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ENGROSSED SUBSTITUTE HOUSE BILL 2438

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State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Heavey, Prentice, Franklin, R. King, Jones, G. Cole, Basich and J. Kohl)

Read first time 02/07/92.

1 AN ACT Relating to unemployment insurance for persons reentering  
2 the work force; amending RCW 50.06.010, 50.06.020, and 50.06.030; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.06.010 and 1984 c 65 s 1 are each amended to read  
6 as follows:

7 This chapter is enacted for the purpose of providing the protection  
8 of the unemployment compensation system to persons who have suffered a  
9 temporary total disability (~~compensable under industrial insurance or~~  
10 ~~crime victims compensation laws~~) and is a recognition by this  
11 legislature of the economic hardship confronting those persons who have  
12 not been promptly reemployed after a prolonged period of temporary  
13 total disability.

1       **Sec. 2.** RCW 50.06.020 and 1984 c 65 s 2 are each amended to read  
2 as follows:

3       The benefits of this chapter shall be allowed only to:

4       (1) Individuals who have suffered a temporary total disability and  
5 have received compensation under the industrial insurance or crime  
6 victims compensation laws of this state, any other state or the United  
7 States for a period of not less than thirteen consecutive calendar  
8 weeks by reason of such temporary total disability (~~shall be allowed~~  
9 ~~the benefits of this chapter~~); or

10       (2) Individuals who are reentering the work force after an absence  
11 of not less than thirteen consecutive calendar weeks resulting from  
12 temporary total physical disability because of a nonwork-related injury  
13 or illness.

14       **Sec. 3.** RCW 50.06.030 and 1987 c 278 s 3 are each amended to read  
15 as follows:

16       (1) In the case of individuals eligible under RCW 50.06.020(1), an  
17 application for initial determination made pursuant to this chapter, to  
18 be considered timely, must be filed in writing with the employment  
19 security department within twenty-six weeks following the week in which  
20 the period of temporary total disability commenced. Notice from the  
21 department of labor and industries shall satisfy this requirement. The  
22 records of the agency supervising the award of compensation shall be  
23 conclusive evidence of the fact of temporary disability and the  
24 beginning date of such disability.

25       (2) In the case of individuals eligible under RCW 50.06.020(2), an  
26 application for initial determination must be filed in writing with the  
27 employment security department within twenty-six weeks following the  
28 week in which the period of temporary total physical disability  
29 commenced. This filing requirement is satisfied by filing a signed

1 statement from the attending physician stating the date that the  
2 disability commenced and stating that the individual was unable to  
3 reenter the work force during the time of the disability. The  
4 department may examine any medical information related to the  
5 disability. If the claim is appealed, a base year employer may examine  
6 the medical information related to the disability and require, at the  
7 employer's expense, that the individual obtain the opinion of a second  
8 health care provider selected by the employer concerning any  
9 information related to the disability.

10 (3) The employment security department shall process and issue an  
11 initial determination of entitlement or nonentitlement as the case may  
12 be.

13 (4) For the purpose of this chapter, a special base year is  
14 established for an individual consisting of either the first four of  
15 the last five completed calendar quarters or the last four completed  
16 calendar quarters immediately prior to the first day of the calendar  
17 week in which the individual's temporary total disability commenced,  
18 and a special individual benefit year is established consisting of the  
19 entire period of disability and a fifty-two consecutive week period  
20 commencing with the first day of the calendar week immediately  
21 following the week or part thereof with respect to which the individual  
22 received his final temporary total disability compensation under the  
23 applicable industrial insurance or crime victims compensation laws, or  
24 the week in which the individual filed an application of initial  
25 determination, as applicable, except that no special benefit year shall  
26 have a duration in excess of three hundred twelve calendar weeks:  
27 PROVIDED HOWEVER, That such special benefit year will not be  
28 established unless the criteria contained in RCW 50.04.030 has been  
29 met, except that an individual meeting the ~~((disability and filing))~~  
30 eligibility requirements of this chapter and who has an unexpired

1 benefit year established which would overlap the special benefit year  
2 provided by this chapter, notwithstanding the provisions in RCW  
3 50.04.030 relating to the establishment of a subsequent benefit year  
4 and RCW 50.40.010 relating to waiver of rights, may elect to establish  
5 a special benefit year under this chapter: PROVIDED FURTHER, that the  
6 unexpired benefit year shall be terminated with the beginning of the  
7 special benefit year if the individual elects to establish such special  
8 benefit year.

9 (5) For the purposes of establishing a benefit year, the department  
10 shall initially use the first four of the last five completed calendar  
11 quarters as the base year. If a benefit year is not established using  
12 the first four of the last five calendar quarters as the base year, the  
13 department shall use the last four completed calendar quarters as the  
14 base year.

15 NEW SECTION. **Sec. 4.** If any part of this act is found to be  
16 in conflict with federal requirements which are a prescribed condition  
17 to the allocation of federal funds to the state or the eligibility of  
18 employers in this state for federal unemployment tax credits, the  
19 conflicting part of this act is hereby declared to be inoperative  
20 solely to the extent of the conflict, and such finding or determination  
21 shall not affect the operation of the remainder of this act. The rules  
22 under this act shall meet federal requirements which are a necessary  
23 condition to the receipt of federal funds by the state or the granting  
24 of federal unemployment tax credits to employers in this state.

25 NEW SECTION. **Sec. 5.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.