

---

HOUSE BILL 2668

---

State of Washington

58th Legislature

2004 Regular Session

By Representatives Moeller, Santos, Dickerson, Darneille, Chase, Kagi, Clibborn, Simpson, G., Lovick, Morrell, Kenney, Romero and Conway

Read first time 01/19/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to good cause for voluntarily leaving work;  
2 amending RCW 50.20.050, 50.20.100, 50.20.240, and 50.29.020; and  
3 declaring an emergency.

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

5 **Sec. 1.** RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each amended  
6 to read as follows:

7 (1) With respect to claims that have an effective date before  
8 January 4, 2004:

9 (a) An individual shall be disqualified from benefits beginning  
10 with the first day of the calendar week in which he or she has left  
11 work voluntarily without good cause and thereafter for seven calendar  
12 weeks and until he or she has obtained bona fide work in employment  
13 covered by this title and earned wages in that employment equal to  
14 seven times his or her weekly benefit amount.

15 The disqualification shall continue if the work obtained is a mere  
16 sham to qualify for benefits and is not bona fide work. In determining  
17 whether work is of a bona fide nature, the commissioner shall consider  
18 factors including but not limited to the following:

19 (i) The duration of the work;

1 (ii) The extent of direction and control by the employer over the  
2 work; and

3 (iii) The level of skill required for the work in light of the  
4 individual's training and experience.

5 (b) An individual shall not be considered to have left work  
6 voluntarily without good cause when:

7 (i) He or she has left work to accept a bona fide offer of bona  
8 fide work as described in (a) of this subsection;

9 (ii) The separation was because of the illness or disability of the  
10 claimant or the death, illness, or disability of a member of the  
11 claimant's immediate family if the claimant took all reasonable  
12 precautions, in accordance with any regulations that the commissioner  
13 may prescribe, to protect his or her employment status by having  
14 promptly notified the employer of the reason for the absence and by  
15 having promptly requested reemployment when again able to assume  
16 employment: PROVIDED, That these precautions need not have been taken  
17 when they would have been a futile act, including those instances when  
18 the futility of the act was a result of a recognized labor/management  
19 dispatch system;

20 (iii) He or she has left work to relocate for the spouse's  
21 employment that is due to an employer-initiated mandatory transfer that  
22 is outside the existing labor market area if the claimant remained  
23 employed as long as was reasonable prior to the move; or

24 (iv) The separation was necessary to protect the claimant or the  
25 claimant's immediate family members from domestic violence, as defined  
26 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

27 (c) In determining under this subsection 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  
31 fitness for the work, the individual's ability to perform the work, and  
32 such other work connected factors as the commissioner may deem  
33 pertinent, including state and national emergencies. Good cause shall  
34 not be established for voluntarily leaving work because of its distance  
35 from an individual's residence where the distance was known to the  
36 individual at the time he or she accepted the employment and where, in  
37 the judgment of the department, the distance is customarily traveled by  
38 workers in the individual's job classification and labor market, nor

1 because of any other significant work factor which was generally known  
2 and present at the time he or she accepted employment, unless the  
3 related circumstances have so changed as to amount to a substantial  
4 involuntary deterioration of the work factor or unless the commissioner  
5 determines that other related circumstances would work an unreasonable  
6 hardship on the individual were he or she required to continue in the  
7 employment.

8 (d) Subsection (1)(a) and (c) of this section shall not apply to an  
9 individual whose marital status or domestic responsibilities cause him  
10 or her to leave employment. Such an individual shall not be eligible  
11 for unemployment insurance benefits beginning with the first day of the  
12 calendar week in which he or she left work and thereafter for seven  
13 calendar weeks and until he or she has requalified, either by obtaining  
14 bona fide work in employment covered by this title and earning wages in  
15 that employment equal to seven times his or her weekly benefit amount  
16 or by reporting in person to the department during ten different  
17 calendar weeks and certifying on each occasion that he or she is ready,  
18 able, and willing to immediately accept any suitable work which may be  
19 offered, is actively seeking work pursuant to customary trade  
20 practices, and is utilizing such employment counseling and placement  
21 services as are available through the department. This subsection does  
22 not apply to individuals covered by (b)(ii) or (iii) of this  
23 subsection.

