General Assembly

Committee Bill No. 711

January Session, 2021

LCO No. 4120

Referred to Committee on COMMERCE

Introduced by:

(CE)

AN ACT CONCERNING COVID-19 RELIEF FOR SMALL BUSINESSES
AND REQUIRING FEDERAL REGULATORY ANALYSIS FOR
PROPOSED STATE REGULATIONS.

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

Section 1. Subsection (c) of section 31-225a of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2021):

(c) (1) (A) Any week for which the employer has compensated the claimant in the form of wages in lieu of notice, dismissal payments or any similar payment for loss of wages shall be considered a week of employment for the purpose of determining employer chargeability. (B) No benefits shall be charged to any employer who paid wages of five hundred dollars or less to the claimant in his or her base period. (C) No dependency allowance paid to a claimant shall be charged to any employer. (D) In the event of a natural disaster declared by the President of the United States, no benefits paid on the basis of total or partial unemployment which is the result of physical damage to a place of employment caused by severe weather conditions including, but not
limited to, hurricanes, snow storms, ice storms or flooding, or fire except where caused by the employer, shall be charged to any employer. (E) If the administrator finds that (i) an individual's most recent separation from a base period employer occurred under conditions which would result in disqualification by reason of subdivision (2), (6) or (9) of subsection (a) of section 31-236, or (ii) an individual was discharged for violating an employer's drug testing policy, provided the policy has been adopted and applied consistent with sections 31-51t to 31-51aa, inclusive, section 14-261b and any applicable federal law, no benefits paid thereafter to such individual with respect to any week of unemployment which is based upon wages paid by such employer with respect to employment prior to such separation shall be charged to such employer's account, provided such employer shall have filed a notice with the administrator within the time allowed for appeal in section 31-241. (F) No base period employer's account shall be charged with respect to benefits paid to a claimant if such employer continues to employ such claimant at the time the employer's account would otherwise have been charged to the same extent that he or she employed him or her during the individual's base period, provided the employer shall notify the administrator within the time allowed for appeal in section 31-241. (G) If a claimant has failed to accept suitable employment under the provisions of subdivision (1) of subsection (a) of section 31-236 and the disqualification has been imposed, the account of the employer who makes an offer of employment to a claimant who was a former employee shall not be charged with any benefit payments made to such claimant after such initial offer of reemployment until such time as such claimant resumes employment with such employer, provided such employer shall make application therefor in a form acceptable to the administrator. The administrator shall notify such employer whether or not his or her application is granted. Any decision of the administrator denying suspension of charges as herein provided may be appealed within the time allowed for appeal in section 31-241. (H) Fifty per cent of benefits paid to a claimant under the federal-state extended duration unemployment benefits program established by the federal Employment Security Act shall be charged to the experience accounts of...
the claimant's base period employers in the same manner as the regular
benefits paid for such benefit year. (I) No base period employer's
account shall be charged with respect to benefits paid to a claimant who
voluntarily left suitable work with such employer (i) to care for a
seriously ill spouse, parent or child or (ii) due to the discontinuance of
the transportation used by the claimant to get to and from work, as
provided in subparagraphs (A)(ii) and (A)(iii) of subdivision (2) of
subsection (a) of section 31-236. (J) No base period employer's account
shall be charged with respect to benefits paid to a claimant who has been
discharged or suspended because the claimant has been disqualified
from performing the work for which he or she was hired due to the loss
of such claimant's operator license as a result of a drug or alcohol test or
testing program conducted in accordance with section 14-44k, 14-227a
or 14-227b while the claimant was off duty. (K) No base period
employer's account shall be charged with respect to benefits paid to a
claimant due to partial or total unemployment that the Labor
Commissioner, or his or her designee, determines are attributable to
COVID-19, including, but not limited to, benefits paid to a claimant
who, through no fault of his or her own, becomes either partially or fully
unemployed during the public health and civil preparedness emergency
declared on March 10, 2020, and any period of extension or renewal. As
used in this subparagraph, "COVID-19" means the respiratory disease
designated by the World Health Organization on February 11, 2020, as
coronavirus 2019, and any related mutation thereof recognized by the
World Health Organization as a communicable respiratory disease.

