

---

HOUSE BILL 1305

---

State of Washington

61st Legislature

2009 Regular Session

By Representatives Kretz, Blake, Pearson, Schmick, Short, Kristiansen, Herrera, and Condotta

Read first time 01/16/09. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to absence from work resulting from incarceration;  
2 amending RCW 50.29.021; adding a new section to chapter 50.20 RCW; and  
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.20 RCW  
6 to read as follows:

7 With respect to claims with an effective date on or after the first  
8 Sunday following the effective date of this act, an individual shall be  
9 disqualified from benefits beginning with the first day of the calendar  
10 week in which he or she has been discharged due to absence from work  
11 resulting from either a violation of law for which the individual was  
12 convicted and sentenced to jail or prison, or a violation of a  
13 condition of probation, community custody, community supervision, or  
14 parole for which the individual was incarcerated in jail or prison.  
15 The individual shall also be disqualified from benefits thereafter for  
16 ten calendar weeks and until he or she has obtained bona fide work in  
17 employment covered by this title and earned wages in that employment  
18 equal to ten times his or her weekly benefit amount.

1       **Sec. 2.** RCW 50.29.021 and 2008 c 323 s 2 are each amended to read  
2 as follows:

3       (1) This section applies to benefits charged to the experience  
4 rating accounts of employers for claims that have an effective date on  
5 or after January 4, 2004.

6       (2)(a) An experience rating account shall be established and  
7 maintained for each employer, except employers as described in RCW  
8 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
9 payments in lieu of contributions, taxable local government employers  
10 as described in RCW 50.44.035, and those employers who are required to  
11 make payments in lieu of contributions, based on existing records of  
12 the employment security department.

13       (b) Benefits paid to an eligible individual shall be charged to the  
14 experience rating accounts of each of such individual's employers  
15 during the individual's base year in the same ratio that the wages paid  
16 by each employer to the individual during the base year bear to the  
17 wages paid by all employers to that individual during that base year,  
18 except as otherwise provided in this section.

19       (c) When the eligible individual's separating employer is a covered  
20 contribution paying base year employer, benefits paid to the eligible  
21 individual shall be charged to the experience rating account of only  
22 the individual's separating employer if the individual qualifies for  
23 benefits under:

24       (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed  
25 after having worked and earned wages in the bona fide work; or

26       (ii) RCW 50.20.050(2)(b) (v) through (x).

27       (3) The legislature finds that certain benefit payments, in whole  
28 or in part, should not be charged to the experience rating accounts of  
29 employers except those employers described in RCW 50.44.010, 50.44.030,  
30 and 50.50.030 who have properly elected to make payments in lieu of  
31 contributions, taxable local government employers described in RCW  
32 50.44.035, and those employers who are required to make payments in  
33 lieu of contributions, as follows:

34       (a) Benefits paid to any individual later determined to be  
35 ineligible shall not be charged to the experience rating account of any  
36 contribution paying employer. However, when a benefit claim becomes  
37 invalid due to an amendment or adjustment of a report where the  
38 employer failed to report or inaccurately reported hours worked or

1 remuneration paid, or both, all benefits paid will be charged to the  
2 experience rating account of the contribution paying employer or  
3 employers that originally filed the incomplete or inaccurate report or  
4 reports. An employer who reimburses the trust fund for benefits paid  
5 to workers and who fails to report or inaccurately reported hours  
6 worked or remuneration paid, or both, shall reimburse the trust fund  
7 for all benefits paid that are based on the originally filed incomplete  
8 or inaccurate report or reports.

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

12 (i) The individual files under RCW 50.06.020(1) after receiving  
13 crime victims' compensation for a disability resulting from a nonwork-  
14 related occurrence; or

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

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

20 (d) In the case of individuals who requalify for benefits under RCW  
21 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
22 the disqualifying separation shall not be charged to the experience  
23 rating account of the contribution paying employer from whom that  
24 separation took place.

25 (e) Benefits paid to an individual who qualifies for benefits under  
26 RCW 50.20.050(2)(b) (iv) or (xi), as applicable, shall not be charged  
27 to the experience rating account of any contribution paying employer.

28 (f) With respect to claims with an effective date on or after the  
29 first Sunday following April 22, 2005, benefits paid that exceed the  
30 benefits that would have been paid if the weekly benefit amount for the  
31 claim had been determined as one percent of the total wages paid in the  
32 individual's base year shall not be charged to the experience rating  
33 account of any contribution paying employer.

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

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

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

6 (iii) Was discharged due to absence from work resulting from his or  
7 her incarceration in jail or prison, regardless of whether he or she  
8 was incarcerated due to arrest or to conviction and sentence;

9 (iv) Is unemployed as a result of closure or severe curtailment of  
10 operation at the employer's plant, building, worksite, or other  
11 facility. This closure must be for reasons directly attributable to a  
12 catastrophic occurrence such as fire, flood, or other natural disaster;  
13 or

14 (~~(iv)~~) (v) Continues to be employed on a regularly scheduled  
15 permanent part-time basis by a base year employer and who at some time  
16 during the base year was concurrently employed and subsequently  
17 separated from at least one other base year employer. Benefit charge  
18 relief ceases when the employment relationship between the employer  
19 requesting relief and the claimant is terminated. This subsection does  
20 not apply to shared work employers under chapter 50.06 RCW.

21 (b) The employer requesting relief of charges under this subsection  
22 must request relief in writing within thirty days following mailing to  
23 the last known address of the notification of the valid initial  
24 determination of such claim, stating the date and reason for the  
25 separation or the circumstances of continued employment. The  
26 commissioner, upon investigation of the request, shall determine  
27 whether relief should be granted.

28 NEW SECTION. Sec. 3. If any part of this act is found to be in  
29 conflict with federal requirements that are a prescribed condition to  
30 the allocation of federal funds to the state or the eligibility of  
31 employers in this state for federal unemployment tax credits, the  
32 conflicting part of this act is inoperative solely to the extent of the  
33 conflict, and the finding or determination does not affect the  
34 operation of the remainder of this act. Rules adopted under this act  
35 must meet federal requirements that are a necessary condition to the

1 receipt of federal funds by the state or the granting of federal  
2 unemployment tax credits to employers in this state.

--- END ---