

Chapter 50.04 RCW
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RCW 50.04.020 Base year—Alternative base year. "Base year" with respect to each individual, shall mean either the first four of the last five completed calendar quarters or the last four completed calendar quarters immediately preceding the first day of the individual's benefit year.

For the purposes of establishing a benefit year, the department shall initially use the first four of the last five completed calendar quarters as the base year. If a benefit year is not established using the first four of the last five calendar quarters as the base year, the department shall use the last four completed calendar quarters as the base year.

Computations using the last four completed calendar quarters shall be based on available wage items processed as of the close of business on the day preceding the date of application. The department shall promptly contact employers to request assistance in obtaining wage information for the last completed calendar quarter if it has not been reported at the time of initial application. [1994 c 3 § 1; 1987 c 278 § 1; 1970 ex.s. c 2 § 1; 1945 c 35 § 3; Rem. Supp. 1945 § 9998-142. Prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

Conflict with federal requirements—1994 c 3: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1994 c 3 § 4.]

Severability—1994 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 3 § 5.]

Effective dates—1994 c 3: "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 3, 1994.

(2) Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1994.

(3) Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 26, 1994]." [1994 c 3 § 6.]

Effective date—1970 ex.s. c 2: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect April 5, 1970: PROVIDED, That sections 3 and 8 of this 1970 amendatory act shall not take effect until January 1, 1971." [1970 ex.s. c 2 § 25.]

RCW 50.04.030 Benefit year. "Benefit year" with respect to each individual, means the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual files an application for an initial determination and thereafter the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual next files an application for an initial determination after the expiration of the individual's last preceding benefit year: PROVIDED, HOWEVER, That the foregoing limitation shall not be deemed to preclude the establishment of a new benefit year

under the laws of another state pursuant to any agreement providing for the interstate combining of employment and wages and the interstate payment of benefits nor shall this limitation be deemed to preclude the commissioner from backdating an initial application at the request of the claimant either for the convenience of the department of employment security or for any other reason deemed by the commissioner to be good cause.

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

No benefit year will be established unless it is determined that the individual earned wages in "employment" in not less than six hundred eighty hours of the individual's base year: PROVIDED, HOWEVER, That a benefit year cannot be established if the base year wages include wages earned prior to the establishment of a prior benefit year unless the individual worked and earned wages since the last separation from employment immediately before the application for initial determination in the previous benefit year if the applicant was an unemployed individual at the time of application, or since the initial separation in the previous benefit year if the applicant was not an unemployed individual at the time of filing an application for initial determination for the previous benefit year, of not less than six times the weekly benefit amount computed for the individual's new benefit year.

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

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his or her wages at regular intervals. [1991 c 117 § 1; 1990 c 245 § 1. Prior: 1987 c 278 § 2; 1987 c 256 § 1; 1977 ex.s. c 33 § 1; 1973 c 73 § 1; 1970 ex.s. c 2 § 2; 1949 c 214 § 1; 1945 c 35 § 4; Rem. Supp. 1949 § 9998-143; prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

Conflict with federal requirements—1991 c 117: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1991 c 117 § 5.]

Severability—1991 c 117: "If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 117 § 6.]

Effective dates—1991 c 117: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and sections 1 and 4 [of this act] shall take effect July 1, 1991, and section 3 [of this act] shall take effect July 7, 1991, for new claims filed on or after July 7, 1991." [1991 c 117 § 7.]

Conflict with federal requirements—1990 c 245: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1990 c 245 § 11.]

Effective dates—1990 c 245: "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1990].

(2) Sections 2, 3, and 6 through 9 of this act shall take effect on July 1, 1990." [1990 c 245 § 12.]

Effective dates—Construction—1977 ex.s. c 33: "The provisions of this 1977 amendatory act are necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect ninety days after adjournment sine die of the 1977 Extraordinary Session (forty-fifth legislature) of the Washington State Legislature: PROVIDED, That the first paragraph of section 1 of this 1977 amendatory act shall take effect immediately and the remaining portion of section 1 of this 1977 amendatory act and all of section 2 of this 1977 amendatory act shall take effect commencing with benefit years beginning on and after October 1, 1978; section 7 of this 1977 amendatory act shall take effect commencing with benefit years beginning on and after July 3, 1977." [1977 ex.s. c 33 § 11.]

Effective dates—1973 c 73: "Sections 7, 8, 10, 11, and 12 of this 1973 amendatory act are necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 8, 1973]. Sections 1, 2, 3, 4, 5, 6, and 9 of this 1973 amendatory act shall take effect on July 1, 1973." [1973 c 73 § 13.]

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

RCW 50.04.040 Benefits. "Benefits" means the compensation payable to an individual, as provided in this title, with respect to

his or her unemployment. [2010 c 8 § 13002; 1945 c 35 § 5; Rem. Supp. 1945 § 9998-144. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 219 § 19; 1937 c 162 § 19.]

RCW 50.04.050 Calendar quarter. "Calendar quarter" means the period of three consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st. [1945 c 35 § 6; Rem. Supp. 1945 § 9998-145. Prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

RCW 50.04.060 Commissioner. "Commissioner" means the administrative head of the state employment security department referred to in this title. [1947 c 215 § 1; 1945 c 35 § 7; Rem. Supp. 1947 § 9998-146. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

RCW 50.04.065 Common paymaster or pay agent. (1) For purposes of this title, "common paymaster" or "common pay agent" means an independent third party who contracts with, and represents, two or more employers, and who files a combined tax report for those employers.

(2) Common paymaster combined tax reporting is prohibited. "Common paymaster" does not meet the definition of a joint account under RCW 50.24.170.

(3) A common pay agent or common paymaster is not an employer as defined in RCW 50.04.080 or an employing unit as defined in RCW 50.04.090. [2007 c 146 § 16.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

RCW 50.04.070 Contributions. "Contributions" means the money payments due to the state unemployment compensation fund as provided in RCW 50.24.010 or to the special account in the administrative contingency fund under RCW 50.24.014. [2012 c 198 § 9; 1985 ex.s. c 5 § 4; 1983 1st ex.s. c 13 § 9; 1971 c 3 § 1; 1951 c 215 § 1; 1945 c 35 § 8; Rem. Supp. 1945 § 9998-147. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Conflict with federal requirements—Severability—1985 ex.s. c 5: See notes following RCW 50.62.010.

Conflict with federal requirements—1983 1st ex.s. c 13: See note following RCW 50.16.010.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.072 Contributions—"Contributions" and "payments in lieu of contributions" as money payments and taxes due state. The terms "contributions" and "payments in lieu of contributions" used in this title, whether singular or plural, designate the money payments to be made to the state unemployment compensation fund or to the special account in the administrative contingency fund under RCW 50.24.014 and are deemed to be taxes due to the state of Washington. [2012 c 198 § 10; 1985 ex.s. c 5 § 5; 1983 1st ex.s. c 13 § 10; 1971 c 3 § 3; 1959 c 266 § 8.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Conflict with federal requirements—Severability—1985 ex.s. c 5: See notes following RCW 50.62.010.

Conflict with federal requirements—1983 1st ex.s. c 13: See note following RCW 50.16.010.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

Construction—1959 c 266: "The provisions of section 8 of this amendatory act shall be construed as a restatement and continuation of existing law, and not as a new enactment. It shall not be construed as affecting any existing right acquired under its provisions nor as affecting any proceeding instituted thereunder." [1959 c 266 § 9.]

RCW 50.04.073 Contributions—As including "payments in lieu of contributions"—Scope. The term "contributions" as used in this title shall be deemed to include "payments in lieu of contributions" to the extent that such usage is consistent with the purposes of this title. Such construction shall include but not be limited to those portions of this title dealing with assessments, interest, penalties, liens, collection procedures and remedies, administrative and judicial review, and the imposition of administrative, civil and criminal sanctions. [1983 1st ex.s. c 23 § 1; 1971 c 3 § 4.]

