

HCS HB 1456 -- EMPLOYMENT SECURITY (Roark)

COMMITTEE OF ORIGIN: Workforce Development and Workplace Safety

This substitute changes the laws regarding unemployment insurance. The substitute:

- (1) Allows the owner and operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier to operate under a certificate issued by the Department of Transportation or by the United States Department of Transportation;
- (2) Specifies that the state taxable wage base for calendar year 2009 and thereafter will not exceed \$12,500;
- (3) Specifies that for initial unemployment compensation claims filed in calendar year 2006, the maximum weekly benefit amount is 4% of the average quarterly wages paid to the worker during the two highest quarters of the worker's base period;
- (4) Requires an unemployed worker who is eligible to receive unemployment compensation benefits to provide the Division of Employment Security certain information regarding the worker's contacts with potential employers as a condition for continued eligibility;
- (5) Requires, for the purpose of an unemployed worker's waiting week, a worker to register with the GreatHires.org search agency or its successor agency prior to receiving unemployment compensation benefits. A claimant is required to register every four weeks as a condition for maintaining benefit eligibility. Registration with GreatHires.org constitutes completion of the claimant's requirement that he or she report in person to a division office. This provision becomes effective January 1, 2007;
- (6) Specifies that a claimant's refusal to take, invalidate, or impede the accurate results of a test for alcohol or controlled substances will be considered misconduct, and the claimant will be disqualified for the waiting week credit and benefits;
- (7) Specifies that a claimant's admission that the results of a test for alcohol or controlled substances will be positive is considered misconduct, and the claimant is disqualified for the waiting week credit and benefits;
- (8) Considers the test for alcohol or controlled substances as evidence to be included in the administrative record if the test was conducted by a laboratory certified by an accrediting

organization or professional society and approved by the division;

(9) Expands the way by which an employer may notify employees that a positive test for alcohol or controlled substances may result in suspension or termination of employment;

(10) Specifies that the results of any alcohol or controlled substance test are admissible if the employer's policy clearly states that an employee may be subject to random, pre-employment, reasonable suspicion, or post-accident testing;

(11) Allows an employer to require a pre-employment test for alcohol or controlled substances as a condition of employment, and the test results are admissible if the claimant was notified of the admissibility prior to taking the test;

(12) Specifies that a positive result of a random, pre-employment, reasonable suspicion, or post-accident test for alcohol or controlled substance use is considered misconduct;

(13) Creates a rebuttable presumption that all specimen collection, handling, and testing from a certified laboratory were performed in accordance with procedures provided by the accrediting entity's rules and regulations;

(14) Requires that a confirmation test include a split specimen test for purposes of determining employee misconduct;

(15) Specifies that when applying the provisions of the laws regarding employment security, it is the intent of the General Assembly to reject and abrogate previous case law interpretations of misconduct connected with work requiring a finding of evidence of impaired work performance;

(16) Requires a claimant who is disqualified from receiving unemployment benefits on a second or subsequent occasion within the base period or within a subsequent base period to earn wages at least six times the claimant's weekly benefit amount for each disqualification;

(17) Specifies that absenteeism or tardiness constitutes a rebuttable presumption of misconduct;

(18) Requires the division to cross-check unemployment compensation applicants and recipients with the federal Social Security Administration's data at least weekly;

(19) Assesses an employer with a maximum experience rate for two consecutive years a .25% surcharge to be added to his or her

contribution rate unless the balance in the Unemployment Compensation Trust Fund is at least \$450 million. If an employer maintains a maximum experience rate for a third or subsequent year, an additional .25% surcharge is annually assessed if the fund balance remains less than \$450 million; however, the surcharge may not cumulatively exceed 1.5%;

(20) Specifies that the employer's experience contribution rate plus the surcharge is not to exceed 7.5%; and for an employer participating in a shared-work program, the experience contribution rate plus the surcharge is not to exceed 10.5%;

(21) Repeals the employer temporary debt indebtedness assessment which was to be collected for calendar years 2005, 2006, and 2007;

(22) Assesses an employer an emergency repayment fee calculated as a percentage of the employer's tax rate, in addition to all other contributions due, if the Unemployment Compensation Trust Fund is utilizing money advanced by the federal government or the proceeds from credit instruments, financial agreements, or a combination thereof. The fee amount will not exceed 10% of the employer's tax rate;

(23) Allows the division to use the services of collection agencies to collect any debts;

(24) Increases the maximum maturity time period of a credit instrument offered by the Board of Fund Financing from three years to 10 years after issuance;

(25) Expands the repayment of obligations to lenders from the Special Employment Security Fund to include the Unemployment Compensation Trust Fund;

(26) Requires the division to recover overpayments of benefits through billings, offsets against state and federal income tax refunds, and intercepts of lottery winnings;

(27) Specifies that shared-work benefits may not be denied in any week containing a holiday for which the holiday earnings are committed to be paid by the employer unless the shared-work benefits are for the same hours in the same day as the holiday earnings;

(28) Allows any party to a case the right to enter a motion to reconsider a determination by the appeals tribunal; and

(29) Codifies the current at-will doctrine established by case law.

FISCAL NOTE: Estimated Income on General Revenue Fund of Unknown in FY 2007, FY 2008, and FY 2009. Estimated Income on Other State Funds of Unknown in FY 2007, FY 2008, FY 2009. Expected to exceed \$100,000.