly prohibited from making any
 6 disclosure or redisclosure of the confidential information which may be made
 7 available to them under the provisions of this subsection. However, records
 8 provided to the WCFIU pursuant to this subsection may be made part of a WCFIU
 9 referral for criminal charges to a local prosecutor under § 11-9-106(d)(3),
 10 and used in any resulting criminal trial or prosecution, including cases
 11 tried by employees of the WCFIU under the provisions of § 11-9-106(e)(2).
 12 Reasonable costs may be required for producing the subpoenaed information.
 13

14 SECTION 3. Arkansas Code 11-10-502(e) is amended to read as follows:

15 (e) On June 1 of each year, the Director of the ~~Department of Labor~~
 16 Employment Security Department shall determine the average weekly wage for
 17 insured employment for the preceding calendar year in the following manner:

18 (1) The sum of the total monthly employment reported for the
 19 calendar year shall be divided by twelve (12) to determine the average
 20 monthly employment.

21 (2) The sum of the total wages reported for the previous
 22 calendar year shall be divided by the average monthly employment to determine
 23 the average annual wage;

24 (3) The average annual wage shall be divided by fifty-two (52)
 25 to determine the average weekly wage for insured employment.
 26

27 SECTION 4. Arkansas Code 11-10-506(a)(1) is amended to read as
 28 follows:

29 (a)(1) As used in this section, the term "seasonal industry" means an
 30 industry in which, because of the seasonal nature thereof, it is customary to
 31 lay off forty percent (40%) or more of the average monthly number of workers
 32 for ~~as many as~~ at least four consecutive months during a regularly recurring
 33 period of each year and in which industry it is highly impracticable or
 34 impossible to continue seasonal operations throughout a period or periods of
 35 one (1) year in length. However, the total cessation of operations is not a
 36 prerequisite to classification as a seasonal industry.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 5. Arkansas Code 11-10-512(b) is amended to read as follows:

(b) WEEK OF DISQUALIFICATION DEFINED. (1) A week of disqualification under §§11-10-514(a) ~~and~~ 11-10-515 and 11-10-519(2) shall be satisfied by a week of unemployment as defined in this section or by a week of employment during which he has earnings in an amount equal to his weekly benefit amount.

SECTION 6. Arkansas Code 11-10-517(5) is amended to read as follows:

(5) VACATION PAYMENTS. However, he shall be paid, with respect to the week in which the vacation period occurred, an amount equal to the weekly benefit amount less that part of the vacation pay, if any, payable to him or in which he has been paid or will be paid at a later date with respect to such week which is in excess of forty percent (40%) of his weekly benefit amount rounded to the nearest lower full dollar amount. For the purpose of this subdivision, the employer shall promptly report the week or weeks involved in the vacation period as well as the corresponding amount of vacation pay with respect to such week or weeks~~;~~. Provided further, any vacation payments received due to a permanent separation from employment shall not be disqualifying nor deductible under this section;

SECTION 7. Arkansas Code 11-10-519(2) is amended to read as follows:

(2)(A) For any week with respect to which he has willfully made a false statement or misrepresentation of a material fact, or willfully fails to disclose a material fact in obtaining or attempting to obtain any benefits, and for an additional thirteen (13) weeks of unemployment as defined in §11-10-512 and which shall commence with Sunday of the first week with respect to which a claim is filed commencing with the week of delivery or mailing of the determination of disqualification under this section;

(B) In addition to the thirteen (13) weeks of disqualification, a disqualification of three (3) weeks shall be imposed for each week of failure or falsification. Any weekly benefits payable subsequent to the date of the delivery or mailing of the determination shall be reduced fifty percent (50%) rounded to the next lower dollar, and the remainder of maximum benefits shall be reduced accordingly. The reduction shall apply only to benefits payable within the benefit year of the claim with respect to which the claimant willfully made a false statement or

1 misrepresentation;

2 (C) The disqualification shall not be applied after ~~two (2)~~
3 five (5) years have elapsed from the date of the delivery or mailing of the
4 determination of disqualification under this section, but all overpayments
5 established by the determination of disqualification shall be collected as
6 otherwise provided by this chapter.