Conflict with federal requirements—1983 1st ex.s. c 23: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1983 1st ex.s. c 23 § 26.]

Effective dates—Construction—1983 1st ex.s. c 23: "(1) Sections 6, 8, 17, 18, 19, and 25 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing institutions, and shall take effect as follows:

(a) Sections 17, 18, 19, and 25 of this act shall take effect on June 30, 1983;

(b) Sections 6 and 8 of this act shall take effect on July 3, 1983, and shall be effective for benefit years commencing on or after that date.

(2) Sections 4 and 13 of this act shall take effect on October 1, 1983. Sections 7, 11, and 12 of this act shall also take effect on October 1, 1983, and shall be effective for all weeks of benefits paid on or after that date." [1983 1st ex.s. c 23 § 27.]

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.074 Department. "Department" means the employment security department, unless the context clearly indicates otherwise. [2021 c 2 § 4.]

Intent—Conflict with federal requirements—Effective date—2021 c 2: See notes following RCW 50.04.323.

RCW 50.04.075 Dislocated worker. (1) With respect to claims with an effective date prior to July 1, 2012, "dislocated worker" means any individual who:

(a) Has been terminated or received a notice of termination from employment;

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits; and

(c) Is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry.

(2) With respect to claims with an effective date on or after July 1, 2012, "dislocated worker" means any individual who:

(a) Has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, has separated from a declining occupation, has separated from employment as a result of chapter 179, Laws of 2018, or has separated from employment as a result of the denial of commercial finfish net pen aquaculture lease renewal applications or the issuance of order number 202211 by the commissioner of public lands on November 17, 2022; and

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits. [2023 c 156 § 1; 2018 c 179 § 11; 2011 c 4 § 12; 1984 c 181 § 1.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.29.021.

Dislocated worker's eligibility for benefits: RCW 50.20.043.

RCW 50.04.080 Employer. "Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title. [2013 c 250 § 3; 2007 c 146 § 19; 1985 c 41 § 1; 1971 c 3 § 5; 1949 c 214 § 2; 1945 c 35 § 9; Rem. Supp. 1949 § 9998-148. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Conflict with federal requirements—Effective date—2013 c 250:
See notes following RCW 50.12.070.

Conflict with federal requirements—2007 c 146: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2007 c 146 § 21.]

Severability—2007 c 146: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 146 § 22.]

Conflict with federal requirements—1985 c 41: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1985 c 41 § 2.]

Severability—1985 c 41: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 41 § 3.]

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.090 Employing unit. "Employing unit" means any individual or any type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in

bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ or in its "employment" one or more individuals performing services within this state. The state and its political subdivisions shall be deemed employing units as to any transactions occurring on or after September 21, 1977, which would render an employing unit liable for contributions, interest, or penalties under RCW 50.24.130. "Employing unit" includes Indian tribes as defined in RCW 50.50.010. [2013 c 250 § 4; 2007 c 146 § 20; 2001 1st sp.s. c 11 § 1; 1983 1st ex.s. c 23 § 2; 1977 ex.s. c 73 § 1; 1947 c 215 § 2; 1945 c 35 § 10; Rem. Supp. 1947 § 9998-149. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Conflict with federal requirements—Effective date—2013 c 250: See notes following RCW 50.12.070.

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

Conflict with federal requirements—Severability—Effective date—Retroactive application—2001 1st sp.s. c 11: See RCW 50.50.900 through 50.50.903.

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

RCW 50.04.100 Employment. "Employment," subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by any employment relationship as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Except as provided by RCW 50.04.145, personal services performed for an employing unit by one or more contractors or subcontractors acting individually or as a partnership, which do not meet the provisions of RCW 50.04.140, shall be considered employment of the employing unit: PROVIDED, HOWEVER, That such contractor or subcontractor shall be an employer under the provisions of this title in respect to personal services performed by individuals for such contractor or subcontractor. [2023 c 25 § 1; 1982 1st ex.s. c 18 § 14; 1945 c 35 § 11; Rem. Supp. 1945 § 9998-150. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Intent—2023 c 25: "In enacting this act, the legislature only intends to amend the Revised Code of Washington to use inclusive language. The legislature does not intend to either increase or reduce the scope of the definitions of "employment" contained in Title 50 or 50A RCW." [2023 c 25 § 3.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

RCW 50.04.110 Employment—Situs of service. The term "employment" shall include an individual's entire service performed within or without or both within and without this state, if

(1) The service is localized in this state; or

(2) The service is not localized in any state, but some of the service is performed in this state, and

(a) the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(b) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state; or

(3) The service is performed within the United States, the Virgin Islands or Canada, if

(a) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and

(b) the place from which the service is directed or controlled is in this state. [1971 c 3 § 6; 1945 c 35 § 12; Rem. Supp. 1945 § 9998-151. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.115 Employment—Out-of-state service, election.

Services not covered under RCW 50.04.110 or 50.04.116 which are performed entirely without this state, with respect to no part of which contributions, interest, or penalties are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this title if the individual performing such services is a resident of this state and the commissioner approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this title. [1983 1st ex.s. c 23 § 3; 1971 c 3 § 8; 1945 c 35 § 13; Rem. Supp. 1945 § 9998-152. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1937 c 162 § 19. Formerly RCW 50.04.130.]

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.116 Employment—Out-of-state service, when included—"American employer" defined. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada, and in the case of the Virgin Islands after December 31, 1971 and prior to January 1 of the year following the year in which the United States secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed

"employment" under the provisions of RCW 50.04.110 or 50.04.120 or the parallel provisions of another state's law), if:

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States but:

(a) The employer is an individual who is a resident of this state; or

(b) The employer is a corporation which is organized under the laws of this state; or

(c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(3) None of the criteria in subsections (1) and (2) of this section is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state.

(4) An "American employer", for the purposes of this section, means a person who is:

(a) An individual who is a resident of the United States; or

(b) A partnership if two-thirds or more of the partners are residents of the United States; or

(c) A trust, if all of the trustees are residents of the United States; or

(d) A corporation organized under the laws of the United States or of any state. [1977 ex.s. c 292 § 1; 1971 c 3 § 7.]

Effective dates—1977 ex.s. c 292: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately: PROVIDED, That sections 6, 12, 14, 15, 16, and 18 of this 1977 amendatory act shall take effect on January 1, 1978." [1977 ex.s. c 292 § 28.]

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.120 Employment—Localized service. Service shall be deemed to be localized within a state, if

(1) the service is performed entirely within the state; or

(2) the service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions. [1945 c 35 § 14; Rem. Supp. 1945 § 9998-153. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

RCW 50.04.125 Employment—Foreign degree-granting institutions—Employee services localized in country of domicile. The services of employees of a foreign degree-granting institution who are nonimmigrant aliens under the immigration laws of the United States, shall, for the purposes of RCW 50.04.120, be considered to be localized or principally localized, in the country of domicile of the

foreign degree-granting institution as defined in RCW 28B.90.010 in those instances where the income of those employees would be exempt from taxation by virtue of the terms and provisions of any treaty between the United States and the country of domicile of the foreign degree-granting institution. However, a foreign degree-granting institution is not precluded from otherwise establishing that a nonimmigrant employee's services are, for the purpose of such statutes, principally located in its country of domicile. [1993 c 181 § 8.]

RCW 50.04.140 Employment—Exception tests. Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless and until it is shown to the satisfaction of the commissioner that:

(1) (a) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(b) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service.