24 (2) With respect to claims that have an effective date on or after  
25 January 4, 2004:

26 (a) An individual shall be disqualified from benefits beginning  
27 with the first day of the calendar week in which he or she has left  
28 work voluntarily without good cause and thereafter for seven calendar  
29 weeks and until he or she has obtained bona fide work in employment  
30 covered by this title and earned wages in that employment equal to  
31 seven times his or her weekly benefit amount.

32 The disqualification shall continue if the work obtained is a mere  
33 sham to qualify for benefits and is not bona fide work. In determining  
34 whether work is of a bona fide nature, the commissioner shall consider  
35 factors including but not limited to the following:

- 36 (i) The duration of the work;
- 37 (ii) The extent of direction and control by the employer over the  
38 work; and

1 (iii) The level of skill required for the work in light of the  
2 individual's training and experience.

3 (b) An individual is not disqualified from benefits under (a) of  
4 this subsection when:

5 (i) He or she has left work to accept a bona fide offer of bona  
6 fide work as described in (a) of this subsection;

7 (ii) The separation was necessary because of the illness or  
8 disability of the claimant or the death, illness, or disability of a  
9 member of the claimant's immediate family if:

10 (A) The claimant pursued all reasonable alternatives to preserve  
11 his or her employment status by requesting a leave of absence, by  
12 having promptly notified the employer of the reason for the absence,  
13 and by having promptly requested reemployment when again able to assume  
14 employment. These alternatives need not be pursued, however, when they  
15 would have been a futile act, including those instances when the  
16 futility of the act was a result of a recognized labor/management  
17 dispatch system; and

18 (B) The claimant terminated his or her employment status, and is  
19 not entitled to be reinstated to the same position or a comparable or  
20 similar position;

21 (iii) He or she ~~((:—(A)))~~ has left work to relocate for the  
22 spouse's employment that ~~((τ))~~ is due to ~~((α))~~ an employer-initiated  
23 ~~((military))~~ transfer ~~((:—(I)))~~ that is outside the existing  
24 labor market area ~~((: and (II) is in Washington or another state that,~~  
25 ~~pursuant to statute, does not consider such an individual to have left~~  
26 ~~work voluntarily without good cause; and (B)))~~ if the claimant remained  
27 employed as long as was reasonable prior to the move;

28 (iv) The separation was necessary to protect the claimant or the  
29 claimant's immediate family members from domestic violence, as defined  
30 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

31 (v) The individual's usual compensation was reduced by twenty-five  
32 percent or more;

33 (vi) The individual's usual hours were reduced by twenty-five  
34 percent or more;

35 (vii) The individual's worksite changed, such change caused a  
36 material increase in distance or difficulty of travel, and, after the  
37 change, the commute was greater than is customary for workers in the  
38 individual's job classification and labor market;

1 (viii) The individual's worksite safety deteriorated, the  
2 individual reported such safety deterioration to the employer, and the  
3 employer failed to correct the hazards within a reasonable period of  
4 time;

5 (ix) The individual left work because of illegal activities in the  
6 individual's worksite, the individual reported such activities to the  
7 employer, and the employer failed to end such activities within a  
8 reasonable period of time; or

9 (x) The individual's usual work was changed to work that violates  
10 the individual's religious convictions or sincere moral beliefs.

