

SENATE FILE NO. SF0128

Unemployment compensation-seasonal employers.

Sponsored by: Senator(s) Driskill and Nethercott and
Representative(s) Duncan, Flitner, Lindholm,
Olsen and Sweeney

A BILL

for

1 AN ACT relating to labor and employment; authorizing the
2 department of workforce services to designate seasonal
3 employers as specified; providing that unemployment
4 compensation benefits shall not be payable to an employee
5 of a designated seasonal employer under specified
6 conditions; requiring notice to employees; specifying
7 applicability; making conforming amendments; providing for
8 rulemaking; 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
10 seasonal nature are customarily carried out, as determined
11 by the 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
7 manner prescribed by the department.

8

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

21

22 (c) Benefits shall not be paid to an employee based
23 on services performed during an active period of a

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

20

21 (d) Subject to subsection (c) of this section,
22 benefits shall be payable to an employee engaged in

1 seasonal employment for weeks of unemployment that occur
2 during the active period of a designated seasonal employer.

3

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

15

16 **27-3-803. Applicability; rules.**

17

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

1 the benefit year, in the same manner as if the
2 determination had been effective in the base period.

3

4 (b) This article shall not apply to:

5

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

10

11 (ii) An employee performing services for which
12 the department has assigned a North American Industrial
13 Classification of 21 or any successor designation with a
14 substantially similar scope;

15

16 (iii) An employee performing services for a
17 seasonal employer outside of the active period of the
18 seasonal employer;

19

20 (iv) An employer, whether designated a seasonal
21 employer or not, which has a delinquent unemployment
22 compensation or workers' compensation account with the
23 department.

1

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

6

7 (d) A person acquiring the trade, organization,
8 business or substantially all the assets of a seasonal
9 employer designated under W.S. 27-3-802 shall be deemed a
10 seasonal employer for the remainder of an active period
11 unless the acquiring person requests cancellation of the
12 seasonal employer designation in writing within one hundred
13 twenty (120) days of the acquisition.

14

15 (e) The department shall adopt rules to implement
16 this article which may include prescribing the manner in
17 which wages shall be reported to the department.

18

19 **Section 2.** W.S. 27-3-102(a)(xxv), 27-3-108(a) by
20 creating a new paragraph (xiv) and 27-3-306(a)(intro) are
21 amended to read:

22

23 **27-3-102. Definitions generally.**

1

2 (a) As used in this act:

3

4 (xxv) "This act" means W.S. 27-3-101 through
5 ~~27-3-706~~ 27-3-803.

6

7 **27-3-108. Services excluded from scope of employment.**

8

9 (a) Employment under this act does not include
10 service performed:

11

12 (xiv) For a seasonal employer during an active
13 period as provided by W.S. 27-3-801 through 27-3-803.

14

15 **27-3-306. Eligibility requirements; waiver or**
16 **amendment authorized; unemployed waiting period;**
17 **registration and referral for suitable work.**

18

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

22

1 **Section 3.** This act applies to unemployment
2 compensation benefit claims made on or after October 1,
3 2020.

4

5 **Section 4.** The department of workforce services shall
6 adopt rules to carry out sections 1 and 2 of this act
7 before October 1, 2020, provided that these rules shall not
8 take effect until October 1, 2020.

9

10 **Section 5.**

11

12 (a) Except as otherwise provided by subsection (b) of
13 this section, this act is effective October 1, 2020.

14

15 (b) Sections 4 and 5 of this act are effective
16 immediately upon completion of all acts necessary for a
17 bill to become law as provided by Article 4, Section 8 of
18 the Wyoming Constitution.

19

20

(END)