(2) Or as a separate alternative, it shall not constitute employment subject to this title if it is shown that:

(a) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(b) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(d) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(e) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(f) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting. [1991 c 246 § 6; 1945 c 35 § 15; Rem. Supp. 1945 § 9998-154. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective date—Conflict with federal requirements—1991 c 246:
See notes following RCW 51.08.195.

RCW 50.04.145 Employment—Exclusions. The term "employment" shall not include services which require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(1) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(2) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(3) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(4) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(5) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(6) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(7) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW. [2008 c 102 § 1; 1983 1st ex.s. c 23 § 25; 1982 1st ex.s. c 18 § 13.]

Conflict with federal requirements—Severability—2008 c 102: See notes following RCW 51.08.070.

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

RCW 50.04.148 Employment—Services performed by musician or entertainer. (1) The term "employment" shall not include services performed by a musician or entertainer under a written contract with a purchaser of the services for a specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. The contract shall designate the leader of the music or entertainment group. A music or entertainment business or a leader of a music or entertainment group shall be considered an employer and not a purchaser of music or entertainment services.

(2) Any musician or entertainer who performs for a music or entertainment business or as a member of a music or entertainment group is deemed an employee of the business or group and the business or the leader of the group shall be required to register as an employer with the department.

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

(4) The term "music or entertainment business" or "group" as used in this section means an employer whose principal business activity is music or entertainment. The term does not include those entities who provide music or entertainment for members or patrons incidental to their principal business activity, and does not include an individual employing musicians or entertainers on a casual basis. [1985 c 47 § 1.]

Effective date—1985 c 47: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect July 1, 1985." [1985 c 47 § 2.]

RCW 50.04.150 Employment—Agricultural labor. Except as otherwise provided in RCW 50.04.155, the term "employment" shall not include service performed in agricultural labor by individuals who are enrolled as students and regularly attending classes, or are between two successive academic years or terms, at an elementary school, a secondary school, or an institution of higher education as defined in RCW 50.44.037 and in the case of corporate farms not covered under RCW 50.04.155, the provisions regarding family employment in RCW 50.04.180 shall apply.

Agricultural labor is defined as services performed:

(1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including

raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption. [1989 c 380 § 78; 1977 ex.s. c 292 § 2; 1957 c 264 § 1; 1947 c 215 § 3; 1945 c 35 § 16; Rem. Supp. 1945 § 9998-155. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective date—1989 c 380 §§ 78-81: "Sections 78 through 81 of this act shall take effect on January 1, 1990." [1989 c 380 § 91.]

Conflict with federal requirements—1989 c 380: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1989 c 380 § 89.]

Effective dates—1977 ex.s. c 292: See note following RCW 50.04.116.

RCW 50.04.152 Employment—Farm internship program. (1) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" does not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in RCW 49.12.471.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) are not applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption. [2023 c 269 § 4; 2020 c 212 § 2.]

Findings—Effective date—2023 c 269: See notes following RCW 49.12.471.

Effective date—2020 c 212: See note following RCW 49.12.471.

RCW 50.04.155 Service performed in agricultural labor for farm operator or crew leader. (1) Service performed in agricultural labor on and after January 1, 1978, for a farm operator or crew leader will be deemed services in employment if the farm operator or crew leader:

(a) Paid twenty thousand dollars or more as remuneration to individuals employed in agricultural labor during any calendar quarter in the current or preceding calendar year; or

(b) Employed ten or more individuals in agricultural labor for some portion of the day in each of twenty different calendar weeks in either the current or preceding calendar year regardless of whether they were employed at the same moment of time or whether or not the weeks were consecutive.

(2) A farm operator is the owner or tenant of the farmlands who stands to gain or lose economically from the operations of the farm. Employment will be considered employment by the farm operator unless it is established to the satisfaction of the commissioner that the services were performed in the employ of a crew leader. The risk of nonpersuasion is upon the farm operator. The operator will nonetheless be liable for contributions under RCW 50.24.130 even though services performed on the operator's farmlands would not be sufficient to bring the services under the term employment if services performed on the operator's land in the employ of a crew leader would be covered and the crew leader has failed to pay contributions on the services. For the purposes of the preceding sentence and RCW 50.24.130, all moneys paid or payable to the crew leader by the farm operator shall be deemed paid for services unless there is a written contract clearly specifying the amounts of money to be attributed to items other than services of the crew leader or the crew leader's employees.

(3) For the purposes of this section, a crew leader is a person who furnishes individuals to perform services in agricultural labor for the benefit of any other person, who pays for the services performed in agricultural labor (either on his or her own behalf or on behalf of the other person), and who has not made a written agreement making himself or herself an employee of the other person: PROVIDED, That no person shall be deemed a crew leader unless he or she is

established independently of the person for whom the services are performed and either has a valid certificate of registration under the farm labor contractor registration act of 1963 or substantially all the members of his or her crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment which is provided by the crew leader. [1977 ex.s. c 292 § 3.]

Effective dates—1977 ex.s. c 292: See note following RCW 50.04.116.

RCW 50.04.160 Employment—Domestic service. Services performed in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority shall not be considered services in employment unless the services are performed after December 31, 1977, for a person who paid remuneration of one thousand dollars or more to individuals employed in this domestic service in any calendar quarter in the current or the preceding calendar year. The terms local college club and local chapter of a college fraternity or sorority shall not be deemed to include alumni clubs or chapters. [1977 ex.s. c 292 § 4; 1947 c 215 § 4; 1945 c 35 § 17; Rem. Supp. 1947 § 9998-156. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 ex.s. c 292: See note following RCW 50.04.116.

RCW 50.04.165 Employment—Corporate officers—Election of coverage—Notification. Services performed by a person appointed as an officer of a corporation under RCW 23B.08.400, other than those covered by chapters 50.44 and 50.50 RCW, shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers under RCW 50.24.160. If an employer does not elect to cover its corporate officers under RCW 50.24.160, the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. However, if the employer fails to provide notice, the individual's status as a corporate officer is unchanged and the person remains ineligible for unemployment benefits. [2013 c 250 § 2; 2007 c 146 § 4; 1993 c 290 § 2; 1993 c 58 § 1; 1991 c 72 § 57; 1986 c 110 § 1; 1983 1st ex.s. c 23 § 4; 1981 c 35 § 13.]

Conflict with federal requirements—Effective date—2013 c 250: See notes following RCW 50.12.070.

Effective date—2007 c 146 § 4: "Section 4 of this act takes effect January 1, 2009." [2007 c 146 § 24.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

Conflict with federal requirements—1993 c 58: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the

state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1993 c 58 § 4.]

Severability—1993 c 58: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 58 § 5.]

Effective date—1993 c 58: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect March 6, 1993." [1993 c 58 § 6.] 1993 c 58 was signed by the governor on April 19, 1993.

Conflict with federal requirements—1986 c 110: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1986 c 110 § 2.]

Severability—1986 c 110: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 110 § 3.]

Effective date—1986 c 110: "This act shall take effect July 1, 1986." [1986 c 110 § 4.]

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Severability—1981 c 35: See note following RCW 50.22.030.

RCW 50.04.170 Employment—Maritime service—Exceptions. (1) (a) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" includes an individual's entire service as an officer or member of a crew of an American vessel wherever performed and whether in intrastate or interstate or foreign commerce, if the employer maintains within this state at the beginning of the pay period an operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed, and controlled.

(b) The term "employment" does not include:

(i) Services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat under which:

(A) The individual does not receive any cash remuneration except as provided in (b) (i) (B) and (C) of this subsection;

(B) The individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch; and

(C) The amount of the individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than ten individuals.

