

## U.S.

### ● SOCIAL SECURITY ACT; FEDERAL INSURANCE CONTRIBUTIONS ACT

*STATUTORY CITATION:* 42 USC §§ 401 – 434; 26 USC §§ 3101 – 3128

*GENERAL SUMMARY:* Among many other statutory purposes, the Social Security Act authorizes monthly cash payments to insured workers for long-term disability and retirement, as well as cash benefits for their survivors. Social Security benefits are financed through a tax on wages, authorized by the Federal Insurance Contributions Act and paid by employers, employees and the self-employed.

With a multitude of narrow exceptions, employers and employees are required to pay FICA taxes on all cash and non-cash wages paid to an employee, up to a current wage limit of \$127,200 per year (2017).

#### *PROVISIONS APPLICABLE TO AGRICULTURE*

**EMPLOYER CONTRIBUTIONS** — Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to pay FICA taxes on behalf of their agricultural employees. On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must pay FICA taxes on that worker's wages. The employer's share of the tax is currently 7.65 percent of each covered worker's wages, up to a taxable wage limit of \$127,200 per worker per year.

*Exception* — The \$2,500 wage threshold referred to above *does not include* wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

**WORKER CONTRIBUTIONS** — Workers who perform agricultural services for an employer whose annual expenditures for agricultural labor amount to at least \$2,500, or who receive \$150 or more in agricultural wages from the employer, are required to pay FICA taxes equal to the employer's share, or 7.65 percent of their wages. The employer must deduct the worker's share of FICA taxes from the worker's earnings each time wages are paid, and must regularly deposit the FICA taxes in a federal depository bank or forward them to the Internal Revenue Service. By early the following year, the employer must report the amount of wages paid and FICA taxes withheld to the Social Security Administration, for proper credit to the worker's earnings record. Compensation paid to the worker in any form other than cash (such as housing or transportation, for example) is not considered wages for Social Security purposes.

*Exception* — The \$2,500 wage threshold referred to above *does not include* wages paid to workers who (1) are employed as hand harvest laborers paid on a piecework basis in a generally recognized piecework operation in the region of employment, (2) commute to the employer's farm daily from their permanent residence, and (3) were employed in agriculture less than 13 weeks during the previous calendar year.

**BENEFITS** — A worker's eligibility for Social Security benefits, as well as the amount of those benefits, depends on the number of quarters of coverage the worker has accumulated as an employee. Workers may accrue up to four quarters of coverage in a year, provided their wages from FICA-covered employment equal or exceed the minimum required earnings in every quarterly period; in 2017, a worker must have at least \$1,300 in covered earnings to receive credit for a quarter of coverage. Farmworkers who have sufficient quarters of coverage and meet other eligibility requirements may qualify for full or reduced Social Security benefits, as determined through regular application processing procedures.

In general, disability benefits are payable only in the case of a disability that is expected to last at least 12 months or can be expected to result in death, and only when the worker meets the required period of covered employment. Retirement benefits are generally payable beginning at age 62, provided the worker has at least 40 quarters of coverage, or one quarter of coverage for each calendar year after age 21 and before age 62.

#### *SPECIAL NOTES OR ADVISORIES*

**LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS** — In cases where work is performed through the auspices or under the supervision of a crew leader or labor contractor, the question of who, if anyone, is responsible for collecting and matching FICA contributions on the worker's wages depends on the relationship between the crew leader or contractor and the farm operator. Unless the crew leader has entered into a written agreement with the farmer, under which the crew leader is designated as the farmer's employee, as long as the workers receive their pay from the crew leader, the workers are deemed to be employees of the crew leader. In such cases, the crew leader is responsible for withholding and paying the FICA contributions, if applicable.

#### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** – *Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710)*. Through its district offices, IRS is responsible for enforcing employer compliance with the Federal Insurance Contributions Act, which includes both the determination of the employer's liability for payment of FICA taxes and collection of the taxes themselves. In response to a complaint or on the agency's own initiative, personnel from the IRS district office may inspect and copy an employer's payroll records, question employers and employees, and take related action to determine the employer's tax liability. Similarly, the district office may investigate apparent or alleged failure of an employer to deposit or forward FICA taxes withheld from a worker's earnings, and may enforce civil penalties and bring criminal charges against an employer for violations.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** – *Social Security Administration, U.S. Department of Health and Human Services, Baltimore, Maryland 21235 (410-965-0100)*. The Social Security Administration is responsible for properly crediting to the worker's earnings record the wages reported by the employer on Form W-2, a copy of which must be filed with the agency, and a duplicate forwarded to the worker, by January 31 following the end of the calendar year being reported. This agency also has charge of processing applications and determining eligibility for Social Security benefits. Accordingly, local Social Security offices can provide assistance to workers who wish to apply for benefits or have a question concerning their earnings record or any other aspect of Social Security. Offices can be located by phone, at 800-772-1213 (toll-free), or online at <https://secure.ssa.gov/ICON/main.jsp#officeResults>.



## California

### ● CALIFORNIA DISABILITY COMPENSATION LAW

*STATUTORY CITATION:* Cal. Unemp. Ins. Code §§ 2601-3306

*GENERAL SUMMARY:* The stated purpose of the California Disability Compensation Law is to compensate, in part, for the wage loss sustained by individuals unemployed because of their own sickness or injury, the sickness or injury of a family member, or the birth, adoption or foster care placement of a new child. The law provides for the payment of weekly cash benefits financed by the collection of a payroll tax on the earnings of each covered employee.

*PROVISIONS APPLICABLE TO AGRICULTURE:* Agricultural workers are covered by the state disability insurance program to the same extent as most non-agricultural workers.

**WORKER CONTRIBUTIONS** — While employed by any employer who pays more than \$100 in wages during any calendar quarter in the current or preceding calendar year, farmworkers are subject to disability unemployment insurance taxes, which must be withheld from their earnings by the employer and forwarded to the state. The tax rate and the dollar amount of each worker's wages against which the rate is applied are determined annually by the administering agency; the rate for calendar year 2017 is 0.9 percent, and the wage limit is \$110,902.

**ELIGIBILITY FOR BENEFITS** — In general, a worker who is unemployed due to physical or mental illness or injury is eligible for weekly benefits if the worker (1) has been unemployed and disabled for a waiting period of 7 consecutive days, (2) has submitted to any required examination to determine disability, (3) has, not later than 49 days after the first compensable day of unemployment and disability, filed a first claim and accompanying physician's certification, and (4) has earned at least \$300 in wages during the appropriate base period.

**AMOUNT OF BENEFITS** — The amount of a worker's weekly benefits depends on the amount of wages received in the one quarter of the four-quarter base period in which earnings were highest. Benefits may range from \$50 to \$1,173 per week, but the worker is not entitled to disability benefits for any day of unemployment and disability for which the worker has received or is entitled to receive unemployment compensation, workers' compensation or similar cash benefits.

#### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** – *Employment Development Department, Sacramento, California 95814 (800-480-3287)*. This agency is responsible for collection of disability insurance contributions withheld from workers' pay, for determining eligibility for disability benefits, and for administering benefit payments. Applications for benefits may be filed online using SDI Online ([http://www.edd.ca.gov/disability/SDI\\_Online.htm](http://www.edd.ca.gov/disability/SDI_Online.htm)) or by mail (application forms available via 800-480-3287 in English, or 866-658-8846 in Spanish).

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** – *None*.

## Hawaii

### ● HAWAII TEMPORARY DISABILITY INSURANCE LAW

*STATUTORY CITATION:* Haw. Rev. Stat. §§ 392-1 – 392-101

*RELATED REGULATIONS:* Hawaii Admin. Rules, §§ 12-11-1 – 12-11-86

*GENERAL SUMMARY:* The Hawaii Temporary Disability Insurance Law requires most employers in the state to secure temporary disability benefits for their employees in the event of disability resulting from non-occupational illness or injury. Such coverage, the cost of which may be shared equally by the employer and the employee, may be provided through (1) a state-approved standard disability insurance policy, (2) a state-approved self-insured plan backed by a bond, security deposit, or proof of the employer's financial ability to pay disability benefits directly, or (3) a state-approved comparable disability insurance plan or other agreement with an insurer.