(2) All benefits paid which are not charged to any employer shall be
pooled.

(3) The noncharging provisions of this chapter, except subdivisions
(1)(D) and (1)(F) of this subsection, shall not apply to reimbursing
employers.

Sec. 2. Subsection (c) of section 31-225a of the general statutes, as
amended by section 26 of public act 19-25 and section 235 of public act
19-117, is repealed and the following is substituted in lieu thereof
(Effective January 1, 2022):

(c) (1) (A) Any week for which the employer has compensated the claimant in the form of wages in lieu of notice, dismissal payments or any similar payment for loss of wages shall be considered a week of employment for the purpose of determining employer chargeability. (B) No benefits shall be charged to any employer who paid wages of five hundred dollars or less to the claimant in his or her base period. (C) No dependency allowance paid to a claimant shall be charged to any employer. (D) In the event of a natural disaster declared by the President of the United States, no benefits paid on the basis of total or partial unemployment which is the result of physical damage to a place of employment caused by severe weather conditions including, but not limited to, hurricanes, snow storms, ice storms or flooding, or fire except where caused by the employer, shall be charged to any employer. (E) If the administrator finds that (i) an individual's most recent separation from a base period employer occurred under conditions which would result in disqualification by reason of subdivision (2), (6) or (9) of subsection (a) of section 31-236, or (ii) an individual was discharged for violating an employer's drug testing policy, provided the policy has been adopted and applied consistent with sections 31-51t to 31-51aa, inclusive, section 14-261b and any applicable federal law, no benefits paid thereafter to such individual with respect to any week of unemployment which is based upon wages paid by such employer with respect to employment prior to such separation shall be charged to such employer's account, provided such employer shall have filed a notice with the administrator within the time allowed for appeal in section 31-241. (F) No base period employer's account shall be charged with respect to benefits paid to a claimant if such employer continues to employ such claimant at the time the employer's account would otherwise have been charged to the same extent that he or she employed him or her during the individual's base period, provided the employer shall notify the administrator within the time allowed for appeal in section 31-241. (G) If a claimant has failed to accept suitable employment under the provisions of subdivision (1) of subsection (a) of section 31-236 and the
disqualification has been imposed, the account of the employer who makes an offer of employment to a claimant who was a former employee shall not be charged with any benefit payments made to such claimant after such initial offer of reemployment until such time as such claimant resumes employment with such employer, provided such employer shall make application therefor in a form acceptable to the administrator. The administrator shall notify such employer whether or not his or her application is granted. Any decision of the administrator denying suspension of charges as herein provided may be appealed within the time allowed for appeal in section 31-241. (H) Fifty per cent of benefits paid to a claimant under the federal-state extended duration unemployment benefits program established by the federal Employment Security Act shall be charged to the experience accounts of the claimant's base period employers in the same manner as the regular benefits paid for such benefit year. (I) No base period employer's account shall be charged with respect to benefits paid to a claimant who voluntarily left suitable work with such employer (i) to care for a seriously ill spouse, parent or child, or (ii) due to the discontinuance of the transportation used by the claimant to get to and from work, as provided in subparagraphs (A)(ii) and (A)(iii) of subdivision (2) of subsection (a) of section 31-236. (J) No base period employer's account shall be charged with respect to benefits paid to a claimant who has been discharged or suspended because the claimant has been disqualified from performing the work for which he or she was hired due to the loss of such claimant's operator license as a result of a drug or alcohol test or testing program conducted in accordance with section 14-44k, 14-227a or 14-227b while the claimant was off duty. (K) No base period employer's account shall be charged with respect to benefits paid to a claimant whose separation from employment is attributable to the return of an individual who was absent from work due to a bona fide leave taken pursuant to sections 31-49f to 31-49t, inclusive, or 31-51kk to 31-51qq, inclusive. (L) No base period employer's account shall be charged with respect to benefits paid to a claimant due to partial or total unemployment that the Labor Commissioner, or his or her designee, determines are attributable to COVID-19, including, but not limited to,
benefits paid to a claimant who, through no fault of his or her own, becomes either partially or fully unemployed during the public health and civil preparedness emergency declared on March 10, 2020, and any period of extension or renewal. As used in this subparagraph, "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