(ii) Services performed as an officer or member of the crew of a vessel not an American vessel and services on or in connection with an American vessel under a contract of service which is not entered into within the United States and during the performance of which the vessel does not touch at a port of the United States.

(2) For the purposes of this section, "American vessel" means any vessel documented or numbered under the laws of the United States, and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state. [2013 c 75 § 2; 1949 c 214 § 3; 1947 c 215 § 5; 1945 c 35 § 18; Rem. Supp. 1949 § 9998-157. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Conflict with federal requirements—2013 c 75: See note following RCW 50.24.160.

RCW 50.04.180 Family employment. The term "employment" shall not include service performed by an individual in the employ of his or her spouse, nor shall it include service performed by an unmarried individual under the age of eighteen years in the employ of his or her parent or stepparent. [1973 c 73 § 2; 1951 c 265 § 6; 1945 c 35 § 19; Rem. Supp. 1945 § 9998-158. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1973 c 73: See note following RCW 50.04.030.

Severability—1951 c 265: See note following RCW 50.98.070.

RCW 50.04.205 Services performed by aliens. Except as provided in RCW 50.04.206, services performed by aliens legally or illegally admitted to the United States shall be considered services in employment subject to the payment of contributions to the extent that services by citizens are covered. [1990 c 245 § 2; 1977 ex.s. c 292 § 5.]

Conflict with federal requirements—Effective dates—1990 c 245:
See notes following RCW 50.04.030.

Effective dates—1977 ex.s. c 292: See note following RCW 50.04.116.

RCW 50.04.206 Employment—Nonresident alien. The term "employment" shall not include service that is performed by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F), (H)(ii), (H)(iii), or (J) of section 101(a)(15) of the federal immigration and naturalization act, as amended, and that is performed to carry out the purpose specified in the applicable subparagraph of the federal immigration and naturalization act. [2006 c 13 § 22. Prior: 2003 2nd sp.s. c 4 § 27; 1990 c 245 § 3.]

Retroactive application—2006 c 13 §§ 8-22: See note following RCW 50.04.293.

Conflict with federal requirements—Part headings not law—Severability—2006 c 13: See notes following RCW 50.20.120.

Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4: See notes following RCW 50.01.010.

Conflict with federal requirements—Effective dates—1990 c 245:
See notes following RCW 50.04.030.

RCW 50.04.210 Employment—Foreign governmental service. The term "employment" shall not include service performed in the employ of any other state or its political subdivisions, or of the United States government, or of any instrumentality of any other state or states or their political subdivisions, or the United States; except that if the congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation act, then, to the extent permitted by congress, and from and after the date when such permission becomes effective all the provisions of this title shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services: PROVIDED, That if this state should not be certified by the social security board under section 903 of the social security act, as amended, for any year, then the payment required of such instrumentalities with respect to such year shall be deemed to be erroneously collected and shall be refunded by the commissioner from the fund in accordance with the provisions of this title relating to adjustments and refunds of contributions, interest, or penalties which have been paid. [1983 1st ex.s. c 23 § 5; 1945 c 35 § 22; Rem. Supp. 1945 § 9998-161. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

RCW 50.04.220 Employment—Service covered by federal act. The term "employment" shall not include service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress: PROVIDED, That the commissioner is hereby authorized to enter into agreements with the proper agencies under such act of congress, which agreements shall become effective ten days after publication thereof in the manner provided in this title for publication of general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this title, acquired right to unemployment compensation under such act of congress, or who have, after acquiring potential rights to unemployment compensation under such act of congress, acquired rights to benefits under this title. [1945 c 35 § 23; Rem. Supp. 1945 § 9998-162. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

RCW 50.04.223 Employment—Massage therapist. The term "employment" does not include services performed by a massage therapist licensed under chapter 18.108 RCW in a massage business if the use of the business facilities is contingent upon compensation to the owner of the business facilities and the person receives no compensation from the owner for the services performed.

This exemption does not include services performed by a massage therapist for an employer under chapter 50.44 RCW. [2016 c 41 § 26; 1994 c 3 § 2; 1993 c 167 § 1.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Conflict with federal requirements—Severability—Effective dates—1994 c 3: See notes following RCW 50.04.020.

Effective date—1993 c 167: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1993." [1993 c 167 § 2.]

RCW 50.04.225 Employment—Barber and cosmetology services. The term "employment" does not include services performed in a barber shop or cosmetology shop by persons licensed under chapter 18.16 RCW if the person is a booth renter as defined in *RCW 18.16.020. [1991 c 324 § 17; 1985 c 7 § 117; 1982 1st ex.s. c 18 § 20.]

***Reviser's note:** RCW 18.16.020 was amended by 2002 c 111 § 2, deleting the definition of "booth renter."

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

RCW 50.04.230 Employment—Services of insurance agent, broker, or solicitor, real estate broker or real estate salesperson, and investment company agent or solicitor. The term "employment" shall not include service performed by an insurance agent, insurance broker, or insurance solicitor or a real estate broker or a real estate

salesperson to the extent he or she is compensated by commission and service performed by an investment company agent or solicitor to the extent he or she is compensated by commission. The term "investment company", as used in this section is to be construed as meaning an investment company as defined in the act of congress entitled "Investment Company Act of 1940." [2010 c 8 § 13003; 1991 c 246 § 7; 1947 c 5 § 24; 1945 c 35 § 24; Rem. Supp. 1947 § 9998-162a.]

Effective date—Conflict with federal requirements—1991 c 246:
See notes following RCW 51.08.195.

RCW 50.04.232 Employment—Travel services. The term "employment" shall not include service performed by an outside agent who sells or arranges for travel services that are provided to a travel agent as defined and registered under RCW 19.138.021, to the extent the outside agent is compensated by commission. [1995 c 242 § 1.]

Conflict with federal requirements—1995 c 242: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1995 c 242 § 2.]

RCW 50.04.235 Employment—Outside salesperson paid by commission. The term "employment" shall not include services as an outside salesperson of merchandise paid solely by way of commission; and such services must have been performed outside of all the places of business of the enterprises for which such services are performed only. [2010 c 8 § 13004; 1957 c 181 § 1.]

RCW 50.04.240 Employment—Newspaper vendor, carrier, or delivery person. The term "employment" shall not include services performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published. [2013 c 141 § 2; 2007 c 218 § 85; 1945 c 35 § 25; Rem. Supp. 1945 § 9998-163. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Intent—Finding—2007 c 218: See note following RCW 41.08.020.

RCW 50.04.245 Employment—Services performed for temporary services agency, employee leasing agency, or services referral agency

—Amateur sports officials—Definitions. (1) Subject to the other provisions of this title, personal services performed for, or for the benefit of, a third party pursuant to a contract with a temporary staffing services company or services referral agency constitutes employment for the temporary staffing services company or services referral agency when the agency is responsible, under contract or in fact, for the payment of wages in remuneration for the services performed.

(2) The temporary staffing services company or services referral agency is considered the employer as defined in RCW 50.04.080.

(3) Services performed by amateur sports officials, on a contest-by-contest basis, for interscholastic and youth or adult recreational sports contests are not considered employment for a services referral agency if the agency is not responsible for payment to the amateur sports officials unless and until the agency is paid or reimbursed by a third party.

(4) For the purposes of this section:

(a) "Temporary staffing services company" means an individual or entity that engages in: Recruiting and hiring its own employees; finding other organizations that need the services of those employees; and assigning those employees on a temporary basis to perform work at or services for a client to support or supplement the client's workforces, or to provide assistance in special work situations, such as employee absences, skill shortages, and seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the client. "Temporary staffing services company" does not include professional employer organizations as defined in RCW 50.04.298, permanent employee leasing, or permanent employee placement services.

