

Part 1 General Provisions

35A-4-101 Title.

This chapter is known as the "Employment Security Act."

Renumbered and Amended by Chapter 240, 1996 General Session

35A-4-102 Public policy -- General welfare requires creation of unemployment reserves -- Employment offices.

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Unemployment is therefore a subject of general interest and concern that requires appropriate action by the Legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation with a nation-wide system of employment services, by devising appropriate methods for reducing the volume of unemployment and by the systematic accumulation of funds during periods of employment from which benefits may be paid for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of unemployment. The Legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police power of the state, for the establishment and maintenance of free public employment offices and for the compulsory setting aside of unemployment reserves to be used for the benefit of unemployed persons.

Renumbered and Amended by Chapter 240, 1996 General Session

35A-4-103 Void agreements -- Child support obligations -- Penalties.

- (1)
 - (a) Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter is void.
 - (b) Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from the employer, is void.
 - (c) An employer may not directly or indirectly:
 - (i) make, require, or accept any deduction from wages to finance the employer's contributions required from the employer;
 - (ii) require or accept any waiver of any right under this chapter by any individual in the employer's employ;
 - (iii) discriminate in regard to the hiring or tenure of work on any term or condition of work of any individual on account of the individual claiming benefits under this chapter; or
 - (iv) in any manner obstruct or impede the filing of claims for benefits.
 - (d)
 - (i) Any employer or officer or agent of an employer who violates Subsection (1)(c) is, for each offense, guilty of a class B misdemeanor.

- (ii) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under this Subsection (1) shall be not less than \$100, and a penalty of imprisonment shall be not more than six months.
- (2) An individual claiming benefits may not be charged fees or costs of any kind in any proceeding under this chapter by the department or its representatives, or by any court or any officer of the court.
- (3)
 - (a) Any individual claiming benefits in any proceeding before the department or its representatives or a court may be represented by counsel or any other authorized agent.
 - (b) A counsel or agent may not either charge or receive for the counsel's or agent's services more than an amount approved by the division or administrative law judge in accordance with rules made by the department.
- (4) Except as provided for in Subsection (5):
 - (a) any assignment, pledge, or encumbrance of any right to benefits that are or may become due or payable under this chapter is void;
 - (b) rights to benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt;
 - (c) benefits received by any individual, so long as they are not mingled with other funds of the recipient, are exempt from any remedy for the collection of all debts except debts incurred for necessities furnished to the individual or the individual's spouse or dependents during the time when the individual was unemployed; and
 - (d) any waiver of any exemption provided for in Subsection (4) is void.
- (5)
 - (a) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes:
 - (i) child support obligations; or
 - (ii) an uncollected overissuance of SNAP benefits.
 - (b) If the individual owes child support obligations, and is determined to be eligible for unemployment compensation, the division shall notify the state or local child support agency charged with enforcing that obligation that the individual is eligible for unemployment compensation.
 - (c) The division shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations:
 - (i) any amount required to be deducted and withheld from unemployment compensation under legal process, as defined in the Social Security Act, 42 U.S.C. Sec. 659(i), properly served upon the department;
 - (ii) the amount determined under an agreement submitted to the division under Subsection 454 (19)(B)(i) of the Social Security Act, 42 U.S.C. Sec. 654, by the state or local child support enforcement agency, except if Subsection (5)(c)(i) is applicable; or
 - (iii) the amount specified by the claimant to the division if neither Subsection (5)(c)(i) nor (ii) is applicable.
 - (d) The division shall notify the state SNAP agency that an individual is eligible for unemployment compensation if the individual:
 - (i) owes an uncollected overissuance of SNAP benefits; and
 - (ii) is determined to be eligible for unemployment compensation.
 - (e) The division shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance of SNAP benefits:

- (i) the amount specified by the individual to the division to be deducted and withheld under this Subsection (5)(e);
 - (ii) the amount, if any, determined pursuant to an agreement submitted to the state SNAP agency under Section 13(c)(3)(B) of the Food and Nutrition Act of 2008; or
 - (iii) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to Section 13(c)(3)(B) of the Food and Nutrition Act of 2008.
- (f) Any amount deducted and withheld under Subsection (5)(c) or (e) shall:
- (i) be paid by the department to the appropriate:
 - (A) state or local child support enforcement agency; or
 - (B) state SNAP agency; and
 - (ii) for all purposes, be treated as if it was paid to the individual as unemployment compensation and then paid by the individual to the appropriate:
 - (A) state or local child support enforcement agency in satisfaction of the individual's child support obligation; or
 - (B) state SNAP agency in satisfaction of the individual's uncollected overissuance.
- (g) For purposes of this Subsection (5):
- (i) "Child support obligation" means obligations that are enforced under a plan described in Section 454 of the Social Security Act, 42 U.S.C. Sec. 654, that has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.
 - (ii) "State SNAP agency" means the Department of Workforce Services or its designee responsible for the collection of uncollected overissuances.
 - (iii) "State or local child support enforcement agency" means any agency or political subdivision of the state operating under a plan described in this Subsection (5).
 - (iv) "Uncollected overissuance" is as defined in Section 13(c)(1) of the Food and Nutrition Act of 2008.
 - (v) "Unemployment compensation" means any compensation payable under this chapter, including amounts payable under an agreement directed by federal law that provides compensation assistance or allowances for unemployment.
- (h) This Subsection (5) is applicable only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency or state SNAP agency for the administrative costs of the department under this Subsection (5) that are directly related to the enforcement of child support obligations or the repayment of uncollected overissuance of SNAP benefits.

