

prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes; provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Changes the general penalty for any person who willfully violates the law or any order, rule, or regulation and the penalty for employing units or any other persons who make a false statement or representation or failure to disclose a material fact, or failure to establish, maintain, or preserve records to require they be charged with a misdemeanor, and subject to a fine of not more than \$10,000. Formally the penalties required a fine of not less than \$20 nor more than \$200 or imprisoned not more than 60 days or both.

IDAHO HB 04 ENACTED February 7, 2005
 (CH 5) EFFECTIVE July 1, 2005 or as otherwise noted

Appeals

Provides, effective February 7, 2005, and retroactive to January 1, 2005, that a determination of chargeability of a covered employer's experience rating account will become final unless, an appeal is filed within 14 days after notice.

Coverage

Excludes from the definition of "employment" service performed by an individual paid less than \$50 per calendar quarter for work not in the course of the employer's trade or business, and who is not regularly employed by such employer to perform such service; provides that an individual will be deemed to be regularly employed by an employer during a calendar quarter only if:

On each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or
Such individual was so employed by such employer in the performance of such service during the preceding calendar quarter.

Requires each covered employer to register with the Director within 6 months of becoming a covered employer.

Financing

Excludes deficit employers who have been assigned a taxable wage rate from deficit rate class six from paying a reserve tax.

Defines "unencumbered balance in the training fund;" provides for the transfer of the excess amount over \$6 million in any month from the unencumbered balance in the training fund to the employment security reserve fund.

Calculates, effective February 7, 2005, and retroactive to January 1, 2005, the taxable wage rate for calendar years 2005 and 2006 for covered employers, except cost

reimbursement employers, which must be determined prior to December 31 of each year as follows:

For calendar year 2005, the taxable wage rate will be determined using a base tax rate of 1.50 percent;

For calendar year 2006, the taxable wage rate will be determined using a base tax rate of 1.67 percent unless, at any time prior to September 30, 2005, the actual balance in the employment security fund, is 50 percent or less than the actual balance in the reserve fund, in which case the taxable wage rate will be determined using a base tax rate calculated in accordance with the calculation provided in law.

Revises, effective February 7, 2005, and retroactive to January 1, 2005, the formula to calculate "an average high cost ratio;" revises the formula to calculate the "average high cost multiple" (AHCM); provides how to compute the "benefit cost rate;" revises the calculation of the "fund balance ratio;" provides a formula for calculating the "base tax rate;" provides a formula for calculating the "taxable wage rate" effective the following calendar year for all covered eligible, standard-rated, and deficit employers (except cost reimbursement employers); provides the criteria for use in assigning taxable wage rates and contribution rates; provides that the minimum taxable wage rates range from 0.180 percent to 3.200 percent for eligible employers, from 1.000 percent to 3.360 percent for standard-rated employers, and 1.080 percent to 6.800 percent for deficit employers.

Provides, effective February 7, 2005, and retroactive to January 1, 2005, that when a transferred experience rating account includes amounts due from the employer, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

Increases the penalty from 2 percent to 4 percent or from \$10 to \$20, whichever is larger, for each month or fraction thereof until paid for any amounts due that are unpaid on or before the due date.

Provides that jeopardy assessments including penalty and interest are subject to immediate seizure, as well as through any other lawful collection procedures and will become conclusive and binding upon the employer unless, within 14 days after mailing or personal delivery an appeal is filed to the department.

Changes the rate of interest on the amount secured by a lien to 1 1/2 times the rate computed for judgments in effect on January 1 of the year the lien is filed.

Monetary Eligibility

Changes the eligibility conditions of a claimant to provide that during the whole of any week with respect to which he claims benefits or credit to his waiting period, the claimant was:

Able to work, available for suitable work, and seeking work; provided, however, that no claimant shall be considered ineligible for failure to comply with the provisions of this subsection if: (i) such failure is due to the claimant's illness or disability which occurs after he has filed a claim and during such illness or disability, the claimant does not refuse or miss suitable work that would have provided wages greater than 1/2 of the claimant's weekly benefit amount; or (ii) such failure is due to compelling personal circumstance, provided that such failure does not exceed a minor portion of the claimant's work week and during which time the claimant does not refuse or

miss suitable work that would have provided wages greater than 1/2 of the claimant's weekly benefit amount; and
Living in a state, territory, or country that is included in the interstate benefit payment plan or that is a party to an agreement with the U.S. or the director with respect to unemployment insurance.

Specifies that the claimant will also be ineligible for waiting week credit or benefits for any week in which he owes an overpayment, civil penalty, or interest resulting from a determination that he willfully made a false statement or willfully failed to report a material fact.