*PROVISIONS APPLICABLE TO AGRICULTURE:* To the same extent as employees in other non-excluded occupations and industries, agricultural workers in Hawaii are entitled to, and may be required to contribute to the cost of providing, temporary disability insurance coverage in connection with their employment.

**EMPLOYER AND WORKER CONTRIBUTIONS** — To finance the cost of providing temporary disability insurance benefits to the workforce, an employer may deduct and withhold from the workers' wages up to one-half the cost of coverage, provided the cost to the worker does not exceed an annually updated cap set by the state (\$5.12 per week in 2017); the employer must cover the balance of the cost over the amount of the employees' contributions. In general, workers who, during the 52 weeks immediately preceding the payroll period, earned less than \$400 and worked less than 14 weeks for 20 or more hours each are not subject to withholding.

**ELIGIBILITY FOR BENEFITS** — In general, an individual is eligible to receive temporary disability benefits if the individual (1) is unable to perform the normal duties of the job due to sickness, pregnancy, termination of pregnancy, donation of a bodily organ, or an accident other than a work-related injury, (2) is under the care of a licensed medical or other health care practitioner who has certified the claimant's disability, and (3) has been in covered employment in Hawaii for at least 14 weeks, during each of which the individual has received remuneration for 20 or more hours, and has earned at least \$400 during the 52 weeks immediately preceding the first day of disability.

**AMOUNT OF BENEFITS** — The weekly amount of disability benefits is generally equal to 58 percent of the disabled employee's average weekly wage (or 100 percent of the worker's average weekly wage, up to a limit of \$14, if such wage is less than \$26). For the purpose of computing the weekly benefit amount, the average weekly wage is based on the wages the employee would receive from the employer except for the employee's disability. After a waiting period of 7 days, benefits are payable for up to 26 weeks for any period of disability or during any benefit year.

**CLAIMS** — Any employee who becomes disabled by a condition not connected with or resulting from employment and who wishes to apply for temporary disability benefits must submit a claim to the employer, on a state-prescribed form, within 90 days after commencement of the disability; the claim must include a physician's signed certification of disability. The first payment of benefits must occur within 10 days (exclusive of Saturdays, Sundays and holidays) after the filing of required proof of the claim. If the employer fails without good cause to initiate benefit payments within the 10-day timeframe, the employer or insurer must pay normal benefits plus an additional 10 percent of the benefits due and payable to the employee.

#### *SPECIAL NOTES OR ADVISORIES*

**SPECIAL CLAIMS PROCEDURES** — For employees who become disabled while unemployed and as a consequence of their disability become ineligible for unemployment insurance benefits, as well as for eligible disabled employees of employers in bankruptcy, the Department administers a special fund for disability benefits, financed largely through periodic assessments against disability insurers and employers. Disability benefit claims by workers under these special circumstances may be filed with the Department through any local office of the Disability Compensation Division.

#### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** – *Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9188).* The Department has supervisory responsibility over collection of disability insurance contributions from employees and provision of benefits by employers. Any employee who is denied disability benefits by an employer or an employer's insurer may appeal the denial to the Department, which must hold a hearing and issue a determination.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** – *None.*

## New Jersey

### ● TEMPORARY DISABILITY BENEFITS LAW

*STATUTORY CITATION:* N.J. Rev. Stat. §§ 43:21-25 – 43:21-56

*GENERAL SUMMARY:* The Temporary Disability Benefits Law establishes a uniform system for the payment of cash benefits to disabled employees, to replace earnings lost by reason of an accident or injury which is not compensable under the state workers' compensation program. Benefits may be provided through (1) the state disability benefits fund, which is administered by the state and financed by contributions assessed against the employer and the worker, or (2) a state-approved private plan established by the employer, who, with the consent of a majority of the workers, may withhold a portion of the plan's cost from the workers' wages. In general, the law applies to employers and employees who are covered by the state unemployment compensation law (*see entry, New Jersey — Insurance & Compensation — Unemployment Insurance*).

