

CHAPTER 173
FORMERLY
HOUSE BILL NO. 168

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND COUNSELING, TRAINING AND PLACEMENT ACTIVITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 3315 (5), Title 19 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(5) For claims establishing a benefit year beginning January 1, 2014 and thereafter, the individual has served a waiting period of one week as defined in § 3302 (20) of this title. No week shall be counted as a week of unemployment for the purposes of this subdivision:

a. Unless it occurs within the benefit year which includes the week with respect to which the individual claims payment of benefits;

b. If benefits have been paid with respect to that week;

~~b.~~ c. Unless the individual was eligible for benefits with respect thereto as provided in this section and § 3314 of this title, except for the requirements of this subdivision and of subdivision (5) of § 3314 of this title;

Section 2. Section 1 of this Act shall sunset effective for claims establishing a benefit year beginning January 1, 2017 and thereafter.

Section 3. Amend § 3302, Title 19 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(20) "Waiting period" means the first week of an individual's benefit year for which no benefits are payable as a condition of eligibility pursuant to §3315 (5) of this title and for which the individual has timely applied and is otherwise eligible for regular benefits under this title.

~~(20)~~ (21) "Week" means calendar week, ending at midnight Saturday, but all work performed and wages earned during a working shift which starts before midnight Saturday shall be included in the week in which such shift begins. For purposes of partial claims and mass layoff claims, the Department may authorize the employer's payroll week.

~~(21)~~ (22) "Work" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

~~(22)~~ (23) "Statewide average weekly wage" shall be the amount computed annually as of July 1 by dividing the aggregate amount of wages irrespective of the limitation on the amount of wages subject to assessment under subdivision (19) of this section for services in employment reported by employers as paid during the first 4 of the last 6 completed calendar quarters immediately preceding the effective date of the computation, by a figure representing 52 times the 12-month average of the number of employees in the pay period containing the twelfth day of each month during the same 4 calendar quarters as reported by such employers. The statewide average weekly wage shall be effective on the 1st of July of each year computed.

Section 4. Section 3 of this Act shall sunset effective for claims establishing a benefit year beginning January 1, 2017 and thereafter.

Section 5. Amend § 3302 (19) (A), Title 19 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(19) "Wages" does not include:

(A) For the purpose of §§ 3345 and 3348 of this title:

(i) After December 31, 1982, that part of the remuneration which, after remuneration equal to \$7,200 with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(ii) After December 31, 1983, that part of the remuneration which, after remuneration equal to \$8,000 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act

[26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(iii) After December 31, 1985, that part of the remuneration which, after remuneration equal to \$8,250 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(iv) After December 31, 1986, that part of the remuneration which, after remuneration equal to \$8,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(v) After December 31, 2007, that part of the remuneration which, after remuneration equal to \$10,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year; or

(vi) After December 31, 2013, that part of the remuneration which, after remuneration equal to \$18,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is \$125.0 million or less as of the preceding September 30; or that part of the remuneration which, after remuneration equal to \$16,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is greater than \$125.0 million, but less than \$175.0 million as of the preceding September 30; or that part of the remuneration which, after remuneration equal to \$14,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is at least \$175.0 million, but no greater than \$ 225.0 million as of the preceding September 30; or that part of the remuneration which, after remuneration equal to \$12,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is greater than \$225.0 million, but less than \$275.0 million as of the preceding September 30; or that part of the remuneration which, after remuneration equal to \$10,500 (or such greater amount as may be specified as the taxable wage base in the Federal Unemployment Tax Act [26 U.S.C. § 3301 et seq.) with respect to employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such calendar year if the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is \$275.0 million or greater as of the preceding September 30.

~~(vi)~~ (vii) For the purpose of this paragraph, the term "employment" shall include service constituting employment under any unemployment compensation law of another state.

Section 6. Amend Chapter 33, Title 19 of the Delaware Code by making insertions as shown by underlining as follows:

Subchapter VII. Repayment of State Funds

§ 3392. Repayment of state funds loaned to repay loans from the federal government to the Unemployment Insurance Trust Fund.

The Department shall be permitted to borrow funds from the State's General Fund or other State fund sources to pay all or a portion of the principal of any loans extended by the federal government to the Unemployment Insurance Trust Fund. Any State funds that are loaned for the purpose described in this Section shall be reimbursed from unemployment insurance tax receipts.

Section 7. Amend § 3401, Title 19 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3401. Determination and collection of special assessment.

(a) In addition to all other payments to the State due under this title, each employer liable for assessments under Chapter 33 of this title shall also be liable for a special assessment ~~which shall be levied at the rate of .15%~~ on all taxable wages as defined in § 3302(19) of this title payable by each such employer.

The special assessment shall be levied at the rate indicated below:

- (i) .085% when the taxable wage base is \$18,500,
- (ii) .095% when the taxable wage base is \$16,500,
- (iii) .11% when the taxable wage base is \$14,500,
- (iv) .126% when the taxable wage base is \$12,500 and
- (v) .15% when the taxable wage base is \$10,500.

(b) The special assessment levied under this section shall not affect the computation of any other assessments due under this title.

Approved August 15, 2013