

HOUSE BILL 1730

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Heavey, Prentice, R. King and Cole.

Read first time February 7, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to unemployment compensation and benefits; amending
2 RCW 50.20.050, 50.20.060, 50.20.120, 50.06.010, 50.06.020, and
3 50.06.030; adding a new section to chapter 50.20 RCW; creating a new
4 section; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 50.20.050 and 1982 1st ex.s. c 18 s 6 are each amended
7 to read as follows:

8 (1) An individual shall be disqualified from benefits beginning
9 with the first day of the calendar week in which he or she has left
10 work voluntarily without good cause and thereafter until he or she has
11 obtained bona fide work and earned wages of not less than his or her
12 suspended weekly benefit amount in each of five calendar weeks.

13 The disqualification shall continue if the work obtained is a mere
14 sham to qualify for benefits and is not bona fide work. In determining

1 whether work is of a bona fide nature, the commissioner shall consider
2 factors including but not limited to the following:

3 (a) The duration of the work;

4 (b) The extent of direction and control by the employer over the
5 work; and

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

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

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

12 (b) The separation was:

13 (i) Caused by compelling personal reasons of the claimant,
14 including but not limited to the claimant's marital status or domestic
15 responsibilities. "Marital status" includes a marriage of the claimant
16 pending within a reasonable period after leaving work; or

17 (ii) Because of the illness or disability of the claimant or the
18 death, illness, or disability of a member of the claimant's immediate
19 family if the claimant took all reasonable precautions, in accordance
20 with any regulations that the commissioner may prescribe, to protect
21 his or her employment status by having promptly notified the employer
22 of the reason for the absence and by having promptly requested
23 reemployment when again able to assume employment: PROVIDED, That
24 these precautions need not have been taken when they would have been a
25 futile act, including those instances when the futility of the act was
26 a result of a recognized labor/management dispatch system.

27 (3) In determining under this section whether an individual has
28 left work voluntarily without good cause, the commissioner shall only
29 consider work-connected factors such as the degree of risk involved to
30 the individual's health, safety, and morals, the individual's physical

1 fitness for the work, the individual's ability to perform the work, and
2 such other work connected factors as the commissioner may deem
3 pertinent, including state and national emergencies. Good cause shall
4 not be established for voluntarily leaving work because of its distance
5 from an individual's residence where the distance was known to the
6 individual at the time he or she accepted the employment and where, in
7 the judgment of the department, the distance is customarily traveled by
8 workers in the individual's job classification and labor market, nor
9 because of any other significant work factor which was generally known
10 and present at the time he or she accepted employment, unless the
11 related circumstances have so changed as to amount to a substantial
12 involuntary deterioration of the work factor or unless the commissioner
13 determines that other related circumstances would work an unreasonable
14 hardship on the individual were he or she required to continue in the
15 employment.

16 ~~((4) Subsections (1) and (3) of this section shall not apply to an~~
17 ~~individual whose marital status or domestic responsibilities cause him~~
18 ~~or her to leave employment. Such an individual shall not be eligible~~
19 ~~for unemployment insurance benefits until he or she has requalified,~~
20 ~~either by obtaining bona fide work and earning wages of not less than~~
21 ~~the suspended weekly benefit amount in each of five calendar weeks or~~
22 ~~by reporting in person to the department during ten different calendar~~
23 ~~weeks and certifying on each occasion that he or she is ready, able,~~
24 ~~and willing to immediately accept any suitable work which may be~~
25 ~~offered, is actively seeking work pursuant to customary trade~~
26 ~~practices, and is utilizing such employment counseling and placement~~
27 ~~services as are available through the department.))~~

28 **Sec. 2.** RCW 50.20.060 and 1982 1st ex.s. c 18 s 16 are each
29 amended to read as follows:

1 (1) An individual shall be disqualified from benefits beginning
2 with the first day of the calendar week in which he or she has been
3 discharged or suspended for willful misconduct connected with his or
4 her work and thereafter until he or she has ((obtained work and
5 earned)) requalified, either by obtaining work and earning wages of not
6 less than the suspended weekly benefit amount in each of five calendar
7 weeks, or by reporting in person to the department during five
8 different calendar weeks and certifying on each occasion that he or she
9 is ready, able, and willing to immediately accept any suitable work
10 which may be offered, is actively seeking work pursuant to customary
11 trade practices, and is using such employment counseling and placement
12 services as are available through the department.

13 (2) Alcoholism shall not constitute a defense to disqualification
14 from benefits due to misconduct.

15 ((2) An individual who has been discharged because of a felony or
16 a gross misdemeanor of which he or she has been convicted, or has
17 admitted committing to a competent authority, and which is connected
18 with his or her work shall be disqualified from receiving any benefits
19 for which base year credits are earned in any employment prior to the
20 discharge. Such disqualification begins with the first day of the
21 calendar week in which he or she has been discharged, and all benefits
22 paid during the period the individual was disqualified shall be
23 recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other
24 provision of this title.))

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.20 RCW
26 to read as follows:

27 An individual who has been discharged because of a felony or a
28 gross misdemeanor of which he or she has been convicted, or has
29 admitted committing to a competent authority, and which is connected

1 with his or her work shall be disqualified from receiving any benefits
2 for which base year credits are earned in any employment prior to the
3 discharge. Such disqualification begins with the first day of the
4 calendar week in which he or she has been discharged, and all benefits
5 paid during the period the individual was disqualified shall be
6 recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other
7 provision of this title.