#### *PROVISIONS APPLICABLE TO AGRICULTURE*

##### STATE DISABILITY BENEFIT PLAN —

**Employer Contributions —** A farm employer who (1) during any calendar quarter in the current or preceding calendar year paid cash remuneration of \$20,000 or more for agricultural labor, or (2) for any part of a day in 20 or more different calendar weeks in the current or preceding year employed 10 or more agricultural workers, is required to contribute to the state disability benefits fund 0.5 percent of the wages paid to his or her workers, up to a per-worker wage limit normally equal to 28 times the statewide average weekly wage for employment covered by the unemployment compensation law.

**Worker Contributions —** Farmworkers who are employed by a subject employer, as described above, must generally contribute to the state disability benefits fund a sum equal to 0.28 percent of the worker's earnings, up to the above-mentioned wage limit. The employer is required to withhold contributions from the worker's pay and forward such amounts to the state agency, along with the employer's share.

**Eligibility for Benefits —** In general, a worker is entitled to temporary disability benefits only if the state agency finds that the worker (1) became totally disabled during a period of employment with a subject employer, or less than 2 weeks after separation from such employment, (2) is not eligible for workers' compensation, (3) is not covered by a private disability benefit plan, as described below, (4) is under the care of a licensed physician or comparable health care provider who can certify the claimant's disability, and (5) has, during the 52 weeks immediately preceding the onset of disability, earned at least 20 times the state hourly minimum wage in at least 20 different calendar weeks, or earned not less than 1,000 times the state hourly minimum wage.

**Amount of Benefits —** The weekly benefit rate payable to an eligible individual is normally equal to 2/3 of the individual's average weekly wage over the 52-week period immediately before the disability, subject to a maximum of 53 percent of the statewide average weekly wage for covered employment. The amount of benefits for each day of disability for which benefits are payable is computed at 1/7 of the corresponding weekly benefit rate.

##### PRIVATE PLANS —

**Employer Options —** As an alternative to participation in the state disability program, any covered employer, as defined in brief above, may establish a private plan for the payment of such benefits. A private plan may be provided through a commercial insurance carrier, by agreement between the employer and a union or other employee association or representative, or under an employer self-insurance arrangement. All private benefit plans must be submitted to and approved by the state agency.

**Worker Contributions —** An employer may cover part of the cost of providing benefits privately by requiring workers to pay contributions to the plan, but a majority of the employer's workforce must agree to such an arrangement before the plan is approved by the state agency. Furthermore, a private plan may not compel a worker to pay a greater amount toward the cost of benefits than the level of contributions prescribed for workers covered under the state program.

**Eligibility for Benefits —** The eligibility criteria for benefits under a private plan must be no more restrictive than those applicable to benefits from the state disability benefits fund.

**Amount of Benefits —** Benefits through a private plan must equal or exceed those payable under the state program.

#### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY —** *Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460).* The Department has responsibility for enforcing the Temporary Disability Benefits Law and for administering the associated state disability benefits program. A worker who is disabled by an injury or illness not connected with employment, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at [lwd.dol.state.nj.us/labor/tdi/tdiindex.html#TDI2](http://lwd.dol.state.nj.us/labor/tdi/tdiindex.html#TDI2).

Any dispute that arises over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY —** *None.*

## New York

### ○ **DISABILITY BENEFITS LAW**

*STATUTORY CITATION:* N.Y. Workers' Compensation Law §§ 200 – 242

*GENERAL SUMMARY:* The Disability Benefits Law provides temporary cash benefits to eligible employees who are unable to work due to an off-the-job injury or illness, or who have lost eligibility for unemployment insurance benefits because of illness or injury. Employers are required to (1) obtain coverage for disability benefits through the state insurance fund or from a disability benefits insurance carrier authorized by the workers' compensation board to write such policies, or (2) apply to the board for authorization to self-insure.

