

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5770**

Chapter 381, Laws of 1995

(partial veto)

54th Legislature  
1995 Regular Session

UNEMPLOYMENT INSURANCE CLAIMANT PROFILING

EFFECTIVE DATE: 5/16/95

Passed by the Senate April 23, 1995  
YEAS 43 NAYS 2

JOEL PRITCHARD

**President of the Senate**

Passed by the House April 23, 1995  
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the  
House of Representatives**

Approved May 16, 1995, with the  
exception of section 3, which is  
vetoed.

MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the  
Senate of the State of Washington,  
do hereby certify that the attached  
is **ENGROSSED SENATE BILL 5770** as  
passed by the Senate and the House  
of Representatives on the dates  
hereon set forth.

MARTY BROWN

**Secretary**

FILED

May 16, 1995 - 11:31 a.m.

**Secretary of State  
State of Washington**

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ENGROSSED SENATE BILL 5770

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AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1995 Regular Session

State of Washington                      54th Legislature                      1995 Regular Session

By Senators Pelz, Newhouse and Deccio; by request of Employment Security Department

Read first time 02/06/95. Referred to Committee on Labor, Commerce & Trade.

1            AN ACT Relating to unemployment insurance claimant profiling;  
2 amending RCW 50.20.010 and 50.20.043; adding a new section to chapter  
3 50.20 RCW; creating new sections; and declaring an emergency.

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

5            **Sec. 1.** RCW 50.20.010 and 1981 c 35 s 3 are each amended to read  
6 as follows:

7            An unemployed individual shall be eligible to receive waiting  
8 period credits or benefits with respect to any week in his or her  
9 eligibility period only if the commissioner finds that:

10            (1) He or she has registered for work at, and thereafter has  
11 continued to report at, an employment office in accordance with such  
12 regulation as the commissioner may prescribe, except that the  
13 commissioner may by regulation waive or alter either or both of the  
14 requirements of this subdivision as to individuals attached to regular  
15 jobs and as to such other types of cases or situations with respect to  
16 which (~~he or she~~) the commissioner finds that the compliance with  
17 such requirements would be oppressive, or would be inconsistent with  
18 the purposes of this title;

1 (2) He or she has filed an application for an initial determination  
2 and made a claim for waiting period credit or for benefits in  
3 accordance with the provisions of this title;

4 (3) He or she is able to work, and is available for work in any  
5 trade, occupation, profession, or business for which he or she is  
6 reasonably fitted. To be available for work an individual must be  
7 ready, able, and willing, immediately to accept any suitable work which  
8 may be offered to him or her and must be actively seeking work pursuant  
9 to customary trade practices and through other methods when so directed  
10 by the commissioner or ~~((his))~~ the commissioner's agents;

11 (4) He or she has been unemployed for a waiting period of one week;  
12 ~~((and))~~

13 (5) He or she participates in reemployment services if the  
14 individual has been referred to reemployment services pursuant to the  
15 profiling system established by the commissioner under section 2 of  
16 this act, unless the commissioner determines that:

17 (a) The individual has completed such services; or

18 (b) There is justifiable cause for the claimant's failure to  
19 participate in such services; and

20 (6) As to weeks beginning after March 31, 1981, which fall within  
21 an extended benefit period as defined in RCW 50.22.010(~~((1), as now or~~  
22 hereafter amended)), the individual meets the terms and conditions of  
23 RCW 50.22.020(~~(, as now or hereafter amended,))~~) with respect to  
24 benefits claimed in excess of twenty-six times the individual's weekly  
25 benefit amount.

26 An individual's eligibility period for regular benefits shall be  
27 coincident to his or her established benefit year. An individual's  
28 eligibility period for additional or extended benefits shall be the  
29 periods prescribed elsewhere in this title for such benefits.

30 NEW SECTION. Sec. 2. A new section is added to chapter 50.20 RCW  
31 to read as follows:

32 (1) The commissioner shall establish and use a profiling system for  
33 new claimants for regular compensation under this title that identifies  
34 permanently separated workers who are likely to exhaust regular  
35 compensation and will need job search assistance services to make a  
36 successful transition to new employment. The profiling system shall  
37 use a combination of individual characteristics and labor market  
38 information to assign each individual a unique probability of benefit

1 exhaustion. Individuals identified as likely to exhaust benefits shall  
2 be referred to reemployment services, such as job search assistance  
3 services, to the extent such services are available at public expense.

4 (2) The profiling system shall include collection and review of  
5 follow-up information relating to the services received by individuals  
6 under this section and the employment outcomes for the individuals  
7 following receipt of the services. The information shall be used in  
8 making profiling identifications.

