



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Michael J. Madigan

SYNOPSIS AS INTRODUCED:

820 ILCS 405/205

from Ch. 48, par. 315

Amends the Unemployment Insurance Act. Makes a stylistic change in a provision concerning the definition of "employer".

LRB093 17206 WGH 42872 b

1 AN ACT in relation to unemployment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 205 as follows:

6 (820 ILCS 405/205) (from Ch. 48, par. 315)

7 Sec. 205. "Employer" means:

8 A. With respect to the years 1937, 1938, and 1939, any
9 employing unit which has or had in employment 8 ~~eight~~ or more
10 individuals on some portion of a day, but not necessarily
11 simultaneously, and irrespective of whether the same
12 individuals are or were employed on each such day within each
13 of twenty or more calendar weeks, whether or not such weeks are
14 or were consecutive, within either the current or preceding
15 calendar year;

16 B. 1. With respect to the years 1940 through 1955,
17 inclusive, any employing unit which has or had in employment
18 six or more individuals within each of twenty or more calendar
19 weeks (but not necessarily simultaneously and irrespective of
20 whether the same individuals are or were employed in each such
21 week), whether or not such weeks are or were consecutive,
22 within either the current or preceding calendar year;

23 2. With respect to the years 1956 through 1971, inclusive,
24 any employing unit which has or had in employment four or more
25 individuals within each of twenty or more calendar weeks (but
26 not necessarily simultaneously and irrespective of whether the
27 same individuals are or were employed in each such week),
28 whether or not such weeks are or were consecutive, within
29 either the current or preceding calendar year;

30 3. With respect to the years 1972 and thereafter, except as
31 provided in subsection K and in Section 301, any employing unit
32 which (1) pays or paid, for services in employment, wages of at

1 least \$1500 within any calendar quarter in either the current
2 or preceding calendar year; or (2) has or had in employment at
3 least one individual on some portion of a day, irrespective of
4 whether the same individual is or was employed on each such
5 day, within each of twenty or more calendar weeks, whether or
6 not such weeks are or were consecutive, within either the
7 current or preceding calendar year;

8 4. With respect to the years 1972 and thereafter, any
9 nonprofit organization as defined in Section 211.2, except as
10 provided in subsection K and in Section 301;

11 5. With respect to the years 1972 and thereafter, the State
12 of Illinois and each of its instrumentalities; and with respect
13 to the years 1978 and thereafter, each governmental entity
14 referred to in clause (B) of Section 211.1, except as provided
15 in Section 301;

16 6. With respect to the years 1978 and thereafter, any
17 employing unit for which service in agricultural labor is
18 performed in employment as defined in Section 211.4, except as
19 provided in subsection K and in Section 301;

20 7. With respect to the years 1978 and thereafter, any
21 employing unit for which domestic service is performed in
22 employment as defined in Section 211.5, except as provided in
23 subsection K and in Section 301;

24 C. Any individual or employing unit which succeeded to the
25 organization, trade, or business of another employing unit
26 which at the time of such succession was an employer, and any
27 individual or employing unit which succeeded to the
28 organization, trade, or business of any distinct severable
29 portion of another employing unit, which portion, if treated as
30 a separate employing unit, would have been, at the time of the
31 succession, an employer under subsections A or B of this
32 Section;

33 D. Any individual or employing unit which succeeded to any
34 of the assets of an employer or to any of the assets of a
35 distinct severable portion thereof, if such portion, when
36 treated as a separate employing unit would be an employer under

1 subsections A or B of this Section, by any means whatever,
2 otherwise than in the ordinary course of business, unless and
3 until it is proven in any proceeding where such issue is
4 involved that all of the following exist:

5 1. The successor unit has not assumed a substantial
6 amount of the predecessor unit's obligations; and

7 2. The successor unit has not acquired a substantial
8 amount of the predecessor unit's good will; and

9 3. The successor unit has not continued or resumed a
10 substantial part of the business of the predecessor unit in
11 the same establishment;

12 E. Any individual or employing unit which succeeded to the
13 organization, trade, or business, or to any of the assets of a
14 predecessor unit (unless and until it is proven in any
15 proceeding where such issue is involved that all the conditions
16 enumerated in subsection D of this Section exist), if the
17 experience of the successor unit subsequent to such succession
18 plus the experience of the predecessor unit prior to such
19 succession, both within the same calendar year, would equal the
20 experience necessary to constitute an employing unit an
21 employer under subsections A or B of this Section;

22 For the purposes of this subsection, the term "predecessor
23 unit" shall include any distinct severable portion of an
24 employing unit.

25 F. With respect to the years 1937 through 1955, inclusive,
26 any employing unit which together with one or more other
27 employing units is owned or controlled, directly or indirectly,
28 by legally enforceable means or otherwise, by the same
29 interests, or which owns or controls one or more other
30 employing units directly or indirectly, by legally enforceable
31 means or otherwise, and which if treated as a single unit with
32 such other employing units or interests or both would be an
33 employer under subsections A or B of this Section;

34 G. Any employing unit which, having become an employer
35 under subsections A, B, C, D, E, or F of this Section, has not,
36 under Section 301, ceased to be an employer;

1 H. For the effective period of its election pursuant to
2 Section 302, any other employing unit which has elected to
3 become fully subject to this Act;

4 I. Any employing unit which is an employer under Section
5 245;

6 J. Any employing unit which, having become an employer
7 under Section 245, has not, with respect to the year 1960 or
8 thereafter, ceased to be an employer under Section 301; or

9 J-1. On and after December 21, 2000, any Indian tribe for
10 which service in "employment" as defined under this Act is
11 performed.

12 K. In determining whether or not an employing unit for
13 which service other than domestic service is also performed is
14 an employer under paragraphs 3, 4, or 6 of subsection B, the
15 domestic service of an individual and the wages paid therefor
16 shall not be taken into account. In determining whether or not
17 an employing unit for which service other than agricultural
18 labor is also performed is an employer under paragraphs 4 or 7
19 of subsection B, the service of an individual in agricultural
20 labor and the wages paid therefor shall not be taken into
21 account. An employing unit which is an employer under paragraph
22 6 of subsection B is an employer under paragraph 3 of
23 subsection B.

24 (Source: P.A. 92-555, eff. 6-24-02.)