

**SB 5777 - S AMD 499**  
By Senator Keiser

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

3 **"Sec. 1.** RCW 50.20.090 and 1988 c 83 s 1 are each amended to  
4 read as follows:

5 (1) An individual shall be disqualified for benefits for any week  
6 with respect to which the commissioner finds that the individual's  
7 unemployment is(~~+~~

8 ~~(a) Due~~) due to a strike at the factory, establishment, or other  
9 premises at which the individual is or was last employed(~~+~~~~or~~

10 ~~(b) Due to a lockout by his or her employer who is a member of a~~  
11 ~~multi-employer bargaining unit and who has locked out the employees~~  
12 ~~at the factory, establishment, or other premises at which the~~  
13 ~~individual is or was last employed after one member of the multi-~~  
14 ~~employer bargaining unit has been struck by its employees as a result~~  
15 ~~of the multi-employer bargaining process)).~~

16 (2) Subsection (1) of this section shall not apply if it is shown  
17 to the satisfaction of the commissioner that:

18 (a) The individual is not participating in or financing or  
19 directly interested in the strike (~~or lockout~~) that caused the  
20 individual's unemployment; and

21 (b) The individual does not belong to a grade or class of workers  
22 of which, immediately before the commencement of the strike (~~or~~  
23 ~~lockout~~), there were members employed at the premises at which the  
24 strike (~~or lockout~~) occurs, any of whom are participating in or  
25 financing or directly interested in the strike (~~or lockout~~):  
26 PROVIDED, That if in any case separate branches of work which are  
27 commonly conducted as separate businesses in separate premises are  
28 conducted in separate departments of the same premises, each such  
29 department shall, for the purpose of this (~~subdivision~~) subsection,  
30 be deemed to be a separate factory, establishment, or other premises.

31 (3) (a) Any disqualification imposed under this section shall end  
32 (~~when~~) on the earlier of the following:

1 (i) The second Sunday following the first date of the strike; or

2 (ii) The date the strike ((~~or lockout~~)) is terminated.

3 (b) When the disqualification ends, the individual is subject to  
4 the one week waiting period as provided in RCW 50.20.010.

5 **Sec. 2.** RCW 50.29.021 and 2023 c 451 s 2 and 2023 c 240 s 3 are  
6 each reenacted and amended to read as follows:

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

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

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

24 (i) The individual qualifies for benefits under RCW 50.20.050  
25 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after  
26 having worked and earned wages in the bona fide work;

27 (ii) The individual qualifies for benefits under RCW 50.20.050  
28 (1)(b)(v) through (x) or (2)(b)(v) through (x); or

29 (iii) During a public health emergency, the claimant worked at a  
30 health care facility as defined in RCW 9A.50.010, was directly  
31 involved in the delivery of health services, and was terminated from  
32 work due to entering quarantine because of exposure to or contracting  
33 the disease that is the subject of the declaration of the public  
34 health emergency.

35 (2) The legislature finds that certain benefit payments, in whole  
36 or in part, should not be charged to the experience rating accounts  
37 of employers except those employers described in RCW 50.44.010,  
38 50.44.030, and 50.50.030 who have properly elected to make payments  
39 in lieu of contributions, taxable local government employers

1 described in RCW 50.44.035, and those employers who are required to  
2 make payments in lieu of contributions, as follows:

3 (a) Benefits paid to any individual later determined to be  
4 ineligible shall not be charged to the experience rating account of  
5 any contribution paying employer, except as provided in subsection  
6 (4) of this section.

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

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

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

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

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

23 (e) Benefits paid to an individual who qualifies for benefits  
24 under RCW 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for  
25 separation that was necessary because the care for a child or a  
26 vulnerable adult in the claimant's care is inaccessible, (iv), (xi),  
27 (xii), or (xiii), or (3), as applicable, shall not be charged to the  
28 experience rating account of any contribution paying employer.

29 (f) Benefits paid that exceed the benefits that would have been  
30 paid if the weekly benefit amount for the claim had been determined  
31 as one percent of the total wages paid in the individual's base year  
32 shall not be charged to the experience rating account of any  
33 contribution paying employer. This subsection (2)(f) does not apply  
34 to the calculation of contribution rates under RCW 50.29.025 for rate  
35 year 2010 and thereafter.

36 (g) Upon approval of an individual's training benefits plan  
37 submitted in accordance with RCW 50.22.155(2), an individual is  
38 considered enrolled in training, and regular benefits beginning with  
39 the week of approval shall not be charged to the experience rating  
40 account of any contribution paying employer.

1 (h) Training benefits paid to an individual under RCW 50.22.155  
2 shall not be charged to the experience rating account of any  
3 contribution paying employer.

4 (i)(i) Benefits paid during the one week waiting period when the  
5 one week waiting period is fully paid or fully reimbursed by the  
6 federal government shall not be charged to the experience rating  
7 account of any contribution paying employer.