Changes from 12 to 14 times the weekly benefit amount a claimant needs to have received in wages to requalify for eligibility after being ineligible for voluntarily quitting, discharged for misconduct, failure to apply for or accept suitable work, for refusing to accept new work, or for leaving suitable employment to attend job training.

Changes the date the minimum qualifying amount of wages for the benefit formula is determined from July 1 to January 1.

Changes the date the state average weekly wage paid by employers for the preceding calendar year is determined from prior to June 30 to prior to December 31 of each year, for calendar years 2006 and thereafter.

Establishes that for calendar years 2006 and thereafter, prior to December 31 of each year, the director will determine the maximum weekly benefit amount to be effective for new claims filed in the first full week of the following January and filed thereafter until a new maximum weekly benefit amount becomes effective.

Establishes that for calendar years 2006 and thereafter, prior to December 31 of each year, the director will determine the maximum weekly benefit amount by using a percentage of the state average weekly wage paid by covered employers for the preceding calendar year and the base tax rate that has been calculated for the following calendar year as provided in the new Maximum Weekly Benefit Amount Index.

Provides that effective for new claims filed in the first full week of July 2005, and thereafter until the first full week of the following January, the maximum weekly benefit amount will be 57 percent (was 60 percent) of the state average weekly wage paid by covered employers for the preceding calendar year; provides that prior to December 31, 2005, the director will determine, by using the new Maximum Weekly Benefit Amount Index, the maximum weekly benefit amount to be effective for new claims filed in the first full week of the following January and thereafter until a new maximum weekly benefit amount becomes effective.

Modifies the duration of benefits table, however, the duration of benefits remain the same ranging from 10-26 weeks.

Defines "severance pay;" provides that severance pay will be deemed wages, including wages payable for less than full-time work, even if the claimant was required to sign a release of claims as a condition of receiving the pay from the employer.

Overpayments

Establishes civil monetary penalties that the director must assess for each determination in

which the claimant is found to have made a false statement, misrepresentation, or failed to report a material fact to the department that results in an overpayment as follows:

25 percent of any resulting overpayment for the first determination;
50 percent of any resulting overpayment for the second determination; and
100 percent of any resulting overpayment for the third and any subsequent determination.

Provides that any overpayment, civil penalty and/or interest which has not been repaid may, in addition to or alternatively to any other method of collection, including the creation of a lien, be collected with interest at the rate required; allows the director to also file a civil action which must commence within 5 years from the date of the final determination establishing liability to repay; provides that any judgment obtained must, upon compliance with specific requirements, become a lien.

Provides that overpayments, other than those resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, not recovered within 5 years from the date of the final determination establishing liability to repay may be deemed uncollectible.

Provides that overpayments resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant which have not been recovered within 8 years from the date of the final determination establishing liability to repay may be deemed uncollectible.

Eliminates the requirement to deduct from future benefits payable without regard to any statute of limitation such overpayments that have not been repaid or collected that resulted from a false statement, misrepresentation, or failure to report a material fact by the claimant.

Allows the director to waive the requirement to repay an overpayment, other than one resulting from a false statement, misrepresentation, or failure to report a material fact by the claimant, and interest if the benefit payments were made solely as a result of department error or inadvertence and made to a claimant who could not reasonably have been expected to recognize the error or such payments were made solely as a result of an employer misreporting wages earned in a claimant's base period and made to a claimant who could not reasonably have been expected to recognize an error in the wages reported.

Allows the director, in his sole discretion, to also compromise a civil monetary penalty and or interest assessed on overpayments resulting from making a false statement, misrepresentation, or failure to report a material fact.

ILLINOIS

SB 411
(P.A. 94-301)

ENACTED and EFFECTIVE July 21, 2005

Financing

Amends state law to include SUTA dumping prevention provisions which:

mandate transfer of experience from one employer to another when there is substantially common ownership, management, or control; apply to both total and partial transfers;

prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes;
provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

ILLINOIS

SB 1770
(P.A. 94-232)

ENACTED July 14, 2005
EFFECTIVE July 1, 2005

Financing

Transfers, on or after July 1, 2005, all remaining funds in the Employment Security Administrative Fund to the clearing account, after which the fund is abolished; repeals the section of the law regarding the Employment Security Administrative Fund January 1, 2006.

LOUISIANA

HB 443
(Act No. 234)

ENACTED June 29, 2005
EFFECTIVE January 1, 2006

Financing

Amends state law to include SUTA dumping prevention provisions which:

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MAINE

HB 233
(P.L. No. 454)

ENACTED and EFFECTIVE June 24, 2005

Administration

Requires the agency to develop an education and training pilot program for unemployed part-time workers by October 1, 2005; requires a report with recommendations and legislation to make permanent 'the program' for unemployed part-time workers by January 15, 2006.

