

Chapter 612 of NAC

**ADOPTED TEMPORARY REGULATION OF THE
EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT
OF EMPLOYMENT, TRAINING AND REHABILITATION**

LCB File No. T007-15

(Filed with the Secretary of State on June 3, 2015)

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY citation other than 233B; NRS 612.220; 612.115

A REGULATION relating to unemployment compensation; clarifying the definition of employment for full-time active duty Nevada National Guard or Nevada Air National Guard members.

Section 1. Chapter 612 of the Nevada Administrative Code (NAC), Unemployment Compensation, Claims for Benefits section is hereby amended to add NAC 612.115 to read as follows:

NAC 612.115: Full-time active duty Nevada National Guard or Nevada Air National Guard members with 90 days or more of continuous service will be considered as “employment”. (NRS 612.220, 612.115)

- 1. Members of the National Guard may receive benefits if the following apply:
 - (a) Member is ordered to full-time active duty for at least 90 continuous days.*
 - (b) Member is paid under Title 32.*
 - (c) Member is released from military service under unemployment compensation for Ex-servicemembers (UCX) eligibility separation reasons.*
 - (d) Member is otherwise entitled to receive unemployment benefits per UI regulations.**

Sec 2. This regulation becomes effective when the final version and a copy of the informational statement required by NRS 233B.066 is filed with the Secretary of State expires November 1, 2015.

NOTICE OF ADOPTION OF TEMPORARY REGULATION

The Employment Security Division adopted temporary regulation, which pertains to Chapter 612 of the Nevada Administrative Code on April 28, 2015. A copy of the temporary regulation as adopted is attached hereto.

LEGISLATIVE REVIEW OF ADOPTED TEMPORARY REGULATION AS REQUIRED BY NRS 233B.066

Regulation Informational Statement Department of Employment, Training and Rehabilitation Temporary Regulation Concerning UI Eligibility of Certain National Guard Members

The following informational statement is submitted for adopted amendments to Nevada Revised Statute (NRS) 612.115 (1)(c).

1. A clear and concise explanation of the need for the adopted regulation

Amend the “Claims for Benefits” section of NAC to clarify NRS 612.115 1(c), to address Full-time Active Duty Nevada National Guard or Nevada Air National Guard members with 90 days or more of continuous service will be considered as “employment” (NRS 612.220, 612.115).

Members of the National Guard may receive benefits if the following apply:

- (a) Member is ordered to full-time active duty for at least 90 continuous days,
- (b) Member is paid under Title 32,
- (c) Member is released from military service under unemployment compensation for Ex-servicemembers (UCX) eligibility separation reasons,
- (d) Member is otherwise entitled to receive unemployment benefits per UI regulations.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary

In compliance with NRS 233B.0603, a Workshop was held on Thursday, March 12, 2015, at 10:00 a.m., the Live meeting was held at the DETR – SAO Auditorium, 500 East Third Street, Carson City, Nevada 89713 and Video conferenced to the DETR – Stan Jones Building, Conf. Rm. C, 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104. The purpose of the workshop was to review, discuss, solicit comment, and recommend the proposed temporary regulation pertaining to Chapter 612 of the Nevada Administrative Code (NAC), to clarify NRS 612.115 1(c), to address Full-time Active Duty Nevada National Guard or Nevada Air National Guard members with ninety (90) days or more of continuous service as “employed”. This notice is provided in compliance with NRS 241.020 and 233B.061.

Notice of the Workshop was sent on February 13, 2015, requesting comments by March 5, 2015, by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. Notice was posted at the principal offices of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the State. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the State. The meeting was also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR):

<http://www.nvdetr.org/index.htm> (DETR Home Page),
<http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page),
http://www.nvdetr.org/public_notices.htm (DETR Public Notices page),
<https://notices.nv.gov/> and the Nevada Legislature website at,
<http://www.leg.state.nv.us/App/Notice/A/>.

Public Locations:

Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
Legislative Building, 401 South Carson Street, Carson City, NV 89701
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101
Legislative Counsel Bureau Web Site
Department of Employment, Training and Rehabilitation Web Site All County Libraries in Nevada
Employment Security Division, State Administrative Office, 500 East Third Street, Carson City, NV 89713
Employment Security Division Southern Administrative Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Unemployment Insurance Contributions, 1320 South Curry Street, Carson City, NV 89710
Reno Field Audit Office, 1325 Corporate Blvd., Suite B, Reno, NV 89502
Las Vegas Field Audit Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Reno Appeals Office, 1325 Corporate Blvd., Suite C, Reno, NV 89502
Las Vegas Appeals Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431
Las Vegas Casual Labor Office, 1001 North A Street, Las Vegas, NV 89106
Nevada JobConnect-Carson City, 1929 North Carson Street, Carson City, NV 89701
Nevada JobConnect-Elko, 172 Sixth Street, Elko, NV 89801
Nevada JobConnect-Ely, 1500 Avenue F, Suite 1, Ely, NV 89301
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406
Nevada JobConnect-Henderson, 119 Water Street, Henderson, NV 89015
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV 89030
Nevada JobConnect-Reno Town Mall, 4001 South Virginia Street, Suite H-1, Reno, NV 89502
Nevada JobConnect-Sparks, 1675 E. Prater Way, Suite 103 Sparks, NV 89434
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

A copy of the proposed temporary regulation was posted to the DETR website and provided at the meeting. During the Workshop, DETR staff members reviewed the Nevada National Guard or Nevada Air National Guard Temporary Regulation. Staff also reviewed the Determination of Potential Negative Impact to Small Businesses per NRS 233B.0608 pursuant to Subsection 3.

