



Sen. Chris Lauzen

**Filed: 3/10/2011**

09700SB2243sam001

LRB097 10350 AEK 51741 a

1 AMENDMENT TO SENATE BILL 2243

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2243 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Unemployment Insurance Act is amended by  
5 adding Section 411 as follows:

6 (820 ILCS 405/411 new)

7 Sec. 411. Seasonal workers.

8 (a) For weeks of unemployment beginning after January 1,  
9 2012, unemployment benefits based on services by a seasonal  
10 worker performed in seasonal employment shall be payable only  
11 for weeks of unemployment that occur during the normal seasonal  
12 work period. Benefits shall not be paid based on services  
13 performed in seasonal employment for any week of unemployment  
14 beginning after January 1, 2012 that begins during the period  
15 between 2 successive normal seasonal work periods to any  
16 individual if that individual performs the service in the first

1 of the normal seasonal work periods and if there is a  
2 reasonable assurance that the individual will perform the  
3 service for a seasonal employer in the second of the normal  
4 seasonal work periods. If benefits are denied to an individual  
5 for any week solely as a result of this subsection and the  
6 individual is not offered an opportunity to perform in the  
7 second normal seasonal work period for which reasonable  
8 assurance of employment had been given, the individual is  
9 entitled to a retroactive payment of benefits under this  
10 subsection for each week that the individual previously filed a  
11 timely claim for benefits.

12 (b) Not less than 20 days before the estimated beginning  
13 date of a normal seasonal work period, an employer may apply to  
14 the Department in writing for designation as a seasonal  
15 employer. At the time of application, the employer shall  
16 conspicuously display a copy of the application on the  
17 employer's premises. Within 90 days after receipt of the  
18 application, the Department shall determine if the employer is  
19 a seasonal employer. A determination or redetermination of the  
20 Department concerning the status of an employer as a seasonal  
21 employer or of the courts of this State concerning the status  
22 of an employer as a seasonal employer, which has become final,  
23 together with the record thereof, may be introduced in any  
24 proceeding involving a claim for benefits, and the facts found  
25 and decision issued in the determination, redetermination, or  
26 decision shall be conclusive unless substantial evidence to the

1 contrary is introduced by or on behalf of the claimant.

2 (c) If the employer is determined to be a seasonal  
3 employer, the employer shall conspicuously display on its  
4 premises a notice of the determination and the beginning and  
5 ending dates of the employer's normal seasonal work periods.  
6 The notice shall be furnished by the Department. The notice  
7 shall additionally specify that an employee must timely apply  
8 for unemployment benefits at the end of a first seasonal work  
9 period to preserve his or her right to receive retroactive  
10 unemployment benefits in the event that he or she is not  
11 reemployed by the seasonal employer in the second of the normal  
12 seasonal work periods.

13 (d) The Department may issue a determination terminating an  
14 employer's status as a seasonal employer on the Department's  
15 own motion for good cause, or upon the written request of the  
16 employer. A termination determination under this subdivision  
17 terminates an employer's status as a seasonal employer, and  
18 shall become effective on the beginning date of the normal  
19 seasonal work period that would have immediately followed the  
20 date the Department issues the determination. A determination  
21 under this subdivision is subject to review in the same manner  
22 and to the same extent as any other determination under this  
23 Act.

24 (e) An employer whose status as a seasonal employer is  
25 terminated under subsection (d) may not reapply for a seasonal  
26 employer status determination until after a regularly

1 recurring normal seasonal work period has begun and ended.

2 (f) If a seasonal employer informs an employee who received  
3 assurance of being rehired that, despite the assurance, the  
4 employee will not be rehired at the beginning of the employer's  
5 next normal seasonal work period, this subsection shall not  
6 prevent the employee from receiving unemployment benefits in  
7 the same manner and to the same extent he or she would receive  
8 benefits under this Act from an employer who has not been  
9 determined to be a seasonal employer.

10 (g) A successor of a seasonal employer is considered to be  
11 a seasonal employer unless the successor provides the  
12 Department, within 120 days after the transfer, with a written  
13 request for termination of its status as a seasonal employer in  
14 accordance with subsection (d).

15 (h) At the time an employee is hired by a seasonal  
16 employer, the employer shall notify the employee in writing  
17 whether the employee will be a seasonal worker. The employer  
18 shall provide the worker with written notice of any subsequent  
19 change in the employee's status as a seasonal worker. If an  
20 employee of a seasonal employer is denied benefits because that  
21 employee is a seasonal worker, the employee may contest that  
22 designation in accordance with this Act.

23 (i) As used in this Section:

24 "Normal seasonal work period" means that period or  
25 those periods of time determined pursuant to rules  
26 promulgated by the Department during which an individual is

1 employed in seasonal employment.

2 "Seasonal employment" means the employment of 1 or more  
3 individuals primarily hired to perform services in an  
4 industry that does either of the following:

5 (1) Customarily operates during regularly  
6 recurring periods of 26 weeks or less in any  
7 52-consecutive-week period.

8 (2) Customarily employs at least 50% of its  
9 employees for regularly recurring periods of 26 weeks  
10 or less within a period of 52 consecutive weeks.

11 "Seasonal employer" means an employer who applies to  
12 the Department for designation as a seasonal employer and  
13 who the Department determines to be an employer whose  
14 operations and business are substantially engaged in  
15 seasonal employment.

16 "Seasonal worker" means a worker who has been paid  
17 wages by a seasonal employer for work performed only during  
18 the normal seasonal work period.

19 (j) The Department shall adopt rules and regulations as  
20 necessary to implement this Section.

21 (k) If this Section is found by the United States  
22 Department of Labor to be contrary to the federal Unemployment  
23 Tax Act, chapter 23 of the Internal Revenue Code of 1986, 26  
24 U.S.C. 3301 to 3311, or the Social Security Act, chapter 531,  
25 49 Stat. 620, and if conformity with the federal law is  
26 required as a condition for full tax credit against the tax

1 imposed under the federal Unemployment Tax Act or as a  
2 condition for receipt by the commission of federal  
3 administrative grant funds under the social security act, this  
4 Section shall be invalid."