To help defray the cost of disability benefits, employers are authorized to withhold from the earnings of each covered employee an amount equal to 0.5 percent of the employee's wages each pay period, up to a maximum contribution of 60 cents per week.

*PROVISIONS APPLICABLE TO AGRICULTURE:* Unless the employer voluntarily elects coverage, the Disability Benefits Law **does not apply** to services performed by farm laborers.

#### *ADMINISTRATION AND ENFORCEMENT*

PRIMARY ENFORCEMENT AGENCY – *New York State Workers' Compensation Board, Schenectady, New York 12305.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

## Puerto Rico

### ● TEMPORARY DISABILITY BENEFIT ACT

*STATUTORY CITATION:* 11 Laws P.R. Ann. §§ 201 – 212

*GENERAL SUMMARY:* The Temporary Disability Benefit Act authorizes the payment of weekly cash benefits to workers who suffer loss of wages as a result of disability due to illness or injury not connected with employment. Benefits are financed from the disability benefit fund, into which most Puerto Rico employers are required to pay a fixed percentage of the dollar-volume of their payroll, matched by an equal amount deducted and withheld from their workers' wages.

#### *PROVISIONS APPLICABLE TO AGRICULTURE*

**CONTRIBUTIONS** — In contrast with their counterparts in other industries, agricultural employers and workers are exempt from the payment of contributions to the disability benefit fund. The benefits received from the fund by agricultural workers disabled by non-work-related causes are reimbursed by the Commonwealth of Puerto Rico.

**ELIGIBILITY FOR BENEFITS** — Except for employees who usually and regularly operate motor vehicles as an inherent part of their work and hence are covered by the Chauffeurs Social Security Act, agricultural workers are generally eligible for disability benefits to the extent that they (1) have lost wages due to an injury or illness not connected with employment, and (2) have received wages of at least \$150 during the first four of the last five consecutive calendar quarters immediately preceding application for benefits.

#### **AMOUNT OF BENEFITS** —

**Injury or Illness Benefits** — Commencing on the 8th day of a non-work-related disability, an eligible worker with wages primarily or exclusively from agricultural employment is entitled to weekly benefits ranging from \$12 per week (for a worker with total wages of at least \$150 but not more than \$250 over the four-quarter base period), up to \$55 a week (for workers with an annual income of more than \$2,300).

**Benefits for Dismemberment** — In addition to the periodic disability payments mentioned above, a worker whose illness or injury results in loss of sight, a limb, or parts of a hand or foot, is generally eligible for a one-time dismemberment payment ranging from \$2,000 to \$4,000, depending on the specific loss.

**Death Benefits** — Upon the death of an eligible worker from a non-work-related illness or injury (other than an automobile accident), the worker's dependent beneficiaries are entitled to a payment of \$4,000, provided a claim is filed within 6 months following the worker's death.

#### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** – *Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900).* The Department is responsible for determining the liability of employers and employees for the payment of contributions to the disability benefit fund, for collecting contributions, for determining eligibility of workers for benefits, and for authorizing the disbursement of benefits to eligible workers or their dependents. Disability claims may be filed at any local Employment Security office.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** – *None.*

### ● CHAUFFEURS SOCIAL SECURITY LAW

*STATUTORY CITATION:* 29 Laws P.R. Ann. §§ 681 – 695

*GENERAL SUMMARY:* Chapter 45 of the Puerto Rico labor statutes establishes an employee benefit program for individuals who operate a motor vehicle in connection with their work. The plan, financed by a weekly assessment levied against both covered employees and their employers, provides for the payment of weekly cash benefits for sickness or disability, a voluntary retirement bonus at age 65 or over, and death benefits covering the worker and the worker's dependents.