Amended by Chapter 41, 2012 General Session

35A-4-105 Department may be represented by attorneys in actions.

- (1) In any civil action to enforce the provisions of this chapter the department may be represented by any qualified attorney who is employed by the department and is designated by it for this purpose, or at the department's request by the attorney general, or if the action is brought in the courts of any other state by any attorney qualified to appear in the courts of that state.
- (2) All criminal actions for violation of any provision of this chapter, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general of the state; or, at his request and under his direction, by the prosecuting attorney of any county in which the employing unit has a place of business or the violator resides.

Renumbered and Amended by Chapter 240, 1996 General Session

35A-4-106 Reciprocal arrangements with other jurisdictions.

- (1) The division is authorized to enter into reciprocal arrangements with appropriate and authorized agencies of other states or of the federal government, or both, in accordance with Subsections (1)(a) through (d):
 - (a) Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be considered to be services performed entirely within any one of the states:
 - (i) in which any part of the individual's service is performed;
 - (ii) in which the individual has the individual's residence; or
 - (iii) in which the employing unit maintains a place of business, if there is in effect, as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by the individual for the employing unit are considered to be performed entirely within the state.
 - (b) The division shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with the individual's wages and employment covered under the unemployment compensation laws of other states that:
 - (i) are approved by the Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations; and
 - (ii) include provisions for:
 - (A) applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws; and
 - (B) avoiding the duplicate use of wages and employment by reason of such combining.
 - (c)
 - (i) Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be considered to be wages for insured work for the purpose of determining the individual's rights to benefits under this chapter.
 - (ii) Wages for insured work, on the basis of which an individual may become entitled to benefits under this chapter shall be considered to be wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable.
 - (iii) An arrangement may not be entered into unless it contains provisions for reimbursements:
 - (A) to the fund for the benefits paid under this chapter upon the basis of such wages or services; and
 - (B) from the fund for such of the compensation paid under the other law upon the basis of wages for insured work, as the director of the division finds will be fair and reasonable as to all affected interests.
 - (d)
 - (i) Contributions due under this chapter with respect to wages for insured work shall, for the purposes of Section 35A-4-305, be considered to have been paid to the fund as of the date payment was made as contributions therefor under another state or Federal Unemployment Compensation Law.

- (ii) An arrangement may not be entered into unless it contains provisions for the reimbursement to the fund of the contributions and the actual earnings thereon as the director of the division finds will be fair and reasonable as to all affected interests.
- (2)
- (a) Reimbursement paid from the fund pursuant to Subsection (1)(c) shall be considered to be benefits for the purpose of Sections 35A-4-401 and 35A-4-501.
 - (b) The division is authorized to make to other state or federal agencies and to receive from other state or federal agencies reimbursements from or to the fund in accordance with arrangements entered into pursuant to Subsection (1).
- (3)
- (a) The administration of this chapter and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and the other states and the appropriate federal agencies in exchanging services, and making available facilities and information.
 - (b) The division is authorized to make investigations, secure and transmit information, make available services and facilities, and exercise other powers provided in this chapter with respect to the administration of this chapter as it considers necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law, and in like manner, to accept and use information, services and facilities made available to this state by the agency charged with the administration of any other unemployment compensation or public employment service law.
- (4) To the extent permissible under the laws and Constitution of the United States, the director of the division is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this chapter and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under this chapter or under a similar law of the foreign government.

Amended by Chapter 375, 1997 General Session

35A-4-107 Limit of liability -- State -- Department.

- (1) Benefits shall be considered to be due and payable under this chapter only to the extent provided in this chapter and to the extent that money is available to the credit of the Unemployment Compensation Fund.
- (2) The state, the department, or any division of the department may not be held liable for any amount that exceeds the money available in the Unemployment Compensation Fund.

Amended by Chapter 342, 2011 General Session

35A-4-108 Legislature may amend or repeal -- No vested private right.

- (1) The Legislature reserves the right to amend or repeal all or any part of this chapter at any time.
- (2) There shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this chapter or by acts done pursuant to this chapter shall exist subject to the power of the Legislature to amend or repeal this chapter at any time.

Renumbered and Amended by Chapter 240, 1996 General Session