9 (3) In carrying out reviews of individuals receiving services, the  
10 department may contract with public or private entities and may  
11 disclose information or records necessary to permit contracting  
12 entities to assist in the operation and management of department  
13 functions. Any information or records disclosed to public or private  
14 entities shall be used solely for the purposes for which the  
15 information was disclosed and the entity shall be bound by the same  
16 rules of privacy and confidentiality as department employees. The  
17 misuse or unauthorized disclosure of information or records deemed  
18 private and confidential under chapter 50.13 RCW by any person or  
19 organization to which access is permitted by this section shall subject  
20 the person or organization to a civil penalty of five thousand dollars  
21 and other applicable sanctions under state and federal law. Suit to  
22 enforce this section shall be brought by the attorney general and the  
23 amount of any penalties collected shall be paid into the employment  
24 security department administrative contingency fund. The attorney  
25 general may recover reasonable attorneys' fees for any action brought  
26 to enforce this section.

27 *\*Sec. 3. RCW 50.20.043 and 1985 c 40 s 1 are each amended to read*  
28 *as follows:*

29 *(1) No otherwise eligible individual shall be denied benefits for*  
30 *any week because the individual is in training with the approval of the*  
31 *commissioner, nor shall such individual be denied benefits with respect*  
32 *to any week in which the individual is satisfactorily progressing in a*  
33 *training program with the approval of the commissioner by reason of the*  
34 *application of RCW 50.20.010(3), 50.20.015, 50.20.080, or 50.22.020(1)*  
35 *relating to availability for work and active search for work, or*  
36 *failure to apply for or refusal to accept suitable work.*

37 *(2) An individual shall be considered to be in training with the*  
38 *approval of the commissioner if the individual is one who:*

1 (a)(i) The commissioner determines to be a dislocated worker as  
2 defined by RCW 50.04.075; or

3 (ii) Fits the department's profile of unemployed workers who are  
4 likely to exhaust their benefits; and ((who))

5 (b) Is satisfactorily progressing in a training program approved by  
6 the commissioner ((shall be considered to be in training with the  
7 approval of the commissioner)).

8 (3) At the time of filing for an initial determination, individuals  
9 determined to be dislocated workers as defined in RCW 50.04.075 or who  
10 fit the department's profile of unemployed workers who are likely to  
11 exhaust their benefits shall be provided with information concerning  
12 the opportunity, if the individual is otherwise eligible, to receive  
13 benefits while satisfactorily progressing in training approved by the  
14 commissioner.

15 \*Sec. 3 was vetoed. See message at end of chapter.

16 NEW SECTION. Sec. 4. The commissioner may adopt rules as  
17 necessary to implement the 1995 c ... ss 1 and 3 (sections 1 and 3 of  
18 this act) amendments to RCW 50.20.010 and 50.20.043 and section 2 of  
19 this act, including but not limited to definitions, eligibility  
20 standards, program review criteria and procedures, and provisions  
21 necessary to comply with applicable federal laws and regulations that  
22 are a condition to receipt of federal funds by the state or the  
23 granting of federal unemployment tax credits to employers in this  
24 state.

25 NEW SECTION. Sec. 5. If any part of this act is found to be in  
26 conflict with federal requirements that are a prescribed condition to  
27 the allocation of federal funds to the state or the eligibility of  
28 employers in this state for federal unemployment tax credits, the  
29 conflicting part of this act is hereby declared to be inoperative  
30 solely to the extent of the conflict, and such finding or determination  
31 shall not affect the operation of the remainder of this act. The rules  
32 under this act shall meet federal requirements that are a necessary  
33 condition to the receipt of federal funds by the state or the granting  
34 of federal unemployment tax credits to employers in this state.

35 NEW SECTION. Sec. 6. This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately.

Passed the Senate April 23, 1995.

Passed the House April 23, 1995.

Approved by the Governor May 16, 1995, with the exception of  
certain items which were vetoed.

Filed in Office of Secretary of State May 16, 1995.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 3,  
3 Engrossed Senate Bill No. 5770 entitled:

4 "AN ACT Relating to unemployment insurance claimant profiling;"

5 Engrossed Senate Bill No. 5770 provides the Department of  
6 Employment Security the authority to implement a federally mandated  
7 worker profiling system to identify long-term unemployed individuals  
8 and to refer them to re-employment services.

9 Section 3 of the bill contains language restricting training to  
10 certain classes of workers. According to the Attorney General, this  
11 change puts at risk the current training of some workers. This  
12 consequence was unforeseen and unintended when the bill was passed.

13 Section 3 also instructs the department to inform eligible  
14 individuals that they may receive benefits while they satisfactorily  
15 progress in training that has been approved by the commissioner of the  
16 department. This is a positive change. I will, by separate  
17 instrument, direct the department to comply with this provision.

18 For these reasons, I am vetoing section 3 of Engrossed Senate Bill  
19 No. 5770.

20 With the exception of section 3, Engrossed Senate Bill No. 5770 is  
21 approved."