



Senate

General Assembly

File No. 25

January Session, 2011

Substitute Senate Bill No. 97

Senate, March 7, 2011

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE DENIAL OF UNEMPLOYMENT
COMPENSATION BENEFITS TO CERTAIN DRIVERS WHO ARE
UNEMPLOYED AS A RESULT OF BEING DENIED A SPECIAL
OPERATOR'S PERMIT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-236 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (a) An individual shall be ineligible for benefits:

5 (1) If the administrator finds that the individual has failed without
6 sufficient cause either to apply for available, suitable work when
7 directed so to do by the Public Employment Bureau or the
8 administrator, or to accept suitable employment when offered by the
9 Public Employment Bureau or by an employer, such ineligibility to
10 continue until such individual has returned to work and has earned at
11 least six times such individual's benefit rate. Suitable work means

12 either employment in the individual's usual occupation or field or
13 other work for which the individual is reasonably fitted, provided such
14 work is within a reasonable distance of the individual's residence. In
15 determining whether or not any work is suitable for an individual, the
16 administrator may consider the degree of risk involved to such
17 individual's health, safety and morals, such individual's physical
18 fitness and prior training and experience, such individual's skills, such
19 individual's previous wage level and such individual's length of
20 unemployment, but, notwithstanding any other provision of this
21 chapter, no work shall be deemed suitable nor shall benefits be denied
22 under this chapter to any otherwise eligible individual for refusing to
23 accept work under any of the following conditions: (A) If the position
24 offered is vacant due directly to a strike, lockout or other labor dispute;
25 (B) if the wages, hours or other conditions of work offered are
26 substantially less favorable to the individual than those prevailing for
27 similar work in the locality; (C) if, as a condition of being employed,
28 the individual would be required to join a company union or to resign
29 from or refrain from joining any bona fide labor organization; (D) if the
30 position offered is for work which commences or ends between the
31 hours of one and six o'clock in the morning if the administrator finds
32 that such work would constitute a high degree of risk to the health,
33 safety or morals of the individual, or would be beyond the physical
34 capabilities or fitness of the individual or there is no suitable
35 transportation available from the individual's home to or from the
36 individual's place of employment; or (E) if, as a condition of being
37 employed, the individual would be required to agree not to leave such
38 position if recalled by the individual's former employer;

39 (2) (A) If, in the opinion of the administrator, the individual has left
40 suitable work voluntarily and without good cause attributable to the
41 employer, until such individual has earned at least ten times such
42 individual's benefit rate, provided whenever an individual voluntarily
43 leaves part-time employment under conditions that would render the
44 individual ineligible for benefits, such individual's ineligibility shall be
45 limited as provided in subsection (b) of this section, if applicable, and
46 provided further, no individual shall be ineligible for benefits if the

47 individual leaves suitable work (i) for good cause attributable to the
48 employer, including leaving as a result of changes in conditions
49 created by the individual's employer, (ii) to care for the individual's
50 spouse, child, or parent with an illness or disability, as defined in
51 subdivision (16) of this subsection, (iii) due to the discontinuance of
52 transportation, other than the individual's personally owned vehicle,
53 used to get to and from work, provided no reasonable alternative
54 transportation is available, (iv) to protect the individual, the
55 individual's child, the individual's spouse or the individual's parent
56 from becoming or remaining a victim of domestic violence, as defined
57 in section 17b-112a, provided such individual has made reasonable
58 efforts to preserve the employment, but the employer's account shall
59 not at any time be charged with respect to any voluntary leaving that
60 falls under subparagraph (A)(iv) of this subdivision, (v) for a
61 separation from employment that occurs on or after July 1, 2007, to
62 accompany a spouse who is on active duty with the armed forces of
63 the United States and is required to relocate by the armed forces, but
64 the employer's account shall not at any time be charged with respect to
65 any voluntary leaving that falls under subparagraph (A)(v) of this
66 subdivision, or (vi) to accompany such individual's spouse to a place
67 from which it is impractical for such individual to commute due to a
68 change in location of the spouse's employment, but the employer's
69 account shall not be charged with respect to any voluntary leaving
70 under subparagraph (A)(vi) of this subdivision; or (B) if, in the opinion
71 of the administrator, the individual has been discharged or suspended
72 for felonious conduct, conduct constituting larceny of property or
73 service, the value of which exceeds twenty-five dollars, or larceny of
74 currency, regardless of the value of such currency, wilful misconduct
75 in the course of the individual's employment, or participation in an
76 illegal strike, as determined by state or federal laws or regulations,
77 until such individual has earned at least ten times the individual's
78 benefit rate; provided an individual who (i) while on layoff from
79 regular work, accepts other employment and leaves such other
80 employment when recalled by the individual's former employer, (ii)
81 leaves work that is outside the individual's regular apprenticeable

