

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1248

57th Legislature
2002 Regular Session

Passed by the House February 16, 2002
Yeas 88 Nays 10

Speaker of the House of Representatives

Passed by the Senate March 5, 2002
Yeas 40 Nays 8

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1248** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1248

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Representatives Kessler, Hankins, Conway, Ballasiotes, Ogden, Cody, Woods, Edmonds, O'Brien, Keiser, Mitchell, Darneille, Santos, Kenney, Linville, Tokuda, Ruderman, Rockefeller, Hurst, Van Luven, Lovick, McIntire, Schual-Berke, Poulsen, Kagi, Wood and Haigh

Read first time 01/22/2001. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to allowing victims of domestic violence or
2 stalking to receive unemployment insurance benefits; and amending
3 RCW 50.20.050, 50.20.100, 50.20.240, and 50.29.020.

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

5 **Sec. 1.** RCW 50.20.050 and 2000 c 2 s 12 are each amended to read
6 as follows:

7 (1) An individual shall be disqualified from benefits beginning
8 with the first day of the calendar week in which he or she has
9 left work voluntarily without good cause and thereafter for seven
10 calendar weeks and until he or she has obtained bona fide work in
11 employment covered by this title and earned wages in that
12 employment equal to seven times his or her weekly benefit amount.

13 The disqualification shall continue if the work obtained is a
14 mere sham to qualify for benefits and is not bona fide work. In
15 determining whether work is of a bona fide nature, the
16 commissioner shall consider factors including but not limited to
17 the following:

18 (a) The duration of the work;

1 (b) The extent of direction and control by the employer over
2 the work; and

3 (c) The level of skill required for the work in light of the
4 individual's training and experience.

5 (2) An individual shall not be considered to have left work
6 voluntarily without good cause when:

7 (a) He or she has left work to accept a bona fide offer of bona
8 fide work as described in subsection (1) of this section;

9 (b) The separation was because of the illness or disability of
10 the claimant or the death, illness, or disability of a member of
11 the claimant's immediate family if the claimant took all
12 reasonable precautions, in accordance with any regulations that
13 the commissioner may prescribe, to protect his or her employment
14 status by having promptly notified the employer of the reason for
15 the absence and by having promptly requested reemployment when
16 again able to assume employment: PROVIDED, That these precautions
17 need not have been taken when they would have been a futile act,
18 including those instances when the futility of the act was a
19 result of a recognized labor/management dispatch system; ((or))

20 (c) He or she has left work to relocate for the spouse's
21 employment that is due to an employer-initiated mandatory transfer
22 that is outside the existing labor market area if the claimant
23 remained employed as long as was reasonable prior to the move; or

24 (d) The separation was necessary to protect the claimant or the
25 claimant's immediate family members from domestic violence, as
26 defined in RCW 26.50.010, or stalking, as defined in RCW
27 9A.46.110.

28 (3) In determining under this section whether an individual has
29 left work voluntarily without good cause, the commissioner shall
30 only consider work-connected factors such as the degree of risk
31 involved to the individual's health, safety, and morals, the
32 individual's physical fitness for the work, the individual's
33 ability to perform the work, and such other work connected factors
34 as the commissioner may deem pertinent, including state and
35 national emergencies. Good cause shall not be established for
36 voluntarily leaving work because of its distance from an
37 individual's residence where the distance was known to the
38 individual at the time he or she accepted the employment and

1 where, in the judgment of the department, the distance is
2 customarily traveled by workers in the individual's job
3 classification and labor market, nor because of any other
4 significant work factor which was generally known and present at
5 the time he or she accepted employment, unless the related
6 circumstances have so changed as to amount to a substantial
7 involuntary deterioration of the work factor or unless the
8 commissioner determines that other related circumstances would
9 work an unreasonable hardship on the individual were he or she
10 required to continue in the employment.

11 (4) Subsections (1) and (3) of this section shall not apply to
12 an individual whose marital status or domestic responsibilities
13 cause him or her to leave employment. Such an individual shall not
14 be eligible for unemployment insurance benefits beginning with the
15 first day of the calendar week in which he or she left work and
16 thereafter for seven calendar weeks and until he or she has
17 requalified, either by obtaining bona fide work in employment
18 covered by this title and earning wages in that employment equal
19 to seven times his or her weekly benefit amount or by reporting in
20 person to the department during ten different calendar weeks and
21 certifying on each occasion that he or she is ready, able, and
22 willing to immediately accept any suitable work which may be
23 offered, is actively seeking work pursuant to customary trade
24 practices, and is utilizing such employment counseling and
25 placement services as are available through the department. This
26 subsection does not apply to individuals covered by subsection
27 (2)(b) or (c) of this section.

28 **Sec. 2.** RCW 50.20.100 and 1989 c 380 s 80 are each amended to read
29 as follows:

30 (1) Suitable work for an individual is employment in an
31 occupation in keeping with the individual's prior work experience,
32 education, or training and if the individual has no prior work
33 experience, special education, or training for employment
34 available in the general area, then employment which the
35 individual would have the physical and mental ability to
36 perform(~~(, and for individuals with base year work experience in~~
37 ~~agricultural labor, any agricultural labor available from any~~

1 ~~employer shall be deemed suitable unless it meets the conditions~~
2 ~~in RCW 50.20.110 or the commissioner finds elements of specific~~
3 ~~work opportunity unsuitable for a particular individual)).~~ In
4 determining whether work is suitable for an individual, the
5 commissioner shall also consider the degree of risk involved to
6 the individual's health, safety, and morals, the individual's
7 physical fitness, the individual's length of unemployment and
8 prospects for securing local work in the individual's customary
9 occupation, the distance of the available work from the
10 individual's residence, and such other factors as the commissioner
11 may deem pertinent, including state and national emergencies.