(2) All benefits paid which are not charged to any employer shall be pooled.

(3) The noncharging provisions of this chapter, except subparagraphs (D), (F) and (K) of subdivision (1) of this subsection, shall not apply to reimbursing employers.

Sec. 3. Section 12-412 of the general statutes is amended by adding subdivision (125) as follows (Effective July 1, 2021, and applicable to sales occurring on or after July 1, 2021):

(NEW) (125) Sales of and the storage, use or other consumption of personal protective equipment used or worn to prevent infection by or transmission of COVID-19 to any small business. For the purposes of this subdivision, (A) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease, and (B) "small business" means a corporation, limited liability company partnership, sole proprietorship or individual, operating a business for profit, which employs one hundred or fewer full-time employees, including employees employed in any subsidiary or affiliated corporation.

Sec. 4. Section 4-168a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2021):

(a) As used in this section:
(1) "Agency", "proposed regulation" and "regulation" have the same meanings as provided in section 4-166; and

(2) "Small business" means a business entity, including its affiliates, that (A) is independently owned and operated and (B) employs fewer than two hundred fifty full-time employees or has gross annual sales of less than five million dollars, except that an agency, in adopting regulations in accordance with the provisions of this chapter, may define "small business" to include a greater number of full-time employees, not to exceed applicable federal standards or five hundred, whichever is less, if necessary to meet the needs and address specific problems of small businesses.

(b) Prior to or concomitant with the posting of a notice pursuant to section 4-168, each agency shall prepare a regulatory flexibility analysis in which the agency shall identify:

(1) The scope and objectives of the proposed regulation;

(2) The types of businesses potentially affected by the proposed regulation;

(3) The total number of small businesses potentially subject to the proposed regulation;

(4) Whether small businesses, in order to comply with the proposed regulation, may be required to: (A) Create, file or issue additional reports; (B) implement additional recordkeeping procedures; (C) provide additional administrative oversight; (D) hire additional employees; (E) hire or contract with additional professionals, including, but not limited to, lawyers, accountants, engineers, auditors or inspectors; (F) purchase any product or make any capital investment; (G) conduct additional training, audits or inspections; or (H) pay additional taxes or fees;

(5) Whether and to what extent the agency communicated with small businesses or small business organizations in developing the proposed
regulation and the regulatory flexibility analysis, if applicable;

(6) Whether and to what extent the proposed regulation provides alternative compliance methods for small businesses that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. Such methods shall be consistent with public health, safety and welfare and may include, but not be limited to:

(A) The establishment of less stringent compliance or reporting requirements for small businesses;

(B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(C) The consolidation or simplification of compliance or reporting requirements for small businesses;

(D) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and

(E) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

(c) Prior to or concomitant with the posting of a notice pursuant to section 4-168, each agency shall prepare a federal regulatory analysis in which the agency shall identify:

(1) The scope and objectives of the proposed regulation;

(2) Each federal regulation that the agency determines has a comparable scope or objective to the proposed regulation;

(3) The differences between such federal regulation and the proposed regulation;

(4) Any adverse impact of such federal regulation on small
businesses; and

(5) Whether and to what extent the agency took steps to avoid such adverse impact on small businesses in developing the proposed regulation.