11 **Sec. 2.** RCW 50.20.100 and 2003 2nd sp.s. c 4 s 13 are each amended  
12 to read as follows:

13 (1) Suitable work for an individual is employment in an occupation  
14 in keeping with the individual's prior work experience, education, or  
15 training and if the individual has no prior work experience, special  
16 education, or training for employment available in the general area,  
17 then employment which the individual would have the physical and mental  
18 ability to perform. In determining whether work is suitable for an  
19 individual, the commissioner shall also consider the degree of risk  
20 involved to the individual's health, safety, and morals, the  
21 individual's physical fitness, the individual's length of unemployment  
22 and prospects for securing local work in the individual's customary  
23 occupation, the distance of the available work from the individual's  
24 residence, and such other factors as the commissioner may deem  
25 pertinent, including state and national emergencies.

26 (2) For individuals with base year work experience in agricultural  
27 labor, any agricultural labor available from any employer shall be  
28 deemed suitable unless it meets conditions in RCW 50.20.110 or the  
29 commissioner finds elements of specific work opportunity unsuitable for  
30 a particular individual.

31 (3) For part-time workers as defined in RCW 50.20.119, suitable  
32 work includes suitable work under subsection (1) of this section that  
33 is for seventeen or fewer hours per week.

34 (4) For individuals who have qualified for unemployment  
35 compensation benefits under RCW 50.20.050 (1)(b)(~~(iii)~~) (iv) or  
36 (2)(b)(~~(v)~~) (iv), as applicable, an evaluation of the suitability of

1 the work must consider the individual's need to address the physical,  
2 psychological, legal, and other effects of domestic violence or  
3 stalking.

4 **Sec. 3.** RCW 50.20.240 and 2003 2nd sp.s. c 4 s 10 are each amended  
5 to read as follows:

6 (1)(a) To ensure that following the initial application for  
7 benefits, an individual is actively engaged in searching for work, the  
8 employment security department shall implement a job search monitoring  
9 program. Effective January 4, 2004, the department shall contract with  
10 employment security agencies in other states to ensure that individuals  
11 residing in those states and receiving benefits under this title are  
12 actively engaged in searching for work in accordance with the  
13 requirements of this section. The department may use interactive voice  
14 technology and other electronic means to ensure that individuals are  
15 subject to comparable job search monitoring, regardless of whether they  
16 reside in Washington or elsewhere.

17 (b) Except for those individuals with employer attachment or union  
18 referral, individuals who qualify for unemployment compensation under  
19 RCW 50.20.050 (1)(b)(~~(iii)~~) (iv) or (2)(b)(~~(v)~~) (iv), as  
20 applicable, and individuals in commissioner-approved training, an  
21 individual who has received five or more weeks of benefits under this  
22 title, regardless of whether the individual resides in Washington or  
23 elsewhere, must provide evidence of seeking work, as directed by the  
24 commissioner or the commissioner's agents, for each week beyond five in  
25 which a claim is filed. With regard to claims with an effective date  
26 before January 4, 2004, the evidence must demonstrate contacts with at  
27 least three employers per week or documented in-person job search  
28 activity at the local reemployment center. With regard to claims with  
29 an effective date on or after January 4, 2004, the evidence must  
30 demonstrate contacts with at least three employers per week or  
31 documented in-person job search activities at the local reemployment  
32 center at least three times per week.

33 (c) In developing the requirements for the job search monitoring  
34 program, the commissioner or the commissioner's agents shall utilize an  
35 existing advisory committee having equal representation of employers  
36 and workers.

1 (2) Effective January 4, 2004, an individual who fails to comply  
2 fully with the requirements for actively seeking work under RCW  
3 50.20.010 shall lose all benefits for all weeks during which the  
4 individual was not in compliance, and the individual shall be liable  
5 for repayment of all such benefits under RCW 50.20.190.

6 **Sec. 4.** RCW 50.29.020 and 2003 2nd sp.s. c 4 s 20 are each amended  
7 to read as follows:

8 (1) This section applies to benefits charged to the experience  
9 rating accounts of employers for claims that have an effective date  
10 before January 4, 2004.