(b) "Services referral agency" means an individual or entity other than a professional employer organization as defined in RCW 50.04.298 that is engaged in the business of offering the services of one or more individuals to perform specific tasks for a third party.

(c) "Amateur sports official" means any person who serves as a neutral participant in any sports contest where the players are not compensated including, but not limited to, an umpire, referee, judge, linesperson, scorekeeper, timekeeper, or organizer. [2011 c 264 § 1; 2007 c 146 § 14; 1995 c 120 § 1.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

Conflict with federal requirements—1995 c 120: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1995 c 120 § 2.]

RCW 50.04.246 Employment—Amateur sports officials. Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" shall not include services performed by amateur sports officials, on a contest-by-contest basis, for interscholastic and youth or adult recreational sports contests. For purposes of this section, "amateur sports official" means any person who serves as a neutral participant in any sports contest where the players are not compensated, including but not limited to, an umpire, referee, judge, linesperson, scorekeeper, timekeeper, or organizer, and who is not otherwise employed by the sponsor of the sports contest. [2011 c 264 § 2.]

RCW 50.04.248 Employment—Third-party payer. (1) Subject to the other provisions of this title, personal services performed for, or for the benefit of, an employer who utilizes a third-party payer constitutes employment for the employer. The third-party payer is not considered the employer as defined in RCW 50.04.080.

(2) For purposes of this section, "third-party payer" means an individual or entity that enters into an agreement with one or more employers to provide administrative, human resource, or payroll administration services, but does not provide an employment or coemployment relationship. Temporary staffing services companies, services referral agencies, professional employer organizations, and labor organizations are not third-party payers. [2007 c 146 § 15.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

RCW 50.04.255 Employment—Appraisal practitioner services. The term "employment" does not include services performed by an appraisal practitioner certified or licensed under chapter 18.140 RCW in an appraisal business if the use of the business facilities is contingent upon compensation to the owner of the business facilities and the person receives no compensation from the owner for the services performed. This exemption does not include services performed by an appraisal practitioner certified or licensed under chapter 18.140 RCW for an employer under chapter 50.44 RCW. [1996 c 182 § 14.]

Effective dates—1996 c 182: See note following RCW 18.140.005.

RCW 50.04.265 Employment—Indian tribes. The term "employment" includes services performed in the employ of an Indian tribe as provided in RCW 50.50.010. [2001 1st sp.s. c 11 § 2.]

Conflict with federal requirements—Severability—Effective date—Retroactive application—2001 1st sp.s. c 11: See RCW 50.50.900 through 50.50.903.

RCW 50.04.270 Employment—Casual labor. The term "employment" shall not include casual labor not in the course of the employer's trade or business (labor which does not promote or advance the trade or business of the employer). Temporary labor in the usual course of

an employer's trade or business or domestic services as defined in RCW 50.04.160 shall not be deemed to be casual labor. [1977 ex.s. c 292 § 7; 1945 c 35 § 28; Rem. Supp. 1945 § 9998-166. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 ex.s. c 292: See note following RCW 50.04.116.

RCW 50.04.275 Employment—Small performing arts. The term "employment" shall not include services performed by a person who is participating in a performance sponsored by an employer whose North American industry classification system code is within "711110," "711120," "711130," or "712110," so long as the person receives no remuneration other than a nominal stipend and the employer does not have more than three individuals in its employ during any portion of a day during the calendar year.

For purposes of this section, "stipend" means a fixed sum of money paid periodically to defray expenses. The stipend is presumed to defray the person's incidental expenses involved in participating in the performance, including, but not limited to, meals, transportation, lodging, costumes, supplies, and child care. [2007 c 366 § 1.]

RCW 50.04.280 Employment—"Pay period" determination. If the services performed during one-half or more of any pay period by an individual for an employing unit constitute employment, all of the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for an employing unit do not constitute employment, then none of the services of such individual on behalf of such employing unit for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to an individual by the employing unit. [1945 c 35 § 29; Rem. Supp. 1945 § 9998-167. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

RCW 50.04.290 Employment office. "Employment office" means a free public employment office, or branch thereof, operated by this or any other state as a part of a state controlled system of public employment offices, or by a federal agency or any agency of a foreign government charged with the administration of an unemployment compensation program or free public employment offices. All claims for unemployment compensation benefits, registrations for employment, and all job or placement referrals received or made by any of the employment offices as above defined and pursuant to regulation of the commissioner subsequent to December 31, 1941, are hereby declared in all respects to be valid. The commissioner is authorized to make such investigation, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this title as he or she deems necessary or appropriate to facilitate the administration of any state or federal unemployment compensation or public employment service law and in like manner to accept and utilize information,

services, and facilities made available to the state by the agency charged with the administration of any such unemployment compensation or public employment service law. Any such action taken by the commissioner subsequent to December 31, 1941, is hereby declared to be in all respects valid. [2010 c 8 § 13005; 1945 c 35 § 30; Rem. Supp. 1945 § 9998-168. Prior: 1943 c 127 § 13; 1941 c 253 § 14.]

RCW 50.04.293 Misconduct. With respect to claims that have an effective date before January 4, 2004, "misconduct" means an employee's act or failure to act in willful disregard of his or her employer's interest where the effect of the employee's act or failure to act is to harm the employer's business. [2006 c 13 § 8. Prior: 2003 2nd sp.s. c 4 § 5; 1993 c 483 § 1.]

Retroactive application—2006 c 13 §§ 8-22: "(1) Sections 8 through 13 and 16 of this act apply retroactively to claims that have an effective date on or after January 4, 2004.

(2) Sections 14 and 15 of this act apply retroactively to claims that have an effective date on or after January 2, 2005.

(3) Sections 17 through 22 of this act apply retroactively to June 20, 2003." [2006 c 13 § 23.]

Conflict with federal requirements—Part headings not law—Severability—2006 c 13: See notes following RCW 50.20.120.

Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4: See notes following RCW 50.01.010.

Effective dates—Applicability—1993 c 483: "(1) Sections 1 and 8 through 11 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 3, 1993, and shall be effective as to separations occurring after July 3, 1993.

(2) Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 3, 1993, and is effective as to weeks claimed after July 3, 1993.

(3) Section 12 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 17, 1993], and is effective as to new claims filed after July 3, 1993.

(4) Section 19 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 3, 1993, and is effective as to requests for relief of charges received after July 3, 1993.

(5) Sections 15, 17, and 18 of this act shall be effective as to new extended benefit claims filed after October 2, 1993.

(6) Sections 13 and 14 of this act shall take effect January 1, 1994.

(7) Sections 3, 4, and 5 of this act shall take effect January 2, 1994.

(8) Sections 20 and 21 of this act shall take effect for tax year 1994.

(9) Section 16 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 17, 1993]." [1993 c 483 § 23.]

Conflict with federal requirements—1993 c 483: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1993 c 483 § 24.]

Severability—1993 c 483: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 483 § 25.]

RCW 50.04.294 Misconduct—Gross misconduct. With respect to claims that have an effective date on or after January 4, 2004:

(1) "Misconduct" includes, but is not limited to, the following conduct by a claimant:

(a) Willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee;

(b) Deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee;

(c) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or

(d) Carelessness or negligence of such degree or recurrence to show an intentional or substantial disregard of the employer's interest.

(2) The following acts are considered misconduct because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee. These acts include, but are not limited to:

(a) Insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions or instructions of the employer;

(b) Repeated inexcusable tardiness following warnings by the employer;

(c) Dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(d) Repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(e) Deliberate acts that are illegal, provoke violence or violation of laws, or violate the collective bargaining agreement.

However, an employee who engages in lawful union activity may not be disqualified due to misconduct;

(f) Violation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(g) Violations of law by the claimant while acting within the scope of employment that substantially affect the claimant's job performance or that substantially harm the employer's ability to do business.