82 trade to return to work in the individual's regular apprenticeable trade,
83 (iii) has left work solely by reason of governmental regulation or
84 statute, or (iv) leaves part-time work to accept full-time work, shall not
85 be ineligible on account of such leaving and the employer's account
86 shall not at any time be charged with respect to such separation, unless
87 such employer has elected payments in lieu of contributions;

88 (3) During any week in which the administrator finds that the
89 individual's total or partial unemployment is due to the existence of a
90 labor dispute other than a lockout at the factory, establishment or other
91 premises at which the individual is or has been employed, provided
92 the provisions of this subsection do not apply if it is shown to the
93 satisfaction of the administrator that (A) the individual is not
94 participating in or financing or directly interested in the labor dispute
95 that caused the unemployment, and (B) the individual does not belong
96 to a trade, class or organization of workers, members of which,
97 immediately before the commencement of the labor dispute, were
98 employed at the premises at which the labor dispute occurred, and are
99 participating in or financing or directly interested in the dispute; or (C)
100 the individual's unemployment is due to the existence of a lockout. A
101 lockout exists whether or not such action is to obtain for the employer
102 more advantageous terms when an employer (i) fails to provide
103 employment to its employees with whom the employer is engaged in a
104 labor dispute, either by physically closing its plant or informing its
105 employees that there will be no work until the labor dispute has
106 terminated, or (ii) makes an announcement that work will be available
107 after the expiration of the existing contract only under terms and
108 conditions that are less favorable to the employees than those current
109 immediately prior to such announcement; provided in either event the
110 recognized or certified bargaining agent shall have advised the
111 employer that the employees with whom the employer is engaged in
112 the labor dispute are ready, able and willing to continue working
113 pending the negotiation of a new contract under the terms and
114 conditions current immediately prior to such announcement;

115 (4) During any week with respect to which the individual has

116 received or is about to receive remuneration in the form of (A) wages
117 in lieu of notice or dismissal payments, including severance or
118 separation payment by an employer to an employee beyond the
119 employee's wages upon termination of the employment relationship,
120 unless the employee was required to waive or forfeit a right or claim
121 independently established by statute or common law, against the
122 employer as a condition of receiving the payment, or any payment by
123 way of compensation for loss of wages, or any other state or federal
124 unemployment benefits, except mustering out pay, terminal leave pay
125 or any allowance or compensation granted by the United States under
126 an Act of Congress to an ex-serviceperson in recognition of the ex-
127 serviceperson's former military service, or any service-connected pay
128 or compensation earned by an ex-serviceperson paid before or after
129 separation or discharge from active military service, or (B)
130 compensation for temporary disability under any workers'
131 compensation law;

132 (5) Repealed by P.A. 73-140;

133 (6) If the administrator finds that the individual has left
134 employment to attend a school, college or university as a regularly
135 enrolled student, such ineligibility to continue during such attendance;

136 (7) Repealed by P.A. 74-70, S. 2, 4;

137 (8) If the administrator finds that, having received benefits in a prior
138 benefit year, the individual has not again become employed and been
139 paid wages since the commencement of said prior benefit year in an
140 amount equal to the greater of three hundred dollars or five times the
141 individual's weekly benefit rate by an employer subject to the
142 provisions of this chapter or by an employer subject to the provisions
143 of any other state or federal unemployment compensation law;

144 (9) If the administrator finds that the individual has retired and that
145 such retirement was voluntary, until the individual has again become
146 employed and has been paid wages in an amount required as a
147 condition of eligibility as set forth in subdivision (3) of section 31-235;

148 except that the individual is not ineligible on account of such
149 retirement if the administrator finds (A) that the individual has retired
150 because (i) such individual's work has become unsuitable considering
151 such individual's physical condition and the degree of risk to such
152 individual's health and safety, and (ii) such individual has requested of
153 such individual's employer other work that is suitable, and (iii) such
154 individual's employer did not offer such individual such work, or (B)
155 that the individual has been involuntarily retired;

156 (10) Repealed by P.A. 77-426, S. 6, 19;

157 (11) Repealed by P.A. 77-426, S. 6, 19;

158 (12) Repealed by P.A. 77-426, S. 17, 19;

159 (13) If the administrator finds that, having been sentenced to a term
160 of imprisonment of thirty days or longer and having commenced
161 serving such sentence, the individual has been discharged or
162 suspended during such period of imprisonment, until such individual
163 has earned at least ten times such individual's benefit rate;

164 (14) If the administrator finds that the individual has been
165 discharged or suspended because the individual has been disqualified
166 under state or federal law from performing the work for which such
167 individual was hired as a result of a drug or alcohol testing program
168 mandated by and conducted in accordance with such law, until such
169 individual has earned at least ten times such individual's benefit rate;

170 (15) If the individual is a temporary employee of a temporary help
171 service and the individual refuses to accept suitable employment when
172 it is offered by such service upon completion of an assignment until
173 such individual has earned at least six times such individual's benefit
174 rate; [and]

