

EHB 3278 - S AMD 365

By Senators Kohl-Welles, Parlette

ADOPTED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each
4 reenacted to read as follows:

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

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

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

17 (i) The duration of the work;

18 (ii) The extent of direction and control by the employer over the
19 work; and

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

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

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

26 (ii) The separation was because of the illness or disability of the
27 claimant or the death, illness, or disability of a member of the
28 claimant's immediate family if the claimant took all reasonable
29 precautions, in accordance with any regulations that the commissioner
30 may prescribe, to protect his or her employment status by having

1 promptly notified the employer of the reason for the absence and by
2 having promptly requested reemployment when again able to assume
3 employment: PROVIDED, That these precautions need not have been taken
4 when they would have been a futile act, including those instances when
5 the futility of the act was a result of a recognized labor/management
6 dispatch system;

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

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

14 (c) In determining under this subsection whether an individual has
15 left work voluntarily without good cause, the commissioner shall only
16 consider work-connected factors such as the degree of risk involved to
17 the individual's health, safety, and morals, the individual's physical
18 fitness for the work, the individual's ability to perform the work, and
19 such other work connected factors as the commissioner may deem
20 pertinent, including state and national emergencies. Good cause shall
21 not be established for voluntarily leaving work because of its distance
22 from an individual's residence where the distance was known to the
23 individual at the time he or she accepted the employment and where, in
24 the judgment of the department, the distance is customarily traveled by
25 workers in the individual's job classification and labor market, nor
26 because of any other significant work factor which was generally known
27 and present at the time he or she accepted employment, unless the
28 related circumstances have so changed as to amount to a substantial
29 involuntary deterioration of the work factor or unless the commissioner
30 determines that other related circumstances would work an unreasonable
31 hardship on the individual were he or she required to continue in the
32 employment.

33 (d) Subsection (1)(a) and (c) of this section shall not apply to an
34 individual whose marital status or domestic responsibilities cause him
35 or her to leave employment. Such an individual shall not be eligible
36 for unemployment insurance benefits beginning with the first day of the
37 calendar week in which he or she left work and thereafter for seven
38 calendar weeks and until he or she has requalified, either by obtaining

1 bona fide work in employment covered by this title and earning wages in
2 that employment equal to seven times his or her weekly benefit amount
3 or by reporting in person to the department during ten different
4 calendar weeks and certifying on each occasion that he or she is ready,
5 able, and willing to immediately accept any suitable work which may be
6 offered, is actively seeking work pursuant to customary trade
7 practices, and is utilizing such employment counseling and placement
8 services as are available through the department. This subsection does
9 not apply to individuals covered by (b)(ii) or (iii) of this
10 subsection.

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

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

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

- 23 (i) The duration of the work;
- 24 (ii) The extent of direction and control by the employer over the
25 work; and
- 26 (iii) The level of skill required for the work in light of the
27 individual's training and experience.

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

- 30 (i) He or she has left work to accept a bona fide offer of bona
31 fide work as described in (a) of this subsection;
- 32 (ii) The separation was necessary because of the illness or
33 disability of the claimant or the death, illness, or disability of a
34 member of the claimant's immediate family if:

35 (A) The claimant pursued all reasonable alternatives to preserve
36 his or her employment status by requesting a leave of absence, by
37 having promptly notified the employer of the reason for the absence,
38 and by having promptly requested reemployment when again able to assume

1 employment. These alternatives need not be pursued, however, when they
2 would have been a futile act, including those instances when the
3 futility of the act was a result of a recognized labor/management
4 dispatch system; and

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

8 (iii) He or she: (A) Left work to relocate for the spouse's
9 employment that, due to a mandatory military transfer: (I) Is outside
10 the existing labor market area; and (II) is in Washington or another
11 state that, pursuant to statute, does not consider such an individual
12 to have left work voluntarily without good cause; and (B) remained
13 employed as long as was reasonable prior to the move;

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

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

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

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

25 (viii) The individual's worksite safety deteriorated, the
26 individual reported such safety deterioration to the employer, and the
27 employer failed to correct the hazards within a reasonable period of
28 time;

29 (ix) The individual left work because of illegal activities in the
30 individual's worksite, the individual reported such activities to the
31 employer, and the employer failed to end such activities within a
32 reasonable period of time; or

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

35 NEW SECTION. **Sec. 2.** Section 1 of this act applies retroactively
36 to claims that have an effective date on or after January 4, 2004."

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1 On page 1, line 2 of the title, after "equity;" strike the
2 remainder of the title and insert "reenacting RCW 50.20.050; and
3 creating a new section."

EFFECT: Reenacts, retroactively, the "good cause quit" section of Second Engrossed Senate Bill No. 6097 (a section that was potentially under challenge in Batey v. Employment Security Department).

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