

SENATE FILE NO. SF0048

Unemployment compensation-seasonal employers.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to labor and employment; authorizing the
2 department of workforce services to designate seasonal
3 employers under specified conditions; providing that
4 unemployment compensation benefits shall not be payable to an
5 employee of a designated seasonal employer under specified
6 conditions; requiring notice to employees; specifying
7 applicability; making conforming amendments; requiring the
8 adoption of rules; and providing for effective dates.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 27-3-801 through 27-3-803 are created
13 to read:

14

15

ARTICLE 8

1 SEASONAL EMPLOYERS

2

3 **27-3-801. Definitions.**

4

5 (a) As used in this article:

6

7 (i) "Active period" means a regularly recurring,
8 continuous period of time of less than thirty (30) weeks
9 within one (1) year in which business operations of a seasonal
10 nature are customarily carried out, as determined by the
11 department;

12

13 (ii) "Seasonal employer" means, subject to
14 designation by the department under W.S. 27-3-802, an
15 employer, which:

16

17 (A) Conducts business operations within an
18 active period, because of seasonal conditions making it
19 impracticable or impossible to do otherwise; and

20

21 (B) Has been in operation for three (3) or
22 more years.

23

1 **27-3-802. Treatment of seasonal employment for**
2 **unemployment compensation purposes; notice to employees.**

3

4 (a) An employer may apply to the department for
5 designation as a seasonal employer. An application for
6 designation as a seasonal employer shall be made in the manner
7 prescribed by the department.

8

9 (b) The department shall provide written notice of its
10 decision on an application for designation as a seasonal
11 employer under subsection (a) of this section within sixty
12 (60) days of receipt of an application. If the department
13 approves an application, the department shall specify the
14 dates of the active period of the seasonal employer.
15 Designation as a seasonal employer shall be valid until
16 terminated by the department or at the request of a seasonal
17 employer. With notice to a seasonal employer, the department
18 may redetermine a decision made under this subsection at any
19 time, including redetermination of an active period.

20

21 (c) Benefits shall not be paid to an employee based on
22 services performed during the active period of a designated
23 seasonal employer for any week of unemployment that begins

1 during the time period between two (2) consecutive active
2 periods, if that employee performed services in the first of
3 the consecutive active periods and if there is reasonable
4 assurance that the employee will perform services for the
5 seasonal employer in the second of the consecutive active
6 periods. If benefits are not paid to an employee for any week
7 pursuant to this subsection and the employee is subsequently
8 not offered seasonal employment in the second of the
9 consecutive active periods for which reasonable assurance of
10 employment had been given, the employee, upon receipt of a
11 claim for benefits by the department as provided in W.S.
12 27-3-401 through 27-3-409, shall receive retroactive payment
13 of benefits for each week that the employee would have
14 otherwise been eligible for benefits pursuant to law. As used
15 in this subsection, "reasonable assurance" means a written,
16 oral or implied agreement for employment.

17

18 (d) Subject to subsection (c) of this section, benefits
19 shall be payable to an employee engaged in seasonal employment
20 for weeks of unemployment that occur during the active period
21 of a designated seasonal employer.

22

1 (e) Notices of designation as a seasonal employer and
2 a summary of this article shall be prominently displayed on
3 the premises of a designated seasonal employer throughout the
4 active period of the seasonal employer. Displayed notices are
5 subject to inspection by the department. Upon designation, a
6 seasonal employer shall also provide written notice of
7 designation as a seasonal employer and a summary of this
8 article to all current employees, and thereafter to all newly
9 hired employees. All notices required under this subsection
10 may be provided by the department and shall contain the
11 contact information of the department.

12

13 **27-3-803. Applicability; rules.**

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15 (a) The benefits payable to any otherwise eligible
16 employee shall be calculated in accordance with this article
17 for any benefit year which is established on or after the
18 beginning date of a seasonal employer designation under W.S.
19 27-3-802, if the eligible employee was employed by a seasonal
20 employer during the base period applicable to the benefit
21 year, in the same manner as if the determination had been
22 effective in the base period.

23

1 (b) This article shall not apply to:

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3 (i) An employee performing services for which the
4 department has assigned a North American Industrial
5 Classification of 23, or any successor designation with a
6 substantially similar scope;

7

8 (ii) An employee performing services for a
9 seasonal employer outside of the active period of the seasonal
10 employer;

11

12 (iii) An employer, whether designated a seasonal
13 employer or not, which has a delinquent unemployment
14 compensation or workers' compensation account with the
15 department.

16

17 (c) Nothing in this article shall be construed to limit
18 the right of an employee whose claim for benefits is
19 determined under this article to file an appeal as provided
20 in W.S. 27-3-403 through 27-3-409.

21

22 (d) A person acquiring the trade, organization,
23 business or substantially all the assets of a seasonal

1 employer designated under W.S. 27-3-802 shall be deemed a
2 seasonal employer for the remainder of an active period unless
3 the acquiring person requests cancellation of the seasonal
4 employer designation in writing within one hundred twenty
5 (120) days of the acquisition.

6

7 (e) The department shall adopt rules to implement this
8 article, which may include prescribing the manner in which
9 wages shall be reported to the department.

10

11 **Section 2.** W.S. 27-3-102(a)(xxv), 27-3-108(a)(intro)
12 and 27-3-306(a)(intro) are amended to read:

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14 **27-3-102. Definitions generally.**

15

16 (a) As used in this act:

17

18 (xxv) "This act" means W.S. 27-3-101 through
19 ~~27-3-706~~ 27-3-803.

20

21 **27-3-108. Services excluded from scope of employment.**

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1 (a) In addition to W.S. 27-3-801 through 27-3-803,
2 employment under this act does not include service performed:

3
4 **27-3-306. Eligibility requirements; waiver or**
5 **amendment authorized; unemployed waiting period; registration**
6 **and referral for suitable work.**

7
8 (a) In addition to W.S. 27-3-801 through 27-3-803, an
9 unemployed individual is eligible for benefits under this
10 article for any week if he:

11
12 **Section 3.** This act applies to unemployment
13 compensation benefit claims made on or after October 1, 2019.

14
15 **Section 4.** The department of workforce services shall
16 adopt rules to carry out sections 1 and 2 of this act before
17 October 1, 2019, provided that these rules shall not take
18 effect until October 1, 2019.

19
20 **Section 5.**

21
22 (a) Except as otherwise provided by subsection (b) of
23 this section, this act is effective October 1, 2019.

1

2 (b) Section 4 of this act is effective immediately upon
3 completion of all acts necessary for a bill to become law as
4 provided by Article 4, Section 8 of the Wyoming Constitution.

5

6

(END)