11 (2) An experience rating account shall be established and  
12 maintained for each employer, except employers as described in RCW  
13 50.44.010 and 50.44.030 who have properly elected to make payments in  
14 lieu of contributions, taxable local government employers as described  
15 in RCW 50.44.035, and those employers who are required to make payments  
16 in lieu of contributions, based on existing records of the employment  
17 security department. Benefits paid to any eligible individuals shall  
18 be charged to the experience rating accounts of each of such  
19 individual's employers during the individual's base year in the same  
20 ratio that the wages paid by each employer to the individual during the  
21 base year bear to the wages paid by all employers to that individual  
22 during that base year, except as otherwise provided in this section.

23 (3) The legislature finds that certain benefit payments, in whole  
24 or in part, should not be charged to the experience rating accounts of  
25 employers except those employers described in RCW 50.44.010 and  
26 50.44.030 who have properly elected to make payments in lieu of  
27 contributions, taxable local government employers described in RCW  
28 50.44.035, and those employers who are required to make payments in  
29 lieu of contributions, as follows:

30 (a) Benefits paid to any individuals later determined to be  
31 ineligible shall not be charged to the experience rating account of any  
32 contribution paying employer.

33 (b) Benefits paid to an individual filing under the provisions of  
34 chapter 50.06 RCW shall not be charged to the experience rating account  
35 of any contribution paying employer only if:

36 (i) The individual files under RCW 50.06.020(1) after receiving

1 crime victims' compensation for a disability resulting from a nonwork-  
2 related occurrence; or

3 (ii) The individual files under RCW 50.06.020(2).

4 (c) Benefits paid which represent the state's share of benefits  
5 payable as extended benefits defined under RCW 50.22.010(6) shall not  
6 be charged to the experience rating account of any contribution paying  
7 employer.

8 (d) In the case of individuals who requalify for benefits under RCW  
9 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
10 the disqualifying separation shall not be charged to the experience  
11 rating account of the contribution paying employer from whom that  
12 separation took place.

13 (e) Individuals who qualify for benefits under RCW  
14 50.20.050(1)(b)(~~(iii)~~) (iv) shall not have their benefits charged to  
15 the experience rating account of any contribution paying employer.

16 (f) In the case of individuals identified under RCW 50.20.015,  
17 benefits paid with respect to a calendar quarter, which exceed the  
18 total amount of wages earned in the state of Washington in the higher  
19 of two corresponding calendar quarters included within the individual's  
20 determination period, as defined in RCW 50.20.015, shall not be charged  
21 to the experience rating account of any contribution paying employer.

22 (4)(a) A contribution-paying base year employer, not otherwise  
23 eligible for relief of charges for benefits under this section, may  
24 receive such relief if the benefit charges result from payment to an  
25 individual who:

26 (i) Last left the employ of such employer voluntarily for reasons  
27 not attributable to the employer;

28 (ii) Was discharged for misconduct connected with his or her work  
29 not a result of inability to meet the minimum job requirements;

30 (iii) Is unemployed as a result of closure or severe curtailment of  
31 operation at the employer's plant, building, worksite, or other  
32 facility. This closure must be for reasons directly attributable to a  
33 catastrophic occurrence such as fire, flood, or other natural disaster;  
34 or

35 (iv) Continues to be employed on a regularly scheduled permanent  
36 part-time basis by a base year employer and who at some time during the  
37 base year was concurrently employed and subsequently separated from at  
38 least one other base year employer. Benefit charge relief ceases when



1 the employment relationship between the employer requesting relief and  
2 the claimant is terminated. This subsection does not apply to shared  
3 work employers under chapter 50.60 RCW.

4 (b) The employer requesting relief of charges under this subsection  
5 must request relief in writing within thirty days following mailing to  
6 the last known address of the notification of the valid initial  
7 determination of such claim, stating the date and reason for the  
8 separation or the circumstances of continued employment. The  
9 commissioner, upon investigation of the request, shall determine  
10 whether relief should be granted.

11 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 immediately.

--- END ---