



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1395

Introduced 2/21/2007, by Rep. John D'Amico

SYNOPSIS AS INTRODUCED:

820 ILCS 405/205

from Ch. 48, par. 315

Amends the Unemployment Insurance Act. Makes a technical change in a Section concerning the definition of "employer".

LRB095 08621 WGH 28804 b

1 AN ACT concerning employment.

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 ~~the~~ years 1937, 1938, and 1939, any
9 employing unit which has or had in employment 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,

1 any employing unit which has or had in employment four or more
2 individuals within each of twenty or more calendar weeks (but
3 not necessarily simultaneously and irrespective of whether the
4 same individuals are or were employed in each such week),
5 whether or not such weeks are or were consecutive, within
6 either the current or preceding calendar year;

7 3. With respect to the years 1972 and thereafter, except as
8 provided in subsection K and in Section 301, any employing unit
9 which (1) pays or paid, for services in employment, wages of at
10 least \$1500 within any calendar quarter in either the current
11 or preceding calendar year; or (2) has or had in employment at
12 least one individual on some portion of a day, irrespective of
13 whether the same individual is or was employed on each such
14 day, within each of twenty or more calendar weeks, whether or
15 not such weeks are or were consecutive, within either the
16 current or preceding calendar year;

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

20 5. With respect to the years 1972 and thereafter, the State
21 of Illinois and each of its instrumentalities; and with respect
22 to the years 1978 and thereafter, each governmental entity
23 referred to in clause (B) of Section 211.1, except as provided
24 in Section 301;

25 6. With respect to the years 1978 and thereafter, any
26 employing unit for which service in agricultural labor is

1 performed in employment as defined in Section 211.4, except as
2 provided in subsection K and in Section 301;

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

7 C. Any individual or employing unit which succeeded to the
8 organization, trade, or business of another employing unit
9 which at the time of such succession was an employer, and any
10 individual or employing unit which succeeded to the
11 organization, trade, or business of any distinct severable
12 portion of another employing unit, which portion, if treated as
13 a separate employing unit, would have been, at the time of the
14 succession, an employer under subsections A or B of this
15 Section;

16 D. Any individual or employing unit which succeeded to any
17 of the assets of an employer or to any of the assets of a
18 distinct severable portion thereof, if such portion, when
19 treated as a separate employing unit would be an employer under
20 subsections A or B of this Section, by any means whatever,
21 otherwise than in the ordinary course of business, unless and
22 until it is proven in any proceeding where such issue is
23 involved that all of the following exist:

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

26 2. The successor unit has not acquired a substantial

1 amount of the predecessor unit's good will; and

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

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

15 For the purposes of this subsection, the term "predecessor
16 unit" shall include any distinct severable portion of an
17 employing unit.

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

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

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

7 I. Any employing unit which is an employer under Section
8 245;

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

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

15 K. In determining whether or not an employing unit for
16 which service other than domestic service is also performed is
17 an employer under paragraphs 3, 4, or 6 of subsection B, the
18 domestic service of an individual and the wages paid therefor
19 shall not be taken into account. In determining whether or not
20 an employing unit for which service other than agricultural
21 labor is also performed is an employer under paragraphs 4 or 7
22 of subsection B, the service of an individual in agricultural
23 labor and the wages paid therefor shall not be taken into
24 account. An employing unit which is an employer under paragraph
25 6 of subsection B is an employer under paragraph 3 of
26 subsection B.

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