12 (2) For individuals with base year work experience in
13 agricultural labor, any agricultural labor available from any
14 employer shall be deemed suitable unless it meets conditions in
15 RCW 50.20.110 or the commissioner finds elements of specific work
16 opportunity unsuitable for a particular individual.

17 (3) For individuals who have qualified for unemployment
18 compensation benefits under RCW 50.20.050(2)(d), an evaluation of
19 the suitability of the work must consider the individual's need to
20 address the physical, psychological, legal, and other effects of
21 domestic violence or stalking.

22 **Sec. 3.** RCW 50.20.240 and 1998 c 161 s 4 are each amended to read
23 as follows:

24 To ensure that following the initial application for benefits,
25 an individual is actively engaged in searching for work, effective
26 July 1, 1999, the employment security department shall implement a
27 job search monitoring program. Except for those individuals with
28 employer attachment or union referral, individuals who qualify for
29 unemployment compensation under RCW 50.20.050(2)(d), and
30 individuals in commissioner-approved training, an individual who
31 has received five or more weeks of benefits under this title must
32 provide evidence of seeking work, as directed by the commissioner
33 or ~~((the))~~ the commissioner's agents, for each week beyond five
34 in which a claim is filed. The evidence must demonstrate contacts
35 with at least three employers per week or documented in-person job
36 search activity at the local reemployment center. In developing the
37 requirements for the job search monitoring program, the

1 commissioner or the commissioner's agents shall utilize an
2 existing advisory committee having equal representation of
3 employers and workers.

4 **Sec. 4.** RCW 50.29.020 and 2000 c 2 s 3 are each amended to read as
5 follows:

6 (1) An experience rating account shall be established and
7 maintained for each employer, except employers as described in RCW
8 50.44.010 and 50.44.030 who have properly elected to make payments
9 in lieu of contributions, taxable local government employers as
10 described in RCW 50.44.035, and those employers who are required
11 to make payments in lieu of contributions, based on existing
12 records of the employment security department. Benefits paid to any
13 eligible individuals shall be charged to the experience rating
14 accounts of each of such individual's employers during the
15 individual's base year in the same ratio that the wages paid by
16 each employer to the individual during the base year bear to the
17 wages paid by all employers to that individual during that base
18 year, except as otherwise provided in this section.

19 (2) The legislature finds that certain benefit payments, in
20 whole or in part, should not be charged to the experience rating
21 accounts of employers except those employers described in RCW
22 50.44.010 and 50.44.030 who have properly elected to make payments
23 in lieu of contributions, taxable local government employers
24 described in RCW 50.44.035, and those employers who are required
25 to make payments in lieu of contributions, as follows:

26 (a) Benefits paid to any individuals later determined to be
27 ineligible shall not be charged to the experience rating account
28 of any contribution paying employer.

29 (b) Benefits paid to an individual filing under the provisions
30 of chapter 50.06 RCW shall not be charged to the experience rating
31 account of any contribution paying employer only if:

32 (i) The individual files under RCW 50.06.020(1) after receiving
33 crime victims' compensation for a disability resulting from a
34 nonwork-related occurrence; or

35 (ii) The individual files under RCW 50.06.020(2).

36 (c) Benefits paid which represent the state's share of benefits

1 payable as extended benefits defined under RCW 50.22.010(6) shall
2 not be charged to the experience rating account of any
3 contribution paying employer.

4 (d) In the case of individuals who requalify for benefits under
5 RCW 50.20.050 or 50.20.060, benefits based on wage credits earned
6 prior to the disqualifying separation shall not be charged to the
7 experience rating account of the contribution paying employer from
8 whom that separation took place.

9 (e) Individuals who qualify for benefits under RCW
10 50.20.050(2)(d) shall not have their benefits charged to the
11 experience rating account of any contribution paying employer.

12 (f) In the case of individuals identified under RCW 50.20.015,
13 benefits paid with respect to a calendar quarter, which exceed the
14 total amount of wages earned in the state of Washington in the
15 higher of two corresponding calendar quarters included within the
16 individual's determination period, as defined in RCW 50.20.015,
17 shall not be charged to the experience rating account of any
18 contribution paying employer.

19 (~~(f)~~) (g) Benefits paid under RCW 50.22.150 shall not be
20 charged to the experience rating account of any contribution
21 paying employer.

22 (3)(a) A contribution-paying base year employer, not otherwise
23 eligible for relief of charges for benefits under this section,
24 may receive such relief if the benefit charges result from payment
25 to an individual who:

26 (i) Last left the employ of such employer voluntarily for
27 reasons not attributable to the employer;

28 (ii) Was discharged for misconduct connected with his or her
29 work not a result of inability to meet the minimum job
30 requirements;

31 (iii) Is unemployed as a result of closure or severe
32 curtailment of operation at the employer's plant, building, work
33 site, or other facility. This closure must be for reasons directly
34 attributable to a catastrophic occurrence such as fire, flood, or
35 other natural disaster; or

36 (iv) Continues to be employed on a regularly scheduled
37 permanent part-time basis by a base year employer and who at some
38 time during the base year was concurrently employed and

1 subsequently separated from at least one other base year
2 employer. Benefit charge relief ceases when the employment
3 relationship between the employer requesting relief and the
4 claimant is terminated. This subsection does not apply to shared
5 work employers under chapter 50.60 RCW.

6 (b) The employer requesting relief of charges under this
7 subsection must request relief in writing within thirty days
8 following mailing to the last known address of the notification of
9 the valid initial determination of such claim, stating the date
10 and reason for the separation or the circumstances of continued
11 employment. The commissioner, upon investigation of the request,
12 shall determine whether relief should be granted.

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