

1 H.636

2 Introduced by Representative Marcotte of Coventry

3 Referred to Committee on

4 Date:

5 Subject: Labor; unemployment insurance; experience rating; relief of charges;
6 overpayments; waiver

7 Statement of purpose of bill as introduced: This bill proposes to extend the
8 period of time during which an employer's unemployment insurance
9 experience rating will be relieved of charges for unemployment that results
10 from a disaster and to require the Commissioner of Labor to waive
11 overpayments of unemployment insurance benefits under certain
12 circumstances.

13 An act relating to miscellaneous unemployment insurance amendments

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

15 Sec. 1. 21 V.S.A. § 1325 is amended to read:

16 § 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;

17 DISCLOSURE TO SUCCESSOR ENTITY

18 (a)(1) The Commissioner shall maintain an experience-rating record for
19 each employer. Benefits paid shall be charged against the experience-rating
20 record of each subject employer who provided base-period wages to the

1 eligible individual. Each subject employer's experience-rating charge shall
2 bear the same ratio to total benefits paid as the total base-period wages paid by
3 that employer bear to the total base-period wages paid to the individual by all
4 base-period employers. The experience-rating record of an individual subject
5 base-period employer shall not be charged for benefits paid to an individual
6 under any of the following conditions:

7 * * *

8 (2) If an individual's unemployment is directly caused by a major
9 disaster declared by the President of the United States pursuant to 42 U.S.C.
10 § 5122 and the individual would have been eligible for federal disaster
11 unemployment assistance benefits but for the receipt of regular benefits, an
12 employer shall be relieved of charges for benefits paid to the individual with
13 respect to any week of unemployment occurring due to the natural disaster up
14 to a maximum amount of ~~four~~ 10 weeks.

15 * * *

16 Sec. 2. 21 V.S.A. § 1347 is amended to read:

17 § 1347. NONDISCLOSURE OR MISREPRESENTATION

18 * * *

19 (f)(1) Notwithstanding any provision of subsection (a), (b), or (d) of this
20 section to the contrary, the Commissioner shall waive the full amount of any

1 overpayment that is not a result of the person's intentional misrepresentation of
2 or failure to disclose a material fact if:

3 (A) the overpayment occurs through no fault of the person; and

4 (B) recovery of the overpayment would be against equity and good
5 conscience.

6 (2) Upon making a determination that an overpayment occurred
7 pursuant to subsection (a) or (b) of this section, the Commissioner shall, to the
8 extent possible and in consideration of the information available to the
9 Department, determine whether waiver of the amount of overpaid benefits is
10 appropriate.

11 (3) The Commissioner shall provide notice of the right to request a
12 waiver of an overpayment with each determination that an overpayment has
13 occurred. The notice shall include clear instructions regarding how a person
14 may apply for a waiver.

15 (4) If the Commissioner denies an application for a waiver, the
16 Commissioner shall provide written notice of the person's right to appeal the
17 determination pursuant to subsection (h) of this section.

18 (g) The provisions of subsection (f) of this section shall, to the extent
19 permitted by federal law, apply to overpayments made in relation to any
20 federal unemployment insurance benefits or similar federal benefits, including

1 Disaster Unemployment Assistance and federal extended or supplemental
2 unemployment insurance benefits.

3 (h) Interested parties shall have the right to appeal from any determination
4 under this section and the same procedure shall be followed as provided for in
5 subsection 1348(a) and section 1349 of this title.

6 (i) The Commissioner shall not attempt to recover an overpayment or
7 withhold any amount of unemployment insurance benefits from a person until
8 after the Commissioner makes a final determination regarding whether an
9 overpayment of benefits to the person occurred and the person's right to appeal
10 the determination is exhausted.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on July 1, 2024.