8 **Sec. 4.** RCW 50.20.120 and 1984 c 205 s 1 are each amended to read
9 as follows:

10 (1) Subject to the other provisions of this title, benefits shall
11 be payable to any eligible individual during the individual's benefit
12 year in a maximum amount equal to the lesser of thirty times the weekly
13 benefit amount (determined hereinafter) or one-third of the
14 individual's base year wages under this title, but in no case less than
15 fifteen times the weekly benefit amount: PROVIDED, That as to any week
16 beginning on and after March 31, 1981, which falls in an extended
17 benefit period as defined in RCW 50.22.010(1), as now or hereafter
18 amended, an individual's eligibility for maximum benefits in excess of
19 twenty-six times his or her weekly benefit amount will be subject to
20 the terms and conditions set forth in RCW 50.22.020, as now or
21 hereafter amended.

22 (2) An individual's weekly benefit amount shall be an amount equal
23 to one twenty-fifth of the average quarterly wages of the individual's
24 total wages during the two quarters of the individual's base year in
25 which such total wages were highest. The maximum and minimum amounts
26 payable weekly shall be determined as of each June 30th to apply to
27 benefit years beginning in the twelve-month period immediately
28 following such June 30th. The maximum amount payable weekly shall be
29 fifty-five percent of the "average weekly wage" for the calendar year

1 preceding such June 30th: PROVIDED, That if as of the first December
2 31st on which the ratio of the balance in the unemployment compensation
3 fund to total remuneration paid by all employers subject to
4 contributions during the calendar year ending on such December 31st and
5 reported to the department by the following March 31st is 0.024 or
6 more, the maximum amount payable weekly for benefit years beginning
7 with the first full calendar week in July next following, and
8 thereafter, shall be sixty percent of the "average weekly wage". The
9 computation for this ratio shall be carried to the fourth decimal place
10 with the remaining fraction, if any, disregarded: PROVIDED FURTHER,
11 That for benefit years beginning before July 7, 1985, the maximum
12 amount payable weekly shall not exceed one hundred eighty-five dollars.
13 The minimum amount payable weekly shall be ((fifteen)) twenty-five
14 percent of the "average weekly wage" for the calendar year preceding
15 such June 30th. If any weekly benefit, maximum benefit, or minimum
16 benefit amount computed herein is not a multiple of one dollar, it
17 shall be reduced to the next lower multiple of one dollar.

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

20 This chapter is enacted for the purpose of providing the protection
21 of the unemployment compensation system to persons who have suffered a
22 temporary total disability compensable under industrial insurance or
23 crime victims compensation laws ((and)) or who are reentering the work
24 force after a temporary career disruption because of domestic
25 responsibilities, marital status, or compelling personal reasons. It
26 is a recognition by this legislature of the economic hardship
27 confronting those persons who have not been promptly reemployed after
28 a prolonged period of ((temporary total disability)) absence from the
29 work force.

1 **Sec. 6.** RCW 50.06.020 and 1984 c 65 s 2 are each amended to read
2 as follows:

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

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

10 (2) Individuals who are reentering the work force after an absence
11 related to domestic responsibilities, marital status, or compelling
12 personal reasons, as defined by department rule, which reasons shall
13 include but not be limited to providing care for family members,
14 participating full-time in a formal educational or training program, or
15 suffering temporary total disability because of a nonwork-related
16 injury.

17 **Sec. 7.** RCW 50.06.030 and 1987 c 278 s 3 are each amended to read
18 as follows:

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

1 (2) In the case of individuals eligible under RCW 50.06.020(2), an
2 application for initial determination may be filed in writing at any
3 time after the individual begins seeking full-time employment.

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

7 (4) For the purpose of this chapter, a special base year is
8 established for an individual consisting of either the first four of
9 the last five completed calendar quarters or the last four completed
10 calendar quarters immediately prior to the first day of the calendar
11 week in which the individual's temporary total disability commenced,
12 and a special individual benefit year is established consisting of the
13 entire period of disability and a fifty-two consecutive week period
14 commencing with the first day of the calendar week immediately
15 following the week or part thereof with respect to which the individual
16 received his final temporary total disability compensation under the
17 applicable industrial insurance or crime victims compensation laws
18 except that no special benefit year shall have a duration in excess of
19 three hundred twelve calendar weeks: PROVIDED HOWEVER, That such
20 special benefit year will not be established unless the criteria
21 contained in RCW 50.04.030 has been met, except that an individual
22 meeting the disability and filing requirements of this chapter and who
23 has an unexpired benefit year established which would overlap the
24 special benefit year provided by this chapter, notwithstanding the
25 provisions in RCW 50.04.030 relating to the establishment of a
26 subsequent benefit year and RCW 50.40.010 relating to waiver of rights,
27 may elect to establish a special benefit year under this chapter:
28 PROVIDED FURTHER, that the unexpired benefit year shall be terminated
29 with the beginning of the special benefit year if the individual elects
30 to establish such special benefit year.

1 (5) For the purposes of establishing a benefit year, the department
2 shall initially use the first four of the last five completed calendar
3 quarters as the base year. If a benefit year is not established using
4 the first four of the last five calendar quarters as the base year, the
5 department shall use the last four completed calendar quarters as the
6 base year.

7 NEW SECTION. **Sec. 8.** If any part of this act is found to be
8 in conflict with federal requirements which are a prescribed condition
9 to the allocation of federal funds to the state or the eligibility of
10 employers in this state for federal unemployment tax credits, the
11 conflicting part of this act is hereby declared to be inoperative
12 solely to the extent of the conflict, and such finding or determination
13 shall not affect the operation of the remainder of this act. The rules
14 under this act shall meet federal requirements which are a necessary
15 condition to the receipt of federal funds by the state or the granting
16 of federal unemployment tax credits to employers in this state.

17 NEW SECTION. **Sec. 9.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 10.** Section 4 of this act is necessary for
22 the immediate preservation of the public peace, health, or safety, or
23 support of the state government and its existing public institutions,
24 and shall take effect July 7, 1991, for new claims filed on or after
25 July 7, 1991.