

☉ UNEMPLOYMENT COMPENSATION LAW

STATUTORY CITATION: W. Va. Code §§ 21A-1-1 – 21A-11-1

GENERAL SUMMARY: The Unemployment Compensation Law seeks to provide a measure of security to families of unemployed workers, by authorizing the collection of unemployment insurance contributions from most employers in the state, to finance the payment of weekly benefits to persons who are temporarily out of work, have recent earnings from insured employment, and meet other eligibility requirements. With some exceptions, employers are required to pay unemployment contributions if they (1) paid \$1,500 or more in wages in any calendar quarter of the current or preceding calendar year, or (2) had at least one employee for some part of a day in each of 20 different calendar weeks this year or last.

PROVISIONS APPLICABLE TO AGRICULTURE

EMPLOYER CONTRIBUTIONS — Every farm operator or other agricultural employing unit that (1) during any calendar quarter in the current or preceding calendar year paid cash wages of \$20,000 or more for agricultural labor, or (2) for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year employed 10 or more workers in agricultural labor, is required to pay unemployment insurance contributions to the state. A subject employer is generally liable for contributions on the first \$12,000 in wages paid to each employee during the calendar year, at a tax rate prescribed annually by the state administering agency in accordance with the employer's UI claims experience and other factors.

ELIGIBILITY FOR BENEFITS — A farmworker or any other unemployed person is eligible to receive unemployment benefits only if the state agency finds that the worker (1) has registered for work with the state employment service, (2) has made a claim for benefits, (3) is able to work, available for work, and conscientiously seeking work, (4) has been unemployed for a waiting period of one week, and (5) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim, earned at least \$2,200 in UI-covered wages, with earnings in more than one such quarter.

AMOUNT OF BENEFITS — The weekly benefit rate for an eligible claimant currently varies from \$24 to \$424 per week, depending on the worker's total earnings in the four-quarter base period mentioned above and subject to prescribed rules governing maximum weekly benefits. An eligible individual who is partially unemployed in any week is entitled to a UI payment equal to the worker's weekly benefit rate, minus that part of the week's part-time earnings which exceeds \$60.

SEASONAL WORKER PROVISIONS — A person who has worked less than 100 days during the base period in an industry recognized as seasonal (such as agricultural production, food processing, or canning) is not eligible for UI benefits unless the worker has base-period earnings from non-seasonal UI-covered employment amounting to at least \$100.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — For purposes of determining liability for payment of unemployment contributions, in cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Unemployment Compensation Division, WorkForce West Virginia, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-2624; toll-free 877-967-5498).* This agency is responsible for the collection of unemployment insurance contributions from subject employers, the payment of UI benefits to eligible workers, and the adjudication of employer and worker appeals. Unemployment compensation claims may be filed at any local WorkForce West Virginia office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*