On March 12, 2015, during the workshop, public comment was received from a local business owner concerned over, why it was a temporary regulation rather than a permanent change. It was explained that the temporary regulation was the first step in the process, but that the Division fully intended to make the change permanent in accordance with the proper steps in the process.

On March 25, 2015, the Division issued an Agenda and a Notice of Intent to Act upon the Nevada National Guard or Nevada Air National Guard Temporary Regulation. The Notice and Agenda was sent by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. Notice was posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the State. The meeting was also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR):

<http://www.nvdetr.org/index.htm> DETR home page),
<http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page),
http://www.nvdetr.org/public_notices.htm (DETR Public Notices page),
<https://notices.nv.gov/> and the Nevada Legislature website at,
<http://www.leg.state.nv.us/App/Notice/A/>.

A copy of the regulation was available to the public at the Hearing. During the Hearing, DETR staff members reviewed and provided explanation of the Regulation.

In compliance with NRS 233B, a Hearing for the adoption of the temporary regulation was held on Tuesday, April 28, 2015, at 10:00 a.m., the Live meeting was held at the DETR – SAO Auditorium, 500 East Third Street, Carson City, Nevada 89713 and Video conferenced to the DETR – Stan Jones Building, Conf. Rm. C, 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104. The purpose of the hearing was to receive comments from all interested persons regarding the adoption of the regulation pertaining to Chapter 612 of the Nevada Administrative Code. No written or public comment was received.

The Division has posted the meeting transcription to the DETR Website at:
http://detr.state.nv.us/PublicMinutes/ESD_ESC.htm.

3. **The Number of Persons who:**
 - a. **Attended at each meeting:**

Workshop:
March 12, 2015: Carson City: 8; Las Vegas: 1

Hearing:
April 28, 2015: Carson City 8; Las Vegas: 1
 - b. **Testified at each meeting:**

Workshop:
March 12, 2015: Carson City: 1; Las Vegas: 0
David Bradley
Bradley Electric Plumbing & Heating 940 Mallory Way
Carson City, NV 89701
Telephone Number: (775) 883-1025 E-mail: davidbradley@sbcglobal.net

Hearing:
April 28, 2015: Carson City 0; Las Vegas: 0
 - c. **Submitted to the agency written comments:**

Workshop: No written comments submitted
Hearing: No written comments submitted
4. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in response to question #2.
5. **If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No recommended changes were submitted in writing or through public comments.
6. **The estimated economic effect of the adopted regulation in the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - a. **Both adverse and beneficial effects; and**
 - b. **Both immediate and long-term effects.**

Estimated Economic Impact

Unemployment Insurance (UI) benefits provide assistance to individuals who lose their jobs through no fault of their own, providing temporary & limited income replacement during a transition between jobs. Estimates of the economic impact of UI payments suggest that

between \$2 and \$2.15 in economic activity is produced for each \$1 of benefits paid. Looking only at the federally funded military benefits impacted by this regulation, total benefits payable are estimated between \$25,000 and \$169,000, with a positive economic impact of \$50,000 to \$361,000.

Beneficial Impacts

The primary beneficial impact of this regulation is for the Nevada National Guard and Nevada Air National Guard members who are directly affected by it, until the Legislative change to NRS 612 in Senate Bill 24 of the 78th Legislative Session becomes effective on October 1, 2015.

Adverse Impacts

The individuals that did file for Unemployment Compensation for Ex-servicemembers (UCX), only have military wages in their base period and the federal government will be billed for any benefits paid. At this time, there would be no adverse impact on private Nevada employers. However, it is possible that this regulation will cause some individuals with wages from private Nevada employers to become eligible for benefits when they would otherwise be ineligible for any benefits. If this is the case, and the Nevada employer is chargeable for their share of the claimant's benefits, then these employers' UI reserve ratios would be negatively impacted. Such effects would be small, and unlikely to affect the UI contribution rates paid by such employers, but it is remotely possible.

Immediate Impacts

The direct, immediate impact of the regulation would be the UI benefit eligibility of, at the time of the regulation, 24 individuals discharged by the Nevada National Guard and Nevada Air National Guard. This would provide those individuals with continued payment of Unemployment Compensation for Ex-servicemembers (UCX).

Long Term Impacts

No long-term impact is expected due to this regulation.

7. The estimated cost to the agency for enforcement of the proposed regulation.

This regulation will be enforced as a regular part of ongoing UI operations and does not represent a significant burden on staff time. Funding for the administration of the UI program is provided to the Department by the U.S. Department of Labor.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation does not overlap or duplicate any regulation of other state or government agencies.

- 9. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.**

This regulation does not provide a more stringent standard than any other regulation of federal, state, or local governments.

- 10. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used**

The regulation does not provide or involve a new fee.