

43: 21-4

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:21-4 (Agricultural workers-- unemployment benefits)

LAWS OF: 1987 **CHAPTER:** 391

Bill No: S3184

Sponsor(s): Van Wagner, Haines and Pallone

Date Introduced: April 23, 1987

Committee: **Assembly:** -----

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** January 7, 1988

Senate: November 12, 1987

Date of Approval: January 13, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

Report, referred to in statement:

974.90 Commission to Study the Hiring, Employment and Compensation of Agricultural
M636 Labor in New Jersey. Final report . . . June 30, 1987. Trenton, 1987.
1987a

SENATE, No. 3184

STATE OF NEW JERSEY

INTRODUCED APRIL 23, 1987

By Senators VAN WAGNER, HAINES and PALLONE

Referred to Committee on Labor, Industry and Professions

AN ACT concerning agricultural labor and amending R. S. 43:21-4.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 43:21-4 is amended to read as follows:

2 43:21-4. Benefit eligibility conditions. An unemployed indi-
3 vidual shall be eligible to receive benefits with respect to any week
4 only if:

5 (a) The individual has filed a claim at an unemployment
6 insurance claims office and thereafter continues to report at an
7 employment service office or unemployment insurance claims office,
8 as directed by the division in accordance with such regulations as
9 the division may prescribe, except that the division may, by
10 regulation, waive or alter either or both of the requirements of
11 this subsection as to individuals attached to regular jobs, and as
12 to such other types of cases or situations with respect to which the
13 division finds that compliance with such requirements would be
14 oppressive, or would be inconsistent with the purpose of this act;
15 provided that no such regulation shall conflict with subsection (a)
16 of R. S. 43:21-3.

17 (b) The individual has made a claim for benefits in accordance
18 with the provisions of subsection (a) of R. S. 43:21-6.

19 (c) (1) The individual is able to work, and is available for
20 work, and has demonstrated to be actively seeking work, except
21 as hereinafter provided in this subsection or in subsection (f) of
22 this section.

23 (2) The director may modify the requirement of actively seeking
24 work if such modification of this requirement is warranted by
25 economic conditions.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted November 9, 1987.

26 (3) No individual, who is otherwise eligible, shall be deemed
27 ineligible, or unavailable for work, because the individual is on
28 vacation, without pay, during said week, if said vacation is not the
29 result of the individual's own action as distinguished from any
30 collective action of a collective bargaining agent or other action
31 beyond the individual's control.

32 (4) Subject to such limitations and conditions as the division
33 may prescribe, an individual, who is otherwise eligible, shall not be
34 deemed unavailable for work or ineligible because the individual
35 is attending a training program approved for the individual by
36 the division to enhance the individual's employment opportunities
37 or because the individual failed or refused to accept work while
38 attending such program.

39 (5) An unemployed individual, who is otherwise eligible, shall
40 not be deemed unavailable for work or ineligible solely by reason
41 of the individual's attendance before a court in response to a sum-
42 mons for service on a jury.

43 (d) The individual has been totally or partially unemployed
44 for a waiting period of one week in the benefit year which includes
45 that week. When benefits become payable with respect to the third
46 consecutive week next following the waiting period, the individual
47 shall be eligible to receive benefits as appropriate with respect to
48 the waiting period. No week shall be counted as a week of unem-
49 ployment for the purposes of this subsection:

50 (1) If benefits have been paid, or are payable with respect
51 thereto; provided that the requirements of this paragraph shall
52 be waived with respect to any benefits paid or payable for a
53 waiting period as provided in this subsection;

54 (2) If it has constituted a waiting period week under the [tempo-
55 rary disability benefits law;] "*Temporary Disability Benefits*
56 *Law*;"

57 (3) Unless the individual fulfills the requirements of subsections
58 (a) and (c) of this section;

59 (4) If with respect thereto, claimant was disqualified for benefits
60 in accordance with the provisions of subsection (d) of R. S. 43:21-5.

61 (e) (1) With respect to a base year as defined in subsection (c)
62 of R. S. 43:21-19, the individual has established at least 20 base
63 weeks as defined in paragraph (1) of subsection (t) of R. S.
64 43:21-19, or, in those instances in which the individual has not
65 established 20 base weeks, the individual has earned \$2,200.00 for
66 benefit years commencing prior to October 1, 1984; and, except as
67 otherwise provided in paragraph (2) or paragraph (3) of this sub-
68 section, for benefit years commencing on or after October 1, 1984,

147 *pensation law;*” except that, notwithstanding any other provisions
 148 of the [Unemployment Compensation Law:] “*unemployment com-*
 149 *pensation law*.” [;] * * :”

150 (1) With respect to service performed after December 31, 1977,
 151 in an instructional research, or principal administrative capacity
 152 for an educational institution, benefits shall not be paid based on
 153 such services for any week of unemployment commencing during
 154 the period between two successive academic years, or during a
 155 similar period between two regular terms, whether or not succes-
 156 sive, or during a period of paid sabbatical leave provided for in the
 157 individual’s contract, to any individual if such individual performs
 158 such services in the first of such academic years (or terms) and if
 159 there is a contract or a reasonable assurance that such individual
 160 will perform services in any such capacity for any educational
 161 institution in the second of such academic years or terms;

