

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 385

An Act to amend and reenact §§ 60.2-114, 60.2-512, 60.2-600, and 60.2-623 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 60.2-608.2, relating to unemployment compensation; welfare reform.

[H 2211]

Approved March 15, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-114, 60.2-512, 60.2-600, and 60.2-623 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 60.2-608.2 as follows:

§ 60.2-114. Records and reports.

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453 (i) of the Social Security Act.

~~B.~~ C. Each employing unit shall report to the Commission the initial employment of any person, as defined in § 60.2-212, within thirty-five days of such employment. Information to be provided shall include (i) the employee's name, address and social security number and (ii) the employer's name, address, and federal or Virginia Employment Commission identification number. This information may be provided by mailing a copy of the employee's W-4 forms, transmitting magnetic tape in a format prescribed by the Commission, or by any other means determined by the Commission to result in timely reporting. Notwithstanding any other provisions of law, the Commission shall transmit this information to the Department of Social Services pursuant to Title 63.1 within twenty-one days of its receipt by the Commission. The Commission shall have the authority to promulgate regulations to administer this provision, including any exemptions which are needed to reduce unnecessary or burdensome reporting. The Department of Social Services shall reimburse the Commission for administrative costs incurred pursuant to this section.

~~C.~~ D. Any member or employee of the Commission who violates any provision of this section shall be fined not less than \$20 nor more than \$200, or confined in jail for not longer than ninety days, or both.

§ 60.2-512. Requiring payroll and tax reports and payment of taxes.

A. The Commission is hereby expressly authorized to require the filing of payroll and tax reports, and the payment of the taxes required by § 60.2-511 in monthly, quarterly, semiannual or annual payments as shall be determined by the Commission; however, if the due date for filing of reports or payment of taxes falls on a Saturday, Sunday or legal holiday, the due date shall be extended to the next business day that is not a Saturday, Sunday or legal holiday. The aggregate amount of taxes shall be fully paid to the Commission on or before January 31 of each year next succeeding the year with respect to employment during which year such taxes are imposed, or in the event the time is extended for filing the return of the taxes imposed by Title IX of the Social Security Act for the year for which such taxes are imposed, then before the expiration of such extension. Taxes due and payable in an amount less than five dollars shall be deemed to be fully paid; however, this does not relieve an employer from filing payroll and tax reports as herein required.

B. Beginning January 1, 1994, employers who report 250 or more employees in any calendar quarter must file quarterly reports on a magnetic medium using a format prescribed by the Commission. Waivers will be granted only if the Commission finds this requirement creates an unreasonable burden on the employer. All requests for waiver must be submitted in writing.

C. Notwithstanding the provisions of subsection A, no payroll and tax reports shall be filed with respect to an employee of a state or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

§ 60.2-600. No assignment of benefits; exemptions.

Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this title shall be void except as provided in this section and in §§ 60.2-608, 60.2-608.1, 60.2-608.2, and 60.2-633. Such rights to benefits shall be exempt from levy, execution, attachment, garnishment or any other legal process provided for the collection of debt, even if the compensation is used for purchase of shares in a credit union, or deposited into an account with a financial institution or other organization accepting deposits and is thereby commingled with other funds, except debts incurred for necessities furnished to such individual, his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Upon an order of garnishment, attachment or other levy addressed to a financial institution in which the principal defendant claims to have exempt funds hereunder, the principal defendant may file an answer asserting the exemption hereunder. From the time of service of such garnishment, attachment or levy, the financial institution, until further order of the court, shall hold the amount subject to such garnishment, attachment or levy, or such lesser amount or sum as it may have, which amount shall be set forth in its answer. It shall hold such amount free of any person drawing against such funds whether by check against such account or otherwise. The financial institution shall be subject to such further order or subpoena for discovery of its records, for which it shall be entitled an order or agreement for compensation for the expense of such service, and in a case deemed appropriate to the court by such an order directing deposit of funds or further security prior to such records being ordered produced.

§ 60.2-608.2. *Withholding of benefits; food stamp overissuance.*

A. Any individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes an uncollected overissuance of food stamp coupons, as such is defined in § 13(c)(1) of the Food Stamp Act of 1977, 7 U.S.C. § 2022(c)(1). If any such individual discloses that he or she owes food stamp obligations and is determined to be eligible for unemployment compensation, the Commission shall notify the state food stamp agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.

B. The Commission shall deduct and withhold the following from any unemployment compensation payable to an individual who owes an uncollected overissuance:

1. The amount specified by the individual to the Commission to be deducted and withheld under this subsection, if neither the provisions of subdivision 2 nor the provisions of subdivision 3 of this subsection are applicable; or

2. The amount, if any, determined pursuant to an agreement submitted to the Commission by the state food stamp agency under § 13(c)(3)(A) of the Food Stamp Act of 1977, 7 U.S.C. § 2022 (c)(3)(A); or

3. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to § 13(c)(3)(B) of the Food Stamp Act of 1977, 7 U.S.C. § 2022(c)(3)(B).

C. Any amount deducted and withheld under subsection B shall be paid by the Commission to the appropriate state food stamp agency.

D. Any amount deducted and withheld under subsection B shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state food stamp agency as repayment of the individual's uncollected overissuance.

E. For purposes of subsections A through D of this section, the term "unemployment compensation" means any compensation payable under this title including amounts payable by the Commission pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

F. The provisions of this section shall be applicable only if appropriate arrangements have been made for reimbursement by the state food stamp agency for the administrative costs incurred by the Commission under this subsection which are attributable to the repayment of uncollected overissuances to the state food stamp agency.

§ 60.2-623. Procedure generally; confidentiality of information.

A. The manner in which disputed claims shall be presented, reports required from the claimant and from employers, the conduct of hearings and appeals before any deputy, appeal tribunal or the Commission, and transcripts prepared shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties. Such regulations need not conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a

disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed and a timely request for a hearing before the Commission has been made in accordance with regulations prescribed by the Commission.

B. Information furnished the Commission under the provisions of this chapter shall not be published or be open to public inspection, other than to public employees in the performance of their public duties. Neither such information, nor any determination or decision rendered under the provisions of §§ 60.2-619, 60.2-620 or § 60.2-622, shall be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. The Commission may also, in its discretion, furnish copies of the transcript of hearings to any party.

C. Notwithstanding the provisions of subsection B, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and Virginia's child support enforcement agency for their use as necessary for the purposes of the National Directory of New Hires established under § 453(i) of the Social Security Act.