*PROVISIONS APPLICABLE TO AGRICULTURE:* On the same terms as their counterparts in other industries, agricultural workers who are authorized to drive a motor vehicle under a driver's, chauffeur's, or heavy motor vehicle operator's license, and who usually and regularly drive a motor vehicle as an inherent part of their work, are covered by the social security program for chauffeurs, described in more detail below.

**CONTRIBUTIONS** — Every employer who hires one or more covered workers must promptly provide the program's administering agency with the name, motor vehicle operator's license number, Social Security number, and address of each such worker, and must withhold 50 cents each week from the worker's pay as dues to the Chauffeurs Social Security fund. Within 60 days after the end of each calendar quarter, the employer must remit to the fund all amounts withheld from covered workers, along with the employer's share of contributions (equal to 30 cents per week for each covered worker) and a list showing the name, license number, Social Security number, and weeks of work for each contributing employee.

#### **BENEFITS** —

**Sickness Benefits** — Workers who have paid dues for at least 25 weeks in the four calendar quarters preceding onset of a physical or mental condition (including pregnancy or childbirth) which prevents work and operation of a motor vehicle, are generally eligible for weekly sickness benefits for the duration of incapacity, up to a maximum period of 30 weeks. The amount of the benefits depends on the number of weeks of dues paid in the four-quarter contributing year, but benefits may range from \$16 a week for workers with 25 to 29 weeks of dues, up to \$30 for 45 weeks or more. A supplementary amount of from \$6 to \$30 will be added to the normal weekly benefits of any worker who has at least 50 weeks of dues credits over the preceding five-year period.

**Permanent and Total Disability Benefits** — A covered worker who, before the age of 65, becomes permanently unable to operate

## *Insurance & Compensation — Disability Insurance — Puerto Rico*

a motor vehicle is generally eligible for a one-time benefit payment for total and permanent disability if the claimant (1) has paid dues to the Chauffeurs Social Security fund for at least 40 weeks in the four-quarter period immediately preceding onset of disability, and (2) has had his or her motor vehicle operator's license canceled due to the disability. The amount of the payment varies in proportion to the number of weeks of dues paid in the five-year period preceding disability and in inverse proportion to the claimant's age. At the low end of the scale, eligible workers 64 years of age with less than 100 weeks of dues to their credit may receive \$360, while those under age 61 with 240 weeks of credits or more qualify for a payment of \$3,600.

**Voluntary Retirement Bonus** — Every insured worker who is at least 65 years old is entitled to receive a one-time bonus payment upon petition to the administering agency, provided the worker (1) has paid dues to the fund for at least 40 weeks during the four contributing quarters immediately before filing a petition or reaching age 65, and (2) has voluntarily requested cancellation of the chauffeur's or heavy motor vehicle operator's license. The amount of the bonus may range from \$180 to \$360, depending on the worker's dues credits.

**Death Benefits** — In the event of the death of a covered worker who has paid the fund dues corresponding to 10 weeks or more in the four-quarter contributing year immediately preceding the date of death, the worker's dependents are entitled to a lump-sum payment, the amount of which is determined by the number of weeks of dues credits paid both in the four-quarter contributing year and over the five calendar years preceding the first day of March before the date of death. Death benefits start at \$800 for workers with 10 weeks of dues in the four-quarter contributing year and less than 100 weeks in the five-year base period, and may go as high as \$6,000 for those with contributing-year credits of 45 weeks or more and base-period credits of 240 weeks or more. The fund will also pay to each worker who has at least 40 weeks of dues credits the sum of \$800 for the death of the worker's spouse, \$500 for the death of a child 6 to 15 years of age (inclusive), and \$300 for the death of a child under the age of 6. A claim for death benefits must be filed within one year after the date of death.