162 (2) With respect to weeks of unemployment beginning after
 163 September 3, 1982, on the basis of service performed in any other
 164 capacity for an educational institution, benefits shall not be paid on
 165 the basis of such services to any individual for any week which
 166 commences during a period between two successive academic years
 167 or terms if such individual performs such services in the first of
 168 such academic years or terms and there is a reasonable assurance
 169 that such individual will perform such services in the second of
 170 such academic years or terms, except that if benefits are denied
 171 to any individual under this paragraph (2) and the individual was
 172 not offered an opportunity to perform these services for the edu-
 173 cational institution for the second of any academic years or terms,
 174 the individual shall be entitled to a retroactive payment of benefits
 175 for each week for which the individual filed a timely claim for
 176 benefits and for which benefits were denied solely by reason of
 177 this clause;

178 (3) With respect to those services described in paragraphs (1)
 179 and (2) above, benefits shall not be paid on the basis of such ser-
 180 vices to any individual for any week which commences during an
 181 established and customary vacation period or holiday recess if such
 182 individual performs such services in the period immediately before
 183 such vacation period or holiday recess, and there is a reasonable
 184 assurance that such individual will perform such services in
 185 the period immediately following such period or holiday recess;

186 (4) With respect to any services described in paragraphs (1)
 187 and (2) above, benefits shall not be paid as specified in paragraphs
 188 (1), (2), and (3) above to any individual who performed those
 189 services in an educational institution while in the employ of an

190 educational service agency, and for this purpose the term "educa-
191 tional service agency" means a governmental agency or govern-
192 mental entity which is established and operated exclusively for the
193 purpose of providing those services to one or more educational
194 institutions.

195 (h) Benefits shall not be paid to any individual on the basis of
196 any services, substantially all of which consist of participating in
197 sports or athletic events or training or preparing to so participate,
198 for any week which commences during the period between two
199 successive sports seasons (or similar periods) if such individual
200 performed such services in the first of such seasons (or similar
201 periods) and there is a reasonable assurance that such individual
202 will perform such services in the later of such seasons (or similar
203 periods).

204 (i) (1) Benefits shall not be paid on the basis of services per-
205 formed by an alien unless such alien is an individual who was
206 lawfully admitted for permanent residence at the time the ser-
207 vices were performed and was lawfully present for the pur-
208 pose of performing the services or otherwise was permanently
209 residing in the United States under color of law at the time the
210 services were performed (including an alien who is lawfully present
211 in the United States as a result of the application of the provisions
212 of section 203 (a) (7) or section 212 (d) (5) of the Immigration
213 and Nationality Act); provided that any modifications of the pro-
214 visions of section 3304 (a) (14) of the federal Unemployment Tax
215 Act, as provided by Public Law 94-566, which specify other condi-
216 tions or other effective dates than stated herein for the denial of
217 benefits based on services performed by aliens and which modifica-
218 tions are required to be implemented under State law as a condition
219 for full tax credit against the tax imposed by the federal Unem-
220 ployment Tax Act, shall be deemed applicable under the provisions
221 of this section.

222 (2) Any data or information required of individuals applying
223 for benefits to determine whether benefits are not payable to them
224 because of their alien status shall be uniformly required from all
225 applicants for benefits.

226 (3) In the case of an individual whose application for benefits
227 would otherwise be approved, no determination that benefits to
228 such individual are not payable because of alien status shall be
229 made except upon a preponderance of the evidence.

230 (j) Notwithstanding any other provision of this chapter, the
231 director may, to the extent that it may be deemed efficient and

STATEMENT

This bill is a recommendation of the Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey established by P. L. 1985, c. 508.

The bill makes permanent the temporary provision under the "unemployment compensation law" which provides for a special alternate earnings test for agricultural workers. As well as being able to qualify for unemployment benefits in the same manner as other workers, agricultural workers can qualify for benefits if they have worked for 770 hours of covered employment during the agricultural season.

WORKERS' AND UNEMPLOYMENT COMPENSATION

Provides permanent alternate earnings test for unemployment benefits for agricultural workers.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 3184

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 26, 1987

This bill concerns the standards used in determining the eligibility of a claimant for unemployment compensation benefits on the basis of services performed in the production and harvesting of agricultural crops. Under current law, such a claimant would be deemed eligible for benefits on the basis of those services if the claimant during his base year:

(1) Established at least 20 base weeks pursuant to paragraph (1) of subsection (t) of R. S. 43:21-19; or

(2) Earned 12 times the State average weekly wage as determined under R. S. 43:21-3; or

(3) Performed at least 770 hours of service in the production and harvesting of agricultural crops.

These eligibility requirements, however, apply only to claims based upon agricultural services, which were filed on or after October 1, 1985 and before October 1, 1987. The bill, by removing the provisions of the law relating to the years during which such a claim may be filed and deemed valid under the standards set forth above, makes the alternate earnings test for agricultural workers a permanent feature of the State's "unemployment compensation law."

The bill is a recommendation of the "Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey" established by P. L. 1985, c. 508.