

SENATE BILL REPORT

SB 6608

As of February 15, 2006

Title: An act relating to disqualification from unemployment benefits due to incarceration.

Brief Description: Mandating that a person be disqualified from unemployment benefits due to incarceration.

Sponsors: Senators McCaslin, Mulliken, Parlette and Benton.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/1/06.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Staff: Jennifer Strus (786-7316)

Background: Under unemployment insurance (UI) laws, an individual discharged from his or her employment for misconduct connected to his or her work is disqualified from receiving UI benefits. "Misconduct" is defined as 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.

In *Barker v. Employment Security Department*, Mr. Barker was discharged from his employment for misconduct. The misconduct was that he missed work for 14 days because he was incarcerated for violating a no-contact order that he was unaware existed, and did not notify his employer of his absence. The Court of Appeals held that Mr. Barker attempted to notify his employer of his absence, from jail, but was unsuccessful. The court held that circumstances beyond the employee's control cannot form the basis for the conclusion that the employee acted in willful disregard of the employer's interests thus constituting misconduct.

Summary of Bill: A person is disqualified from receiving unemployment insurance benefits if he or she is incarcerated and fails to report for work as scheduled and does not notify his or her employer within 24 hours. The person is disqualified from the first day of the calendar week in which he or she has been discharged or suspended and continues for 7 calendar weeks until he or she has obtained employment covered by the UI laws and earned wages equal to seven times the weekly benefit amount.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Employers should not be penalized because one of their employees is arrested and the employer is not aware of this and has to find someone else to do that

employee's job. The bill should be amended so that these situations fall under the voluntary quit provisions in the statute because it will be easier for ESD to administer.

Testimony Against: The current statute does not support the approach this bill is taking because a person may receive UI benefits if he or she is unemployed through no fault of their own. This bill would institute a per se rule in these situations and that is not good policy. This bill would not allow ESD to review the situation and make decisions based upon individual circumstances.

Testimony Other: This would set a new condition for discharge from employment and sometimes people are wrongfully incarcerated and this bill would prohibit ESD from considering these situations in determining whether someone is eligible for UI.

Who Testified: PRO: Senator McCaslin, Prime Sponsor; Mellani McAleenan, AWB; Norm Raffael, Weyerhaeuser.

CON: Pam Crone, Washington State Labor Council.

OTHER: Larry Stevens, National Electrical Contractor's Association & Mechanical Contractor's Association.