

SENATE BILL NO. 414

INTRODUCED BY E. BUTTREY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A DESIGNATION FOR SEASONAL EMPLOYMENT FOR
5 EMPLOYERS PAYING UNEMPLOYMENT INSURANCE; DEFINING "SEASONAL EMPLOYER" AND
6 "SEASONAL EMPLOYEE"; PROVIDING FOR AN APPLICATION PROCESS, FEE, AND EMPLOYEE
7 NOTIFICATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING A DELAYED EFFECTIVE DATE."
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9 WHEREAS, the state of Montana has many employers who are subject to seasonal change; and
10 WHEREAS, unemployment insurance does not contemplate seasonal employees of the seasonal
11 employer; and

12 WHEREAS, reducing the number of employees of a seasonal employer that are eligible for
13 unemployment insurance commensurate with the employer's seasonal business may allow the employer to pay
14 lower amounts to unemployment insurance.
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Montana Seasonal
19 Unemployment Insurance Act".
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21 NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 6] is to allow a qualifying
22 employer to be recognized as a seasonal employer.
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24 NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 6], the following definitions
25 apply:

26 (1) "Established season" means the period of time, as specified by rule and not exceeding 2 consecutive
27 quarters, in which a seasonal employer uses the services of its seasonal employees.

28 (2) (a) "Seasonal employee" means an individual who is employed by a seasonal employer and whose
29 services are performed solely within the established season for that employer.

30 (b) The term does not include:



- 1 (i) an employee who performs services for the same seasonal employer outside that employer's
2 established season; or
- 3 (ii) agricultural labor.
- 4 (3) "Seasonal employer" means an employer that:
- 5 (a) meets the definition of employer as defined in 39-51-202;
- 6 (b) operates primarily in an industry that the department has designated, by rule, as a seasonal industry;
- 7 (c) pays 75% of the employer's annual payroll during 2 consecutive quarters;
- 8 (d) is in good standing with the department; and
- 9 (e) has been approved by the department as a seasonal employer.

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11 **NEW SECTION. Section 4. Application -- fee -- department approval.** (1) An employer may apply
12 to the department to be designated as a seasonal employer. The application must be submitted no later than 3
13 months before the employer employs its seasonal workers and must be accompanied by a \$5 fee. The application
14 must contain business information for the department to determine whether the employer qualifies as a seasonal
15 employer.

16 (2) (a) The department must review all applications and approve all employers that meet the criteria of
17 a seasonal employer under [section 3]. The department's determination as to whether the employer qualifies as
18 a seasonal employer must be provided to the employer in writing within 30 days of the department's receipt of
19 the employer's completed application. The department may consider the operations of related or affiliated
20 enterprises or facilities in determining whether an employer qualifies as a seasonal employer.

21 (b) An employer who contests the department's denial of seasonal employer status is entitled to a
22 hearing governed under the provisions of part 24 of this chapter as if it were a dispute concerning benefits.

23 (3) The department may, after notice and opportunity to be heard, for good cause suspend or revoke
24 an employer's status as a seasonal employer.

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26 **NEW SECTION. Section 5. Seasonal employer contribution -- benefits payable based on services**
27 **in seasonal employment.** (1) Seasonal employers shall make contributions to the unemployment system as
28 required under this chapter.

29 (2) Benefits based on services in seasonal employment may not be paid to an individual for any week
30 of unemployment outside the established season. Benefits based on other than seasonal employment are

1 payable in the same amount, on the same terms, and subject to the same conditions as are otherwise provided
2 in this chapter.

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4 NEW SECTION. Section 6. Seasonal employer notification. (1) Prior to each seasonal hiring, a
5 seasonal employer shall provide written notification to its seasonal employee applicants of the following:

- 6 (a) that the employer is classified as a seasonal employer by the department;
- 7 (b) that the seasonal employee might not be entitled to unemployment insurance after the established
8 season ends; and
- 9 (c) any other information as required by the department.

10 (2) A seasonal employer shall retain records showing that each seasonal employee was informed of the
11 seasonal status of the position, acknowledged in writing by the seasonal employer and seasonal employee.

12 (3) For each employee for which the records and written acknowledgment provided by this section are
13 not maintained by the employer or furnished to the department upon demand, the employer loses its status as
14 a seasonal employer with respect to that employee.

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16 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 6] are intended to be codified
17 as an integral part of Title 39, chapter 51, and the provisions of Title 39, chapter 51, apply to [sections 1 through
18 6].

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20 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2016.

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