Nonmonetary Eligibility

Extends the application and eligibility of unemployed part-time workers from September 30, 2005, to September 30, 2008, until the worker's benefits are exhausted under these applications.

MARYLAND

HB 1567
(CH 610)

ENACTED May 26, 2005
EFFECTIVE July 1, 2005

Financing

Amends state law to include SUTA dumping prevention provisions which:

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prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes;

provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

Applicable to the assignment of contribution rates effective on or after January 1, 2006.

MARYLAND

SB 719
(CH 506)

ENACTED May 26, 2005
EFFECTIVE October 1, 2005

Coverage

Excludes from coverage, under certain conditions, work performed by an owner operator of a Class F tractor vehicle or Class E truck vehicle.

MISSOURI

HB 500

ENACTED July 6, 2005
EFFECTIVE January 1, 2006

Financing

Amends state law to include SUTA dumping prevention provisions which:

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prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes;

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provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

OREGON HB 2125 ENACTED and EFFECTIVE June 8, 2005
 (CH 181)

Financing

Applies the noncharging of benefits provisions to contributing Indian tribes, except that one-half the cost of extended benefits must be charged to contributing Indian tribes.

OREGON HB 2662 ENACTED and EFFECTIVE June 20, 2005
 (CH 278)

Nonmonetary Eligibility

Modifies the domestic violence provision by providing that an individual may not be disqualified from receiving benefits for voluntarily leaving work, failing to apply for available suitable work when referred, or failing to accept suitable work when offered without good cause if:

the individual is a victim or is the parent or guardian of a minor child who is a victim of domestic violence, stalking, or sexual assault;
the individual leaves work, fails to apply for available suitable work or fails to accept suitable work when offered to protect the individual or the minor child from further domestic violence, stalking or sexual assault that the individual reasonably believes will occur at the workplace or elsewhere; and
the individual pursues reasonable available alternatives to leaving work, failing to apply for available suitable work or failing to accept suitable work when offered.

OREGON SB 323 ENACTED and EFFECTIVE July 15, 2005
 (CH 533)

Coverage

Redefines the term "independent contractor" for purposes of the unemployment law.

Excludes from the definition of "employment" services performed by an individual as a stringer, correspondent, or photographer for print or broadcast media who submits information, stories or pictures by the piece or at a flat rate to newspapers, special

publications, television or radio if the individual is free from direction and control over the means and manner of providing the services; exemption does not apply to services performed for a nonprofit employing unit for Oregon, for a political subdivision of Oregon or for an Indian tribe.

RHODE ISLAND	HB 5914 (P.L. No. 306)	SB 697 (P.L. No. 290)	ENACTED July 15, 2005 EFFECTIVE January 1, 2006
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Financing

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provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

TEXAS	HB 1745 (CH 592)	ENACTED June 17, 2005 EFFECTIVE September 1, 2005
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Nonmonetary Eligibility

Specifies that an individual who last worked for a temporary help firm is not considered unemployed until 3 business days have passed since the last assignment ended.

TEXAS	HB 2273 (CH 1104)	ENACTED June 18, 2005 EFFECTIVE September 1, 2005
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Monetary Entitlement

Adjusts the computed weekly benefit amount by rounding down to the nearest multiple of \$1.00 if the amount includes 1 to 49 cents, and rounding up if that amount includes 50 to 99 cents.

Limits an increase in the maximum weekly benefit amount to \$14 in any year and an increase to \$1 for the minimum weekly benefit amount.

TEXAS	HB 3250 (CH 1315)	ENACTED June 18, 2005 EFFECTIVE September 1, 2005
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Financing

Amends state law to include SUTA dumping prevention provisions which:

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provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.

VERMONT

HB 71
(Act No. 41)

ENACTED and EFFECTIVE June 7, 2005

Financing

Amends state law to include SUTA dumping prevention provisions which:

mandate transfer of experience from one employer to another when there is substantially common ownership, management, or control; apply to both total and partial transfers;

prohibit transfer of experience if a person becomes an employer by acquiring an existing business and if the purpose of the acquisition is to obtain a lower contribution rate; apply to persons, who prior to the acquisition of the business, (a) had no employees and (b) had some employees but not enough to be an employer for state law purposes;

provide meaningful civil and criminal penalties for knowingly violating or attempting to violate the law's requirements, and for knowingly advising to violate the law; and establish procedures to identify the transfer or acquisition of a business for purposes of the law.