

HOUSE BILL NO. HB0068

Unemployment compensation-seasonal employment.

Sponsored by: Representative(s) Barlow

A BILL

for

1 AN ACT relating to labor and employment; providing that an
2 employee of a designated seasonal employer is not eligible
3 for unemployment compensation; authorizing employers to
4 apply for designation as a seasonal employer; making
5 conforming amendments; requiring the promulgation of rules;
6 and providing for effective dates.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 27-3-108(a) by creating a new
11 paragraph (xiv), 27-3-306 by creating a new subsection (f)
12 and 27-3-308 by creating a new subsection (c) are amended
13 to read:

14

15 **27-3-108. Services excluded from scope of employment.**

16

1 (a) Employment under this act does not include
2 service performed:

3
4 (xiv) For a seasonal employer meeting the
5 requirements of W.S. 27-3-308(c).

6
7 **27-3-306. Eligibility requirements; waiver or**
8 **amendment authorized; unemployed waiting period;**
9 **registration and referral for suitable work.**

10
11 (f) Wages earned through service for a seasonal
12 employer meeting the requirements of W.S. 27-3-308(c) shall
13 not be used to satisfy the wage requirements of subsection
14 (d) of this section.

15
16 **27-3-308. Services excluded from eligibility.**

17
18 (c) An employee of an employer who is designated as a
19 seasonal employer pursuant to paragraph (i) of this
20 subsection is not eligible for benefits under this act
21 based on service for that employer. The department shall
22 carry out this subsection by rule through the suppression

1 of wage credits or by any other reasonable means that
2 conforms to federal law. The following shall apply:

3
4 (i) An employer may apply to the department for
5 designation as a seasonal employer. An employer may appeal
6 the decision of the department in the manner prescribed in
7 W.S. 27-3-401 through 27-3-409;

8
9 (ii) The department may withdraw designation as
10 a seasonal employer at any time for failure to comply with
11 this subsection and the designation shall be withdrawn,
12 effective January 1 of the following year, by the
13 department upon an employer's written request;

14
15 (iii) A designated seasonal employer shall
16 provide written notice to any candidate for employment
17 relating to the seasonal nature of employment being offered
18 and the provisions of this subsection. Failure to provide
19 notice shall render the:

20
21 (A) Affected employee eligible for benefits
22 under this act, with retroactive effect to the date of
23 hire; and

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(B) Employer liable for all required contributions under this act and a civil penalty of not more than five thousand dollars (\$5,000.00).

(iv) As used in this subsection, "seasonal employer" means an employer within an industry in which it is customary, based on historical patterns of employment, for the employer to operate all or a portion of its business during a regularly recurring period of twenty-one (21) or fewer consecutive weeks in a twelve (12) month period. "Seasonal employer" shall include a component of an employer's business if that component, under the customary practice of the industry, is identifiable as a functionally distinct undertaking.

Section 2. The department of workforce services shall promulgate any rules necessary to implement this act on or before April 1, 2019, provided that these rules shall not take effect until April 1, 2019.

Section 3.

1 (a) Except as otherwise provided in subsection (b) of
2 this section, this act is effective April 1, 2019.

3

4 (b) Section 2 of this act is effective immediately
5 upon completion of all acts necessary for a bill to become
6 law as provided by Article 4, Section 8 of the Wyoming
7 Constitution.

8

9

(END)