175 (16) If the administrator finds that the individual employed as an
176 operator of a motor vehicle for which a public passenger
177 transportation permit or commercial driver's license is required was
178 discharged for denial, suspension or revocation of a special operator's

179 permit pursuant to section 14-37a; and

180 [(16)] (17) For purposes of subparagraph (A)(ii) of subdivision (2) of
181 this subsection, "illness or disability" means an illness or disability
182 diagnosed by a health care provider that necessitates care for the ill or
183 disabled person for a period of time longer than the employer is
184 willing to grant leave, paid or otherwise, and "health care provider"
185 means (A) a doctor of medicine or osteopathy who is authorized to
186 practice medicine or surgery by the state in which the doctor practices;
187 (B) a podiatrist, dentist, psychologist, optometrist or chiropractor
188 authorized to practice by the state in which such person practices and
189 performs within the scope of the authorized practice; (C) an advanced
190 practice registered nurse, nurse practitioner, nurse midwife or clinical
191 social worker authorized to practice by the state in which such person
192 practices and performs within the scope of the authorized practice; (D)
193 Christian Science practitioners listed with the First Church of Christ,
194 Scientist in Boston, Massachusetts; (E) any medical practitioner from
195 whom an employer or a group health plan's benefits manager will
196 accept certification of the existence of a serious health condition to
197 substantiate a claim for benefits; (F) a medical practitioner, in a practice
198 enumerated in subparagraphs (A) to (E), inclusive, of this subdivision,
199 who practices in a country other than the United States, who is
200 licensed to practice in accordance with the laws and regulations of that
201 country; or (G) such other health care provider as the Labor
202 Commissioner approves, performing within the scope of the
203 authorized practice. For purposes of subparagraph (B) of subdivision
204 (2) of this subsection, "wilful misconduct" means deliberate
205 misconduct in wilful disregard of the employer's interest, or a single
206 knowing violation of a reasonable and uniformly enforced rule or
207 policy of the employer, when reasonably applied, provided such
208 violation is not a result of the employee's incompetence and provided
209 further, in the case of absence from work, "wilful misconduct" means
210 an employee must be absent without either good cause for the absence
211 or notice to the employer which the employee could reasonably have
212 provided under the circumstances for three separate instances within a
213 twelve-month period. Except with respect to tardiness, for purposes of

214 subparagraph (B) of subdivision (2) of this subsection, each instance in
215 which an employee is absent for one day or two consecutive days
216 without either good cause for the absence or notice to the employer
217 which the employee could reasonably have provided under the
218 circumstances constitutes a "separate instance". For purposes of
219 subdivision (15) of this subsection, "temporary help service" means any
220 person conducting a business that consists of employing individuals
221 directly for the purpose of furnishing part-time or temporary help to
222 others; and "temporary employee" means an employee assigned to
223 work for a client of a temporary help service.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	31-236(a)

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Labor Dept.	UCF - Savings	Potential	Potential

Note: UCF=Unemployment Compensation Fund

Municipal Impact: None

Explanation

The bill results in a potential savings to the Unemployment Compensation Fund by prohibiting unemployment compensation benefits for individuals who become unemployed because they were denied a special operator's permit. The average weekly unemployment compensation benefit in Connecticut is \$295.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: 4th Quarter Unemployment Compensation Figures, Connecticut Department of Labor

OLR Bill Analysis**sSB 97*****AN ACT CONCERNING THE DENIAL OF UNEMPLOYMENT COMPENSATION BENEFITS TO CERTAIN DRIVERS WHO ARE UNEMPLOYED AS A RESULT OF BEING DENIED A SPECIAL OPERATOR'S PERMIT.*****SUMMARY:**

This bill prohibits a claimant from receiving unemployment benefits if the claimant (1) needed a public passenger transportation permit (see "BACKGROUND") or commercial driver's license (CDL) to perform his or her job and (2) lost that job because he or she was denied a special operator's permit. A CDL is required to drive buses, large trucks, and vehicles carrying hazardous material.

Special operator's permits can be granted to someone with a suspended driver's license and allow the person to drive (1) to and from work, (2) in connection with work if necessary, or (3) to and from school. Work-related special operator's permits are not permitted for any driving that requires a public passenger transportation permit or CDL. A work-related special operator's permit also will be denied if the license suspension was due to (1) a failure to appear in court, (2) driving with a suspended license, (3) prior convictions for driving under the influence of alcohol and drugs.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Pursuant to P.A. 93-341, the Department of Motor Vehicles (DMV) no longer issues public passenger transportation permits, but instead issues various endorsements to non-commercial driver's licenses. In practice, the DMV interprets references to public passenger transportation permits to include endorsements "V" and "F" on non-

commercial licenses. Endorsement "V" allows a driver to transport students to or from school, school programs, or school sponsored events in a vehicle other than a registered school bus. Endorsement "F" applies to taxicabs and livery services.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 11 Nay 0 (02/24/2011)