7

8 SECTION 8. Arkansas Code 11-10-532(a) is amended to read as follows:

9 (a)(1) If the Director of the Arkansas Employment Security Department
10 finds that any person has made a false statement or misrepresentation of a
11 material fact knowing it to be false or has knowingly failed to disclose a
12 material fact and as a result of either action has received any amount as
13 benefits under this chapter to which he was not entitled, then the person
14 shall be liable to repay the amount to the fund, or in lieu of requiring the
15 repayment, the director may recover the amount of the overpayment by
16 deductions from any future benefits payable to the person under this chapter.

17 (2) However, beginning on July 1, 2001, the person shall not be
18 liable to repay such amount to the fund ~~nor shall recovery be made from any~~
19 ~~future benefits, except through the deduction of future benefits,~~ after ~~five~~
20 ~~(5)~~ ten (10) years from the date the determination of the amount of the
21 overpayment becomes final within the meaning of §11-10-527. Once the
22 overpayment becomes final pursuant to §11-10-527, the amount owed shall
23 accrue interest at the rate of one and one-half percent (1.5%) per month
24 beginning thirty (30) days after the date of the first billing statement.

25 (3) Beginning on July 1, 2001, a penalty of ten percent (10%) of
26 the amount of the overpayment at the time the overpayment becomes final shall
27 be assessed on all fraud overpayments. However, this penalty shall be waived
28 in the event that the overpayment is repaid within one (1) year after the
29 established date.

30

31 SECTION 9. Arkansas Code 11-10-705(b)(2)(A) is amended to read as
32 follows:

33 (2)(A) Notwithstanding any other inconsistent provision of this
34 chapter, for any calendar year beginning on and after January 1, 2002, an
35 employer who has been assigned a contribution rate of six percent (6%)
36 pursuant to this chapter and who has had such a rate for the two (2)

1 preceding calendar years will be assigned an additional contribution
 2 assessment of two percent (2%) unless such employer has a positive
 3 experience, i. e., contributions paid ~~less~~ exceed benefit charges, for one (1)
 4 of the two (2) preceding computation years, i. e., the twelve month periods
 5 ending June 30.

6
 7 SECTION 10. Arkansas Code 11-10-707(b) is amended to read as follows:

8 (b) The Director shall for each rate year:

9 (1) Periodically notify each employer of the regular benefits
 10 paid which are chargeable to his account. Such notification shall become
 11 conclusive and binding upon the employer unless, within thirty (30) days
 12 after mailing of such notice, the employer files an application for review
 13 and redetermination as provided in subdivision (c)(1) of this section;

14 (2) Beginning on and after July 1, 2001, an application for
 15 review and redetermination must be made the first time charges appear on the
 16 employer's account as reflected on the Quarterly Statement of Paid Benefits.
 17 Subsequent charges on the same claimant in the same benefit year may not be
 18 challenged.

19 ~~(2)(3)~~ Notify each employer of his rate of contribution as
 20 determined pursuant to §§11-10-701 - 11-10-715.

21
 22 SECTION 11. EMERGENCY CLAUSE. It is hereby found and determined by
 23 the Eighty-third General Assembly that this act should go into effect as soon
 24 as possible in order to bring the Arkansas Employment Security Law into
 25 conformity with the Federal Unemployment Tax Act, as amended, so that
 26 Arkansas employers may continue to receive the tax credits accorded by the
 27 Federal Unemployment Tax Act and the Arkansas workers may receive
 28 unemployment benefits when they are unemployed. Therefore, an emergency is
 29 declared to exist and this act being immediately necessary for the
 30 preservation of the public peace, health and safety shall become effective on
 31 the date of its approval by the Governor. If the bill is neither approved
 32 nor vetoed by the Governor, it shall become effective on the expiration of
 33 the period of time during which the Governor may veto the bill. If the bill
 34 is vetoed by the Governor and the veto is overridden, it shall become
 35 effective on the date the last house overrides the veto.

36 /s/ B. Walker

APPROVED: 4/5/2001