(3) "Misconduct" does not include:

(a) Inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(b) Inadvertence or ordinary negligence in isolated instances;

(c) Good faith errors in judgment or discretion; or

(d) (i) A health care worker who left work for the period of quarantine consistent with the recommended guidance from the United States centers for disease control and prevention or subject to the direction of the state or local health jurisdiction because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(ii) For purposes of this subsection, "health care worker" means an individual who worked at a health care facility as defined in RCW 9A.50.010, and was directly involved in the delivery of health services.

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a criminal court, or has admitted committing, or conduct connected with the individual's work that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee. [2021 c 251 § 1; 2006 c 13 § 9. Prior: 2003 2nd sp.s. c 4 § 6.]

Conflict with federal requirements—2021 c 251 §§ 1-4: "If any part of sections 1 through 4 of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of sections 1 through 4 of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of sections 1 through 4 of this act. Rules adopted under sections 1 through 4 of this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2021 c 251 § 5.]

Effective date—2021 c 251: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2021]." [2021 c 251 § 7.]

Retroactive application—2006 c 13 §§ 8-22: See note following RCW 50.04.293.

Conflict with federal requirements—Part headings not law—Severability—2006 c 13: See notes following RCW 50.20.120.

~~Conflict with federal requirements—Severability—Effective date—~~
2003 2nd sp.s. c 4: See notes following RCW 50.01.010.

RCW 50.04.295 Payments in lieu of contributions. "Payments in lieu of contributions" means money payments due to the state unemployment compensation fund as provided in RCW 50.44.060. [1971 c 3 § 2.]

~~Construction—Compliance with federal act—1971 c 3:~~ See RCW 50.44.080.

RCW 50.04.298 Professional employer organizations—Coemployment—Covered employee. For the purposes of this title:

(1) "Professional employer organization" means a person or entity that enters into an agreement with one or more client employers to provide professional employer services. "Professional employer organization" includes entities that use the term "staff leasing company," "permanent leasing company," "registered staff leasing company," "employee leasing company," "administrative employer," or any other name, when they provide professional employer services to client employers. The following are not classified as professional employer organizations: Independent contractors in RCW 50.04.140; temporary staffing services companies and services referral agencies as defined in RCW 50.04.245; third-party payers as defined in RCW 50.04.248; or labor organizations.

(2) "Client employer" means any employer who enters into a professional employer agreement with a professional employer organization.

(3) "Coemployer" means either a professional employer organization or a client employer that has entered into a professional employer agreement.

(4) "Covered employee" means an individual performing services for a client employer that constitutes employment under this title.

(5) "Professional employer services" means services provided by the professional employer organization to the client employer, which include, but are not limited to, human resource functions, risk management, or payroll administration services, in a coemployment relationship.

(6) "Coemployment relationship" means a relationship that is intended to be ongoing rather than temporary or project-specific, where the rights, duties, and obligations of an employer in an employment relationship are allocated between coemployers pursuant to a professional employer agreement and state law. A coemployment relationship exists only if a majority of the employees performing services to a client employer, or to a division or work unit of a client employer, are covered employees. In determining the allocation of rights and obligations in a coemployment relationship:

(a) The professional employer organization has only those employer rights and is subject only to those obligations specifically allocated to it by the professional employer agreement or state law;

(b) The client employer has those rights and obligations allocated to it by the professional employer agreement or state law, as well as any other right or obligation of an employer that is not

specifically allocated by the professional employer agreement or state law.

(7) "Professional employer agreement" means a written contract between a client employer and a professional employer organization that provides for: (a) The coemployment of covered employees; and (b) the allocation of employer rights and obligations between the client and the professional employer organization with respect to the covered employees. [2007 c 146 § 8.]

Report on implementation and impact—2007 c 146 §§ 8-12: "The department shall report on the implementation of sections 8 through 12 of this act and its impacts on professional employer organizations, small businesses, and the integrity and operations of the unemployment insurance system operated under Title 50 RCW. The department shall report to the unemployment insurance advisory committee and to the appropriate committees of the legislature no later than December 1, 2010." [2007 c 146 § 13.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

RCW 50.04.299 Public health emergency. "Public health emergency" means a declaration or order that covers the jurisdiction where the unemployed individual was working on the date the individual became unemployed concerning any dangerous, contagious, or infectious diseases, including a pandemic, and is issued as follows:

(1) The president of the United States has declared a national or regional emergency;

(2) The governor of Washington declared a state of emergency under RCW 43.06.010(12); or

(3) The governor or state executive of another state where the unemployed individual was working at the time of the declaration declared a state of emergency. [2021 c 2 § 3.]

Intent—Conflict with federal requirements—Effective date—2021 c 2: See notes following RCW 50.04.323.

RCW 50.04.300 State. "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico. [1977 ex.s. c 292 § 8; 1971 c 3 § 10; 1945 c 35 § 31; Rem. Supp. 1945 § 9998-169. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 ex.s. c 292: See note following RCW 50.04.116.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

RCW 50.04.310 Unemployed individual—Individual not unemployed—Unemployed corporate officer—Corporate officer not unemployed. (Effective until January 1, 2024.) (1) An individual:

(a) Is "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

(b) Is not "unemployed" in any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for full time work is payable. This subsection may not be applied retroactively to an individual who had no guarantee of work at the start of such period and subsequently is provided additional work by the employer.

(2) (a) An officer of a corporation who owns ten percent or more of the outstanding stock of the corporation, or a corporate officer who is a family member of an officer who owns ten percent or more of the outstanding stock of the corporation, whose claim for benefits is based on any wages with that corporation:

(i) Is not "unemployed" in any week during the individual's term of office or ownership in the corporation, even if wages are not being paid, unless the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(ii) Is "unemployed" in any week upon dissolution of the corporation or if the officer permanently resigns or is permanently removed from their appointment and responsibilities with that corporation in accordance with its articles of incorporation or bylaws or if the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(b) As used in this subsection (2), "family member" means persons who are members of a family by blood or marriage as parents, stepparents, grandparents, spouses, children, brothers, sisters, stepchildren, adopted children, or grandchildren. [2013 c 66 § 1; 2007 c 146 § 5; 1984 c 134 § 1; 1973 2nd ex.s. c 7 § 1; 1945 c 35 § 32; Rem. Supp. 1945 § 9998-170. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1939 c 162 § 19.]

Effective date—2013 c 66: "This act takes effect December 29, 2013." [2013 c 66 § 4.]

Conflict with federal requirements—2013 c 66: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 66 § 2.]

Effective date—2007 c 146 §§ 5, 6, and 10-12: "Sections 5, 6, and 10 through 12 of this act take effect January 1, 2008." [2007 c 146 § 25.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

Application—1973 2nd ex.s. c 7: "This act shall apply to weeks of unemployment commencing on or after January 6, 1974." [1973 2nd ex.s. c 7 § 4.]

RCW 50.04.310 Unemployed individual—Individual not unemployed—Unemployed corporate officer—Corporate officer not unemployed.

(Effective January 1, 2024.) (1) An individual:

(a) Is "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

(b) Is not "unemployed" in any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for full time work is payable. This subsection may not be applied retroactively to an individual who had no guarantee of work at the start of such period and subsequently is provided additional work by the employer.

(2) (a) An officer of a corporation who owns ten percent or more of the outstanding stock of the corporation, or a corporate officer who is a family member of an officer who owns ten percent or more of the outstanding stock of the corporation, whose claim for benefits is based on any wages with that corporation:

(i) Is not "unemployed" in any week during the individual's term of office or ownership in the corporation, even if wages are not being paid, unless the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(ii) Is "unemployed" in any week upon dissolution of the corporation or if the officer permanently resigns or is permanently removed from their appointment and responsibilities with that corporation in accordance with its articles of incorporation or bylaws or if the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(b) As used in this subsection (2), "family member" means persons who are members of a family by blood or marriage as parents, stepparents, grandparents, spouses, children, brothers, sisters, stepchildren, adopted children, or grandchildren.