**REINSTATEMENT TO EMPLOYMENT** — In the case of a worker's illness or non-permanent disability for which benefits are payable under these provisions, the employer is generally obligated to reinstate the worker within 30 days after he or she is discharged from treatment, provided that (1) the job still exists when the worker requests reinstatement, (2) the worker is mentally and physically able to perform the job, and (3) the request is made no later than one year after the onset of the disability.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** – *Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900)*. The Department is responsible for determining the liability of employers and employees for the payment of Chauffeurs Social Security contributions, for collecting the contributions, for determining workers' eligibility for benefits, and for making benefit payments. Application for benefits may be made at any local Chauffeurs Social Security office.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** – *Puerto Rico Department of Treasury, San Juan, Puerto Rico 00901 (787-721-2020)*. This agency is the trustee of the Chauffeurs Social Security fund and is responsible for its auditing.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *Puerto Rico Department of Transportation and Public Works, San Juan, Puerto Rico 00919 (787-294-0500)*. This agency is responsible for issuing motor vehicle operators' licenses in Puerto Rico, and hence for providing certain certifications to the Department of Labor and Human Resources regarding eligibility of workers for benefits under this law.

**PRIVATE CIVIL ACTION** — If an employer fails to comply when a worker requests reinstatement to the job after a period of disability ends, the worker may take action in civil court to recover the wages he or she would have received if reinstated, as well as monetary damages.

## Rhode Island

### ● RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT

*STATUTORY CITATION:* 28 R.I. Gen. Laws §§ 28-39-1 – 28-41-42

*GENERAL SUMMARY:* The Rhode Island Temporary Disability Insurance Act creates a state-administered fund for the payment of weekly cash benefits to eligible members of the labor force whose physical or mental condition renders them unable to work. Temporary disability insurance benefits are financed by contributions withheld from employees' wages and forwarded to the fund by their employers.

#### *PROVISIONS APPLICABLE TO AGRICULTURE*

**EMPLOYEE CONTRIBUTIONS** — To the same extent and on the same terms as non-agricultural employees, every farmworker employed by a farm operator or other agricultural establishment with one or more employees must contribute an annually determined portion of the worker's earnings (currently 1.2 percent) to the temporary disability insurance fund, up to a wage limit determined each year by the state administering agency (currently \$68,100). The employer is required to withhold contributions from the worker's earnings at the time of payment, and to transmit withheld amounts to the fund at regular intervals.

**ELIGIBILITY FOR BENEFITS** — Workers who are unemployed and unable to perform their regular or customary work due to a physical or mental condition (including pregnancy) are generally eligible for temporary disability benefits only if all of the following conditions are met:

- (1) During the first four of the last five completed calendar quarters preceding the initial claim, they earned insured wages amounting to at least 400 times the state hourly minimum wage (at the current rate of \$9.60, at least \$3,840).
- (2) In at least one of the four quarters, they earned at least 200 times the minimum wage (at least \$1,920).
- (3) Their total earnings over the entire four-quarter period amount to at least 1½ times their earnings in the one quarter when earnings were highest.
- (4) The wages earned during the four-quarter base period must have been paid by one or more employers subject to the state unemployment insurance law.
- (5) The claimant must have been unemployed due to illness or other disability for at least 7 consecutive days.

Benefits are not payable for any week with respect to which the worker has received workers' compensation or unemployment insurance benefits.

**AMOUNT OF BENEFITS** — For any week of disability, an eligible claimant is normally entitled to a benefit rate equal to 4.62 percent of the worker's earnings in the one quarter of the four-quarter base period when earnings were highest, but not more than 85 percent of the statewide average weekly wage among workers covered by the state unemployment insurance program in the preceding calendar year.

**DEPENDENTS' ALLOWANCE** — A worker's temporary disability payment will generally be supplemented each week by \$10 or 7 percent of the benefit rate, whichever is greater, for each of the worker's dependent children under 18 years of age, but for not more than 5 such dependents.

#### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** – *Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420).* The Department administers all aspects of the temporary disability insurance program, from collection of contributions, to payment of benefits. There are substantial penalties for an employer's failure to forward contributions to the state for proper credit to the employee's account, and any worker who believes contributions are not being correctly withheld, remitted or reported should promptly contact the Department. Claims for disability benefits may be filed online, at <https://uiclaims.ri.gov/tdionline/>.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** – *None.*