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SUBSTITUTE HOUSE BILL 2724

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State of Washington

65th Legislature

2018 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Sells, Ormsby, McBride, and Tarleton)

READ FIRST TIME 02/01/18.

1 AN ACT Relating to unemployment compensation for musicians;  
2 amending RCW 50.04.030 and 50.04.148; creating a new section; and  
3 providing an effective date.

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

5 **Sec. 1.** RCW 50.04.030 and 1991 c 117 s 1 are each amended to  
6 read as follows:

7 "Benefit year" with respect to each individual, means the fifty-  
8 two consecutive week period beginning with the first day of the  
9 calendar week in which the individual files an application for an  
10 initial determination and thereafter the fifty-two consecutive week  
11 period beginning with the first day of the calendar week in which the  
12 individual next files an application for an initial determination  
13 after the expiration of the individual's last preceding benefit  
14 year(~~(: PROVIDED, HOWEVER, That)~~).

15 (1) The foregoing limitation shall not be deemed to preclude the  
16 establishment of a new benefit year under the laws of another state  
17 pursuant to any agreement providing for the interstate combining of  
18 employment and wages and the interstate payment of benefits nor shall  
19 this limitation be deemed to preclude the commissioner from  
20 backdating an initial application at the request of the claimant  
21 either for the convenience of the (~~department of~~) employment

1 security department or for any other reason deemed by the  
2 commissioner to be good cause.

3 (2) An individual's benefit year shall be extended to be fifty-  
4 three weeks when at the expiration of fifty-two weeks the  
5 establishment of a new benefit year would result in the use of a  
6 quarter of wages in the new base year that had been included in the  
7 individual's prior base year.

8 (3) Except as provided in RCW 50.04.148(2), no benefit year will  
9 be established unless it is determined that the individual earned  
10 wages in "employment" in not less than six hundred eighty hours of  
11 the individual's base year(~~(- PROVIDED, HOWEVER, That)~~).

12 (4) A benefit year cannot be established if the base year wages  
13 include wages earned prior to the establishment of a prior benefit  
14 year unless the individual worked and earned wages since the last  
15 separation from employment immediately before the application for  
16 initial determination in the previous benefit year if the applicant  
17 was an unemployed individual at the time of application, or since the  
18 initial separation in the previous benefit year if the applicant was  
19 not an unemployed individual at the time of filing an application for  
20 initial determination for the previous benefit year, of not less than  
21 six times the weekly benefit amount computed for the individual's new  
22 benefit year.

23 (5) If an individual's prior benefit year was based on the last  
24 four completed calendar quarters, a new benefit year shall not be  
25 established until the new base year does not include any hours used  
26 in the establishment of the prior benefit year.

27 (6) If the wages of an individual are not based upon a fixed  
28 duration of time or if the individual's wages are paid at irregular  
29 intervals or in such manner as not to extend regularly over the  
30 period of employment, the wages for any week shall be determined in  
31 such manner as the commissioner may by regulation prescribe. Such  
32 regulation shall, so far as possible, secure results reasonably  
33 similar to those which would prevail if the individual were paid his  
34 or her wages at regular intervals.

35 **Sec. 2.** RCW 50.04.148 and 1985 c 47 s 1 are each amended to read  
36 as follows:

37 (1) The term "employment" shall not include services performed by  
38 a musician or entertainer under a written contract with a purchaser  
39 of the services for a specific engagement or engagements when such

1 musician or entertainer performs no other duties for the purchaser  
2 and is not regularly and continuously employed by the purchaser. The  
3 contract shall designate the leader of the music or entertainment  
4 group. A music or entertainment business or a leader of a music or  
5 entertainment group shall be considered an employer and not a  
6 purchaser of music or entertainment services.

7 (2) Any musician or entertainer who performs for a music or  
8 entertainment business or as a member of a music or entertainment  
9 group is deemed an employee of the business or group and the business  
10 or the leader of the group shall be required to register as an  
11 employer with the department. For a musician who earns at least  
12 seventy-five percent of his or her base year wages as an employee of  
13 a music or entertainment business or as a member of a music or  
14 entertainment group, no benefit year will be established unless it is  
15 determined that the individual earned wages in "employment" in not  
16 less than five hundred four hours of the individual's base year.

17 (3) Purchasers of services under subsection (1) of this section  
18 shall not be subject to RCW 50.24.130 relating to a principal's  
19 liability for unpaid contributions if the services are purchased from  
20 a business or group registered as an employer with the department.

21 (4) The term "music or entertainment business" or "group" as used  
22 in this section means an employer whose principal business activity  
23 is music or entertainment. The term does not include those entities  
24 who provide music or entertainment for members or patrons incidental  
25 to their principal business activity, and does not include an  
26 individual employing musicians or entertainers on a casual basis.

27 NEW SECTION. Sec. 3. If any part of this act is found to be in  
28 conflict with federal requirements that are a prescribed condition to  
29 the allocation of federal funds to the state or the eligibility of  
30 employers in this state for federal unemployment tax credits, the  
31 conflicting part of this act is inoperative solely to the extent of  
32 the conflict, and the finding or determination does not affect the  
33 operation of the remainder of this act. Rules adopted under this act  
34 must meet federal requirements that are a necessary condition to the  
35 receipt of federal funds by the state or the granting of federal  
36 unemployment tax credits to employers in this state.

37 NEW SECTION. Sec. 4. If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 5.** This act takes effect July 7, 2019, for  
4 new claims filed on or after July 7, 2019.

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