(3) Subsection (2) (a) of this section does not apply to officers of an employee cooperative corporation organized under chapter 23.78 RCW, a cooperative association organized under chapter 23.86 RCW, or a

limited cooperative association organized under chapter 23.100 RCW. For purposes of subsection (1)(a) of this section, an officer of an employee cooperative corporation organized under chapter 23.78 RCW, a cooperative association organized under chapter 23.86 RCW, or a limited cooperative association organized under chapter 23.100 RCW will not be considered to be performing services by acting only as an officer for the entity. [2023 c 92 § 1; 2013 c 66 § 1; 2007 c 146 § 5; 1984 c 134 § 1; 1973 2nd ex.s. c 7 § 1; 1945 c 35 § 32; Rem. Supp. 1945 § 9998-170. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1939 c 162 § 19.]

Conflict with federal requirements—2023 c 92: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2023 c 92 § 2.]

Effective date—2023 c 92: "This act takes effect January 1, 2024." [2023 c 92 § 3.]

Effective date—2013 c 66: "This act takes effect December 29, 2013." [2013 c 66 § 4.]

Conflict with federal requirements—2013 c 66: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 66 § 2.]

Effective date—2007 c 146 §§ 5, 6, and 10-12: "Sections 5, 6, and 10 through 12 of this act take effect January 1, 2008." [2007 c 146 § 25.]

Conflict with federal requirements—Severability—2007 c 146: See notes following RCW 50.04.080.

Application—1973 2nd ex.s. c 7: "This act shall apply to weeks of unemployment commencing on or after January 6, 1974." [1973 2nd ex.s. c 7 § 4.]

RCW 50.04.315 Vulnerable adult. "Vulnerable adult" has the same meaning as in RCW 74.34.020. [2023 c 240 § 1.]

Conflict with federal requirements—2023 c 240: See note following RCW 50.20.050.

RCW 50.04.320 Wages, remuneration. (1) For the purpose of payment of contributions, "wages" means the remuneration paid by one employer during any calendar year to an individual in its employment under this title or the unemployment compensation law of any other state in the amount specified in RCW 50.24.010. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the operating assets of another employer (hereinafter referred to as a predecessor employer) or assets used in a separate unit of a trade or business of a predecessor employer, and immediately after the acquisition employs in the individual's trade or business an individual who immediately before the acquisition was employed in the trade or business of the predecessor employer, then, for the purposes of determining the amount of remuneration paid by the successor employer to the individual during the calendar year which is subject to contributions, any remuneration paid to the individual by the predecessor employer during that calendar year and before the acquisition shall be considered as having been paid by the successor employer.

(2) For the purpose of payment of benefits, "wages" means the remuneration paid by one or more employers to an individual for employment under this title during his or her base year: PROVIDED, That at the request of a claimant, wages may be calculated on the basis of remuneration payable. The department shall notify each claimant that wages are calculated on the basis of remuneration paid, but at the claimant's request a redetermination may be performed and based on remuneration payable.

(3) For the purpose of payment of benefits and payment of contributions, the term "wages" includes tips which are received after January 1, 1987, while performing services which constitute employment, and which are reported to the employer for federal income tax purposes.

(4) (a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash and the reasonable value of gratuities shall be estimated and determined in accordance with rules prescribed by the commissioner. Remuneration does not include payments to members of a reserve component of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, shall be considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual

written employment contract prior to its expiration date shall be considered remuneration. The proceeds shall be deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Except as provided in (c) of this subsection, the provisions of this subsection (4) pertaining to the assignment of previously accrued compensation shall not apply to individuals subject to RCW 50.44.050. [2010 c 8 § 13006; 1998 c 162 § 1; 1995 c 296 § 1; 1986 c 21 § 1; 1984 c 134 § 2; 1983 1st ex.s. c 23 § 6; 1983 c 67 § 1; 1970 ex.s. c 2 § 3; 1953 ex.s. c 8 § 2; 1951 c 265 § 3; 1949 c 214 § 4; 1947 c 215 § 6; 1945 c 35 § 33; Rem. Supp. 1949 § 9998-171. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Conflict with federal requirements—1998 c 162: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1998 c 162 § 2.]

Effective date—1998 c 162: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect on the Sunday following the day that the governor signs this act [March 29, 1998] and is effective for initial claims filed on or after that Sunday." [1998 c 162 § 3.]

Severability—1995 c 296: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 296 § 5.]

Conflict with federal requirements—1995 c 296: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1995 c 296 § 6.]

Effective date—1995 c 296: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 9, 1995]." [1995 c 296 § 7.]

Conflict with federal requirements—1986 c 21: "If any part of this act is found to be in conflict with federal requirements which

are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1986 c 21 § 2.]

Severability—1986 c 21: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 21 § 3.]

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Severability—1951 c 265: See note following RCW 50.98.070.

RCW 50.04.323 Wages, remuneration—Government or private retirement pension plan payments—Effect upon eligibility—Reduction in benefits. (1) The amount of benefits payable to an individual for any week which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week. However:

(a) The requirements of this subsection shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

(i) Such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer; and

(ii) In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment;

(b) The amount of any such a reduction shall take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment, in accordance with regulations prescribed by the commissioner; and

(c) No deduction shall be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

(2) In the event that a retroactive pension or retirement payment covers a period in which an individual received benefits under the provisions of this title, the amount in excess of the amount to which

such individual would have been entitled had such retirement or pension payment been considered as provided in this section shall be recoverable under RCW 50.20.190.

(3) A lump sum payment accumulated in a plan described in this section paid to an individual eligible for such payment shall not be deducted from the amount of benefits payable to an individual for any given week.

(4) The resulting weekly benefit amount payable after reduction under this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(5) Any ambiguity in subsection (1) of this section should be construed in a manner consistent with 26 U.S.C. Sec. 3304 (a) (15). [2021 c 2 § 5; 1993 c 483 § 2; 1983 1st ex.s. c 23 § 7; 1981 c 35 § 1; 1980 c 74 § 1; 1973 2nd ex.s. c 7 § 2; 1973 1st ex.s. c 167 § 1; 1970 ex.s. c 2 § 19.]

Intent—2021 c 2: "Amid an unprecedented and ongoing need for benefits and stresses on our unemployment insurance trust fund during the COVID-19 public health emergency, the legislature intends to continue assessing the funding levels of the unemployment insurance trust fund and the unemployment insurance premium rates authorized under this act. The legislature will continue to consider recommendations from the employment security department's unemployment insurance advisory committee and other impacted Washingtonians to ensure a healthy unemployment insurance trust fund that can maintain critical economic support to Washington workers and businesses while bolstering the state's economy." [2021 c 2 § 1.]

Conflict with federal requirements—2021 c 2: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2021 c 2 § 26.]

Effective date—2021 c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 8, 2021]." [2021 c 2 § 28.]

Effective dates, applicability—Conflict with federal requirements—Severability—1993 c 483: See notes following RCW 50.04.293.

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Effective dates—Severability—1981 c 35: See notes following RCW 50.22.030.

Severability—1980 c 74: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 74 § 6.]

Effective dates—1980 c 74 §§ 1, 2, and 3: "Sections 1 and 2 of this amendatory act are necessary for the immediate preservation of the public peace, health, and safety, and the support of the state government and its existing public institutions, and shall take effect with weeks of unemployment beginning after March 31, 1980. Section 3 of this amendatory act shall take effect with benefit years beginning after June 30, 1980." [1980 c 74 § 7.]