[(c)] (d) Prior to the adoption of any proposed regulation that may have an adverse impact on small businesses, each agency shall notify the Department of Economic and Community Development and the joint standing committee of the General Assembly having cognizance of matters relating to commerce of its intent to adopt the proposed regulation. Said department and committee shall advise and assist agencies in complying with the provisions of this section.

[(d)] (e) The requirements contained in this section shall not apply to emergency regulations issued pursuant to subsection (g) of section 4-168; regulations that do not affect small businesses directly, including, but not limited to, regulations concerning the administration of federal programs; regulations concerning costs and standards for service businesses such as nursing homes, long-term care facilities, medical care providers, child care centers, as described in section 19a-77, group child care homes, as described in section 19a-77, family child care homes, as described in section 19a-77, water companies, nonprofit 501(c)(3) agencies, group homes and residential care facilities; and regulations adopted to implement the provisions of sections 4a-60g to 4a-60i, inclusive.

Sec. 5. Subdivision (1) of subsection (b) of section 4-170 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2021):

(b) (1) No adoption, amendment or repeal of any regulation, except a regulation issued pursuant to subsection (g) of section 4-168, shall be effective until (A) an electronic copy of the proposed regulation approved by the Attorney General, as provided in section 4-169, [and] an electronic copy of the regulatory flexibility analysis, as provided in
section 4-168a, as amended by this act, and an electronic copy of the federal regulatory analysis, as provided in section 4-168a, as amended by this act, are submitted to the standing legislative regulation review committee in a manner designated by the committee, by the agency proposing the regulation, (B) the regulation is approved by the committee, at a regular meeting or a special meeting called for the purpose, and (C) a certified electronic copy of the regulation is submitted to the office of the Secretary of the State by the agency, as provided in section 4-172, and the regulation is posted on the eRegulations System by the Secretary. (2) The date of submission for purposes of subsection (c) of this section shall be the first Tuesday of each month. Any regulation received by the committee on or before the first Tuesday of a month shall be deemed to have been submitted on the first Tuesday of that month. Any regulation submitted after the first Tuesday of a month shall be deemed to be submitted on the first Tuesday of the next succeeding month. (3) The form of proposed regulations which are submitted to the committee shall be as follows: New language added to an existing regulation shall be underlined; language to be deleted shall be enclosed in brackets and a new regulation or new section of a regulation shall be preceded by the word "(NEW)" in capital letters. Each proposed regulation shall have a statement of its purpose following the final section of the regulation. (4) The committee may permit any proposed regulation, including, but not limited to, a proposed regulation which by reference incorporates in whole or in part, any other code, rule, regulation, standard or specification, to be submitted in summary form together with a statement of purpose for the proposed regulation. On and after October 1, 1994, if the committee finds that a federal statute requires, as a condition of the state exercising regulatory authority, that a Connecticut regulation at all times must be identical to a federal statute or regulation, then the committee may approve a Connecticut regulation that by reference specifically incorporates future amendments to such federal statute or regulation provided the agency that proposed the Connecticut regulation shall submit for approval amendments to such Connecticut regulations to the committee not later than thirty days after the effective
date of such amendment, and provided further the committee may hold
a public hearing on such Connecticut amendments. (5) The agency shall
also provide the committee with a copy of the fiscal note prepared
pursuant to subsection (a) of section 4-168. At the time of submission to
the committee, the agency shall submit an electronic copy of the
proposed regulation and the fiscal note to (A) the Office of Fiscal
Analysis which, not later than seven days after receipt, shall submit an
analysis of the fiscal note to the committee; and (B) each joint standing
committee of the General Assembly having cognizance of the subject
matter of the proposed regulation. No regulation shall be found invalid
due to the failure of an agency to submit an electronic copy of the
proposed regulation and the fiscal note to each committee of
cognizance, provided such regulation and fiscal note have been
electronically submitted to one such committee.

This act shall take effect as follows and shall amend the following sections:

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