

EMPLOYMENT SECURITY ACT AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steven R. Mascaro

Senate Sponsor: Scott K. Jenkins

Cosponsors:
Janice M. Fisher

Julie Fisher

Christopher N. Herrod

LONG TITLE

General Description:

This bill modifies provisions of the Employment Security Act regarding the eligibility of a claimant to receive unemployment compensation benefits.

Highlighted Provisions:

This bill:

- clarifies that a claimant for unemployment benefits is not required to personally report at an employment office as a condition of ongoing eligibility to receive benefits;

- provides for the waiver of certain filing requirements for unemployment compensation benefits if a disaster is declared by the President of the United States or the governor; and

- makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-4-403, as last amended by Laws of Utah 1999, Chapter 80

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **35A-4-403** is amended to read:

32 **35A-4-403. Eligibility of individual -- Conditions -- Furnishing reports -- Weeks**
33 **of employment -- Successive benefit years.**

34 (1) Except as provided in Subsection (2), an unemployed individual is eligible to receive
35 benefits ~~[with respect to]~~ for any week ~~[only]~~ if the division finds:

36 (a) the individual has made a claim for benefits ~~[with respect to]~~ for that week in
37 accordance with ~~[any]~~ rules the department may prescribe~~[-]~~, except as provided in Subsection
38 (3);

39 (b) the individual has registered for work ~~[at, and thereafter continued to report at, an~~
40 ~~employment office,]~~ with the department and acted in a good faith effort to secure employment
41 during each and every week for which the individual made a claim for benefits under this
42 chapter in accordance with ~~[any]~~ rules the department may prescribe~~[-]~~, except as provided in
43 Subsection (3);

44 (c) the individual is able to work and is available for work during each and every week
45 ~~[with respect to]~~ for which the individual made a claim for benefits under this chapter~~[-and~~
46 ~~acted in good faith in an active effort to secure employment, except as provided in Subsection~~
47 ~~(3)]~~;

48 (d) the individual has been unemployed for a waiting period of one week ~~[with respect~~
49 ~~to]~~ for each benefit year~~[-A]~~, but a week may not be counted as a week of unemployment for
50 the purpose of this Subsection (1)(d):

51 (i) unless it occurs within the benefit year that includes the week ~~[with respect to]~~ for
52 which the ~~[individual's]~~ individual claims benefits;

53 (ii) if benefits have been paid ~~[with respect to]~~ for the claim; or

54 (iii) unless the individual was eligible for benefits ~~[with respect thereto]~~ for the week as
55 provided in this section and Sections 35A-4-401 and 35A-4-405, except for the requirement of
56 Subsection (1)(d)~~[-]~~;

57 (e) (i) the individual has furnished the division separation and other information the

58 department may ~~[by rule]~~ prescribe~~[-(ii) Subsection (1)(e) does not apply if the individual]~~ by
59 rule, or proves to the satisfaction of the division that the individual had good cause for failing to
60 furnish the information[-];

61 ~~[(iii)]~~ (ii) if ~~[any]~~ an employer fails to furnish reports concerning separation and
62 employment as required by this chapter and rules adopted under the chapter, the division shall,
63 on the basis of ~~[such]~~ information ~~[as]~~ it ~~[may obtain]~~ obtains, determine the eligibility and
64 insured status of ~~[any]~~ an individual affected by that failure and the employer is not considered
65 to be an interested party to ~~[any such]~~ the determination[-];

66 (f) (i) the individual's base period wages were at least 1-1/2 times the individual's wages
67 for insured work paid during that quarter of the individual's base period in which the individual's
68 wages were highest; or

69 (ii) the individual shows to the satisfaction of the division that the individual worked at
70 least 20 weeks in insured work during the individual's base period and earned wages of at least
71 5% of the monetary base period wage requirement each week, rounded to the nearest whole
72 dollar, provided that the individual's total base-period wages were not less than the monetary
73 base period wage requirement~~[-The monetary base period wage requirement is]~~ as defined in
74 Section 35A-4-201[-];

75 (g) (i) the individual applying for benefits in a successive benefit year has had
76 subsequent employment since the effective date of the preceding benefit year equal to at least
77 six times the individual's weekly benefit amount, in insured work[-]; and

78 (ii) the individual's total wages and employment experience in the individual's base
79 period meet the requirements specified in Subsection (1)(f).

80 (2) (a) For purposes of this Subsection (2), "suitable employment" means:

81 (i) work of a substantially equal or higher skill level than the individual's past adversely
82 affected employment as defined for purposes of the Trade Act of 1974; and

83 (ii) wages for that work at not less than 80% of the individual's average weekly wage as
84 determined for purposes of the Trade Act of 1974.

85 ~~[(2)(a)]~~ (b) (i) An individual in training with the approval of the division is not

86 ineligible to receive benefits by reason of nonavailability for work, failure to search for work,
87 refusal of suitable work, failure to apply for or to accept suitable work, or not having been
88 unemployed for a waiting period of one week [~~with respect to~~] for any week the individual is in
89 the approved training.

90 (ii) For purposes of [~~this~~] Subsection (2)[~~(a)~~](b)(i), the division shall approve any
91 mandatory apprenticeship-related training.

92 [~~(b)~~] (c) Notwithstanding any other provision of this chapter, [~~no~~] the division may not
93 deny an otherwise eligible individual [~~shall be denied~~] benefits for any week:

94 (i) because the individual is in training approved under Section 236 (a)(1) of the Trade
95 Act of 1974, 19 U.S.C. 2296(a);

96 (ii) for leaving work to enter training described in Subsection (2)[~~(b)~~](c)(i) if the work
97 left is not suitable employment; or

98 (iii) because of the application to any such week in training of provisions in this law or
99 any applicable federal unemployment compensation law relating to availability for work, active
100 search for work, or refusal to accept work.

101 [~~(c) For purposes of this Subsection (2), "suitable employment" means work of a~~
102 ~~substantially equal or higher skill level than the individual's past adversely affected employment,~~
103 ~~as defined for purposes of the Trade Act of 1974, and wages for that work at not less than 80%~~
104 ~~of the individual's average weekly wage as determined for the purposes of the Trade Act of~~
105 ~~1974.]~~

106 (3) The department may, by rule, waive or alter either or both of the requirements of
107 Subsections (1)(a) and (b) as to:

108 (a) individuals attached to regular jobs; [~~and as to other types of~~]

109 (b) a disaster in Utah as declared by the President of the United States or by the state's
110 governor after giving due consideration to factors directly associated with the disaster,
111 including:

112 (i) the disaster's impact on employers and their ability to employ workers in the affected
113 area in Utah;

114 (ii) the disaster's impact on claimants and their ability to comply with filing requirements
115 in the affected area in Utah; and
116 (iii) the magnitude of the disaster and the anticipated time for recovery; and
117 (c) cases or situations [with respect to which] when it finds that compliance with the
118 requirements would be oppressive, or would be inconsistent with the purposes of this chapter,
119 as long as the ~~rules do~~ rule does not conflict with Subsection 35A-4-401(1).