Application—1973 2nd ex.s. c 7: See note following RCW 50.04.310.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

RCW 50.04.330 Wages, remuneration—Retirement and disability payments excepted. Prior to January 1, 1951, the term "wages" shall not include the amount of any payment by an employing unit for or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of retirement, sickness or accident disability, or medical and hospitalization expenses in connection with sickness or accident disability. After December 31, 1950, the term "wages" shall not include:

(1) The amount of any payment made (including any amount paid by an employing unit for insurance or annuities, or into a fund to provide for any such payment), to, or on behalf of, an individual or any of his or her dependents under a plan or system established by an employing unit which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (a) retirement, or (b) sickness or accident disability, or (c) medical or hospitalization expenses in connection with sickness or accident disability, or (d) death;

(2) The amount of any payment by an employing unit to an individual performing service for it (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(3) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employing unit to, or on behalf of, an individual performing services for it after the expiration of six calendar months following the last calendar month in which the individual performed services for such employing unit;

(4) The amount of any payment made by an employing unit to, or on behalf of, an individual performing services for it or his or her beneficiary (a) from or to a trust exempt from tax under section 165(a) of the federal internal revenue code at the time of such

payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or (b) under or to an annuity plan which, at the time of such payments, meets the requirements of section 165(a)(3), (4), (5), and (6) of the federal internal revenue code; or

(5) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which he or she attains the age of sixty-five, if he or she did not perform services for the employing unit in the period for which such payment is made. [2010 c 8 § 13007; 1951 c 265 § 4; 1949 c 214 § 5; 1945 c 35 § 34; Rem. Supp. 1949 § 9998-173. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Severability—1951 c 265: See note following RCW 50.98.070.

RCW 50.04.335 Wages, remuneration—Stock transfers excepted.

After December 31, 2003, for the purpose of the payment of contributions, the term "wages" does not include an employee's income attributable to the transfer of shares of stock to the employee pursuant to his or her exercise of a stock option granted for any reason connected with his or her employment. [2006 c 13 § 17. Prior: 2003 2nd sp.s. c 4 § 2.]

Retroactive application—2006 c 13 §§ 8-22: See note following RCW 50.04.293.

Conflict with federal requirements—Part headings not law—Severability—2006 c 13: See notes following RCW 50.20.120.

Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4: See notes following RCW 50.01.010.

RCW 50.04.340 Wages, remuneration—Death benefits excepted.

Prior to January 1, 1951, the term "wages" shall not include the amount of any payment by an employing unit for or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of death, provided the individual in its employ

(1) has not the option to receive instead of provisions for such death benefits, any part of such payment, or, if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his or her employing unit; and

(2) has not the right under the provisions of the plan or system or policy of insurance providing for such death benefits to assign such benefits or to receive a cash consideration in lieu of such benefits, either upon his or her withdrawal from the plan or system providing for such benefits or upon termination of such plan or system or policy of insurance or of his or her services with such employing unit. [2010 c 8 § 13008; 1951 c 265 § 5; 1949 c 214 § 6; 1945 c 35 § 35; Rem. Supp. 1949 § 9998-173. Prior: 1943 c 127 § 13; 1941 c 253 § 14.]

Severability—1951 c 265: See note following RCW 50.98.070.

RCW 50.04.350 Wages, remuneration—Excepted payments. The term "wages" shall not include the payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in employment under section 1400 of the federal internal revenue code, as amended, or any amount paid to a person in the military service for any pay period during which he or she performs no service for the employer: PROVIDED, HOWEVER, That prior to January 1, 1952, the term "wages" shall not include dismissal payments which an employing unit is not legally required to make. [2010 c 8 § 13009; 1951 c 265 § 2; 1945 c 35 § 36; Rem. Supp. 1945 § 9998-174. Prior: 1943 c 127 § 13; 1941 c 253 § 14.]

Severability—1951 c 265: See note following RCW 50.98.070.

RCW 50.04.355 Wages, remuneration—Average annual wage—Average weekly wage—Average annual wage for contributions purposes. (1) For computations made before January 1, 2007, the employment security department shall compute, on or before the fifteenth day of June of each year, an "average annual wage", an "average weekly wage", and an "average annual wage for contributions purposes" from information for the specified preceding calendar years including corrections thereof reported within three months after the close of the final year of the specified years by all employers as defined in RCW 50.04.080.

(a) The "average annual wage" is the quotient derived by dividing the total remuneration reported by all employers for the preceding calendar year by the average number of workers reported for all months of the preceding calendar year and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(b) The "average weekly wage" is the quotient derived by dividing the "average annual wage" obtained under (a) of this subsection by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(c) The "average annual wage for contributions purposes" is the quotient derived by dividing by three the total remuneration reported by all employers subject to contributions for the preceding three consecutive calendar years and dividing this amount by the average number of workers reported for all months of these three years by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(2) For computations made on or after January 1, 2007, the employment security department shall compute, on or before the fifteenth day of June of each year, an "average annual wage," an "average weekly wage," and an "average annual wage for contributions purposes" from information for the preceding calendar year including corrections thereof reported within three months after the close of that year by all employers as defined in RCW 50.04.080.

(a) The "average annual wage" is the quotient derived by dividing the total remuneration reported by all employers by the average number of workers reported for all months and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(b) The "average weekly wage" is the quotient derived by dividing the "average annual wage" obtained under (a) of this subsection by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(c) The "average annual wage for contributions purposes" is the quotient derived by dividing the total remuneration reported by all employers subject to contributions by the average number of workers reported for all months by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. [2003 2nd sp.s. c 4 § 15; 2000 c 2 § 1; 1977 ex.s. c 33 § 2; 1975 1st ex.s. c 228 § 1; 1973 c 73 § 3; 1970 ex.s. c 2 § 6.]

Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4: See notes following RCW 50.01.010.

Conflict with federal requirements—2000 c 2: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2000 c 2 s 17.]

Severability—2000 c 2: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2000 c 2 § 18.]

Effective date—2000 c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 7, 2000]." [2000 c 2 § 19.]

Application—2000 c 2 §§ 1, 2, 4, 5, 8, and 12-15: See note following RCW 50.22.150.

Effective dates—Construction—1977 ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1975 1st ex.s. c 228: "All sections of this 1975 amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on the first Sunday following signature by the governor [June 29, 1975]." [1975 1st ex.s. c 228 § 19.]

Effective dates—1973 c 73: See note following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

RCW 50.04.360 Week. "Week" means any period of seven consecutive calendar days ending at midnight as the commissioner may by regulation prescribe. [1945 c 35 § 37; Rem. Supp. 1945 § 9998-175. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

RCW 50.04.370 Services performed by a driver facilitated by a transportation network company. (1) Notwithstanding RCW 50.04.140, services performed by a driver that are facilitated through a digital network are subject to this title. Except as otherwise provided in rules adopted by the department, the laws and rules that apply under this title to a relationship meeting the requirements of RCW 50.04.100 also apply to the relationship between a driver and a transportation network company.

(2) This section must not be interpreted as:

(a) Amending the definitions and exceptions in RCW 50.04.100 or 50.04.140; or

(b) Limiting the scope of coverage under this title as to any other employment relationship.

(3) For purposes of this section, the definitions in this subsection apply unless the context clearly requires otherwise.

(a) "Digital network" has the meaning provided in RCW 49.46.300.

(b) "Driver" has the meaning provided in RCW 49.46.300.

(c) "Transportation network company" has the meaning provided in RCW 49.46.300. [2023 c 451 § 1.]

RCW 50.04.900 Construction—Title applicable to state registered domestic partnerships—2009 c 521. For the purposes of this title, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 137.]