2020 South Dakota Legislature

Senate Bill 187

ENROLLED

AN ACT

ENTITLED An Act to revise certain provisions regarding reemployment assistance benefits in response to Coronavirus Disease 2019 and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 61-5-39 be AMENDED:

61-5-39. Benefits charged against experience-rating accounts--Events for which account not chargeable--Erroneous payments.

Each employer's experience-rating account shall be charged with all benefits chargeable, as provided in this title, except extended benefits paid as provided in §§ 61-6-49 to 61-6-66, inclusive, against wages paid for employment by the employer. However, no benefits paid on the basis of a period of employment may be charged to the experience-rating account of any employer, except as provided in § 61-5-41, if the claimant:

(1) Voluntarily separated without good cause attributable to the employer or the employment;

(2) Was discharged or suspended for misconduct connected with the employment, or for conduct mandated by religious belief which belief cannot be reasonably accommodated by the employer;

(3) Was discharged or suspended for inability or incompetence to successfully complete a ninety-day probationary period established between the employer and employee at the time of employment;

(4) Earned total base period wages of less than one hundred dollars with one employer;

(5) Is receiving benefits while in approved training authorized by § 61-6-21;

(6) Performed services while incarcerated in a custodial or penal institution and terminated the employment because of the claimant's transfer or release from the institution;

(7) Received benefits for unemployment directly caused by a major disaster declared by the president pursuant to section 401(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et seq., if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the receipt of reemployment assistance or unemployment insurance benefits;

(8) Received benefits for unemployment resulting directly from the reinstatement of another employee upon that employee's completion of service in the uniformed services as defined in 38 U.S.C. § 4303(13), as in effect on January 1, 2005, or the completion of state active duty by members of the National Guard who are activated pursuant to a call from the Governor as provided by law;

(9) Voluntarily separated to accompany a spouse who was reassigned from one military assignment to another; or

(10) Is unemployed as a direct result of an employer temporarily ceasing operations or instituting a reduction in force in response to Coronavirus Disease 2019 or because the claimant has been requested to isolate or quarantine as a result of Coronavirus Disease 2019 regardless of whether the claimant has tested positive for Coronavirus Disease 2019. Relief of charges under this subdivision may be granted for no more than the duration of any emergency relating to Coronavirus Disease 2019 as declared by the Governor.

However, no relief of charges applies if the department determines that an erroneous payment has been made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the department's request for information relating to the payment of benefits. For the purposes of this section, an erroneous payment is a payment that would not have been made but for the failure of the employer or the employer's agent to fully respond to the department's request pursuant to § 61-7-5.

Section 2. That § 61-5-41 be AMENDED:

61-5-41. Proration among all employer experience-rating accounts of benefits paid but not charged to employer's experience-rating account.

Benefits paid but not charged to the experience-rating account of any employer based on subdivisions 61-5-39(1) to (10), inclusive, shall be prorated among all the employer experience-rating accounts as follows:

One hundred percent of such noncharges for the preceding calendar year are divided by the total taxable payroll for the preceding calendar year. The ratio obtained is multiplied by each experience-rated employer's taxable payroll for the preceding year and the result of this computation is deducted from each employer's account balance. The deductions from each employer's account balance shall be credited to the pool account.

Section 3. That § 61-5-58 be AMENDED:

61-5-58. Penalty for failure to timely pay contributions or submit reports.

A penalty of twenty-five dollars per month, or fractional part of a month shall be due and payable upon imposition of the penalty by the department, for failure to pay contributions, or for failure to submit required reports on or before the due date for the contributions or reports as fixed by the department unless the failure is the direct result of an employer temporarily ceasing operations or instituting a reduction in force in response to Coronavirus Disease 2019. However, no penalty for any one delinquent contribution or report may exceed the sum of one hundred fifty dollars. Any penalty collected pursuant to this section shall be paid into the employment security contingency fund.

Section 4. That § 61-6-1 be AMENDED:

61-6-1. Requirements for eligibility for benefits during week.

An unemployed individual is eligible to receive benefits with respect to any week only if the department finds that:

(1) The individual has registered for work at and thereafter has continued to report at an employment office in accordance with rules promulgated by the department pursuant to chapter 1-26. However, that the department may, by rule, waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the department finds that compliance with the requirements would be oppressive, or would be inconsistent with the purposes of this title. No such rule may conflict with this chapter;

(2) The individual has made a claim for benefits in accordance with the provisions of § 61-7-1;

(3) The individual is able to work and is available for work in accordance with rules promulgated by the department pursuant to chapter 1-26;

(4) Prior to any week for which the individual claims benefits the individual has been unemployed for a waiting period of one week unless this requirement is specifically waived by the Governor during a declared emergency; and

(5) The individual has, during the individual's base period, earned wages for insured work equal to not less than the minimum amount required for benefit entitlement in § 61-6-4.

Section 5. This Act is repealed on July 1, 2021.

Section 6. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

An Act to revise certain provisions regarding reemployment assistance benefits in response to Coronavirus Disease 2019 and to declare an emergency.

I certify that the attached Act originated in the:

Senate as Bill No. 187

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk

Senate Bill No. 187
File No. ____
Chapter No. _____

Received at this Executive Office
this _____ day of _____,

2020 at _____M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

_____
Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 2020
at _____ o'clock __M.

_____
Secretary of State

By _____
Asst. Secretary of State