

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1390

By: Seikel

AS INTRODUCED

An Act relating to labor; amending 40 O.S. 1991, Section 1-208, as amended by Section 1, Chapter 219, O.S.L. 1993 (40 O.S. Supp. 1996 Section 1-208), which relates to the definitions in the Employment Security Act of 1980; modifying definition; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 1991, Section 1-208, as amended by Section 1, Chapter 219, O.S.L. 1993 (40 O.S. Supp. 1996, Section 1-208), is amended to read as follows:

Section 1-208. EMPLOYER. "Employer" means:

(1) Any employing unit which, after December 31, 1971, except as provided under paragraphs (12) and (13) of this section,

(a) For some portion of a day, but not necessarily simultaneously, in each of twenty (20) different calendar weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year, and for the purpose of this definition if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one (1)

calendar week and the days beginning January 1 another such week, has or had in employment ~~one~~ four or more individuals, irrespective of whether the same individuals are or were employed in each such day~~+~~+ or

(b) In any calendar quarter in either the current or preceding calendar year paid for service in employment wages of One Thousand Five Hundred Dollars (\$1,500.00) or more;

(2) Any individual or employing unit, whether or not an employing unit at the time of the acquisition, which acquired substantially all of the organization, trade, business, or assets thereof, of another which at the time of such acquisition was an employer subject to this act; or which acquired a part of the organization, trade, or business of another employing unit which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit, whether or not an employing unit at the time of acquisition, which acquired substantially all of the organization, trade, business, or assets thereof, of another employing unit, if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit and employer subject to this act under paragraph (1) of this section; or any individual or employing unit which acquired substantially all of the organization, trade, business, or assets of another employing unit if such employing unit subsequent to such acquisition, and such acquired unit prior to such acquisition, both within the same calendar quarter, together paid for service in employment wages totaling One Thousand Five Hundred Dollars (\$1,500.00) or more;

(4) Any employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable

means or otherwise, directly by the same interest, or which owns or controls one or more other employing units, by legally enforceable means or otherwise, and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this section;

(5) Any employing unit which, having become an employer under paragraphs (1), (2), (3), (4), (9), (12) or (13) of this section has not, under Section 3-202 of this title, ceased to be an employer subject to this act;

(6) For the effective period of its election pursuant to Section 3-203 of this title any other employing unit which has elected to become subject to this act;

(7) Any department of this state and other states and instrumentalities of both thereof for which service in employment, as defined in paragraph (2) of Section 1-210 of this title, is performed after December 31, 1971, except as provided under paragraphs (12) and (13) of this section;

(8) Any department of the State of Oklahoma for which service in employment, as defined in paragraph (3) of Section 1-210 of this title, is performed after December 31, 1971, and any department of the State of Oklahoma and other states and instrumentalities of both thereof, including any political subdivisions and their instrumentalities for which service in employment, as defined in paragraph (3) of Section 1-210 of this title, is performed after December 31, 1977, except as provided under subsections (12) and (13) of this section;

(9) Any employing unit for which service in employment, as defined in paragraph (4) of Section 1-210 of this title, is performed after December 31, 1971, except as provided under paragraphs (12) and (13) of this section;

(10) For purposes of paragraphs (1), (9), (12) and (13) of this section, employment shall include service which would constitute

employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into in accordance with Section 4-702 of this title by the Commission and an agency charged with the administration of any other state or federal unemployment compensation law;

(11) Any political subdivision of the State of Oklahoma which elected to become an employer and for which service in employment, as authorized and defined by 40 O.S. 1971, Section 238, was performed after December 31, 1971, and prior to January 1, 1978;

(12) Any employing unit for which agricultural labor as defined in paragraph (5) of Section 1-210 of this title is performed after December 31, 1977. In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraphs (1), (7), (8), (9) and (13) of this section, the wages earned or the employment of an employee performing service in agricultural labor after December 31, 1977, shall not be taken into account;

(13) Any employing unit for which domestic service in employment as defined in paragraph (6) of Section 1-210 of this title is performed after December 31, 1977. In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under paragraphs (1), (7), (8), (9) or (12) of this section, the wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account; or

(14) Any employing unit which is not an employer by reason of any other provisions of this act shall nevertheless be an "employer" if either:

- (a) within the current or preceding calendar year, service is or was performed, with respect to which such employing unit is liable for any federal tax against

which credit may be taken by such employing unit for contributions required to be paid by it into a state unemployment fund, or

- (b) such employing unit is required to be an "employer" as a condition for approval of this act for full tax credit to be allowed against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C., Section 3301 et seq.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-5836

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