8 (ii) In the event the one week waiting period is partially paid  
9 or partially reimbursed by the federal government, the department  
10 may, by rule, elect to not charge, in full or in part, benefits paid  
11 during the one week waiting period to the experience rating account  
12 of any contribution paying employer.

13 (j) Benefits paid for all weeks starting with the week ending  
14 March 28, 2020, and ending with the week ending May 30, 2020, shall  
15 not be charged to the experience rating account of any contribution  
16 paying employer.

17 (k) The individual's unemployment is due to a strike at the  
18 separating employer's factory, establishment, or other premises at  
19 which the individual is or was last employed.

20 (3)(a) A contribution paying base year employer, except employers  
21 as provided in subsection (5) of this section, not otherwise eligible  
22 for relief of charges for benefits under this section, may receive  
23 such relief if the benefit charges result from payment to an  
24 individual who:

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

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

30 (iii) Is unemployed as a result of closure or severe curtailment  
31 of 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  
34 disaster, or to the presence of any dangerous, contagious, or  
35 infectious disease that is the subject of a public health emergency  
36 at the employer's plant, building, worksite, or other facility;

37 (iv) Continues to be employed by the employer seeking relief and:  
38 (A) The employer furnished part-time work to the individual during  
39 the base year; (B) the individual has become eligible for benefits  
40 because of loss of employment with one or more other employers; and

1 (C) the employer has continued to furnish or make available part-time  
2 work to the individual in substantially the same amount as during the  
3 individual's base year. This subsection does not apply to shared work  
4 employers under chapter 50.60 RCW;

5 (v) Was hired to replace an employee who is a member of the  
6 military reserves or National Guard and was called to federal active  
7 military service by the president of the United States and is  
8 subsequently laid off when that employee is reemployed by their  
9 employer upon release from active duty within the time provided for  
10 reemployment in RCW 73.16.035;

11 (vi) Worked for an employer for 20 weeks or less, and was laid  
12 off at the end of temporary employment when that employee temporarily  
13 replaced a permanent employee receiving family or medical leave  
14 benefits under Title 50A RCW, and the layoff is due to the return of  
15 that permanent employee. This subsection (3)(a)(vi) applies to claims  
16 with an effective date on or after January 1, 2020; or

17 (vii) Was discharged because the individual was unable to satisfy  
18 a job prerequisite required by law or administrative rule.

19 (b) The employer requesting relief of charges under this  
20 subsection must request relief in writing within 30 days following  
21 mailing to the last known address of the notification of the valid  
22 initial determination of such claim, stating the date and reason for  
23 the separation or the circumstances of continued employment. The  
24 commissioner, upon investigation of the request, shall determine  
25 whether relief should be granted.

26 (4) When a benefit claim becomes invalid due to an amendment or  
27 adjustment of a report where the employer failed to report or  
28 inaccurately reported hours worked or remuneration paid, or both, all  
29 benefits paid will be charged to the experience rating account of the  
30 contribution paying employer or employers that originally filed the  
31 incomplete or inaccurate report or reports. An employer who  
32 reimburses the trust fund for benefits paid to workers and who fails  
33 to report or inaccurately reported hours worked or remuneration paid,  
34 or both, shall reimburse the trust fund for all benefits paid that  
35 are based on the originally filed incomplete or inaccurate report or  
36 reports.

37 (5) An employer's experience rating account may not be relieved  
38 of charges for a benefit payment and an employer who reimburses the  
39 trust fund for benefit payments may not be credited for a benefit  
40 payment if a benefit payment was made because the employer or

1 employer's agent failed to respond timely or adequately to a written  
2 request of the department for information relating to the claim or  
3 claims without establishing good cause for the failure and the  
4 employer or employer's agent has a pattern of such failures. The  
5 commissioner has the authority to determine whether the employer has  
6 good cause under this subsection.

7 (a) For the purposes of this subsection, "adequately" means  
8 providing accurate information of sufficient quantity and quality  
9 that would allow a reasonable person to determine eligibility for  
10 benefits.

11 (b)(i) For the purposes of this subsection, "pattern" means a  
12 benefit payment was made because the employer or employer's agent  
13 failed to respond timely or adequately to a written request of the  
14 department for information relating to a claim or claims without  
15 establishing good cause for the failure, if the greater of the  
16 following calculations for an employer is met:

17 (A) At least three times in the previous two years; or

18 (B) Twenty percent of the total current claims against the  
19 employer.

20 (ii) If an employer's agent is utilized, a pattern is established  
21 based on each individual client employer that the employer's agent  
22 represents.

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

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1       On page 1, line 2 of the title, after "workers;" strike the  
2 remainder of the title and insert "amending RCW 50.20.090; reenacting  
3 and amending RCW 50.29.021; and creating a new section."

EFFECT: Provides that the disqualification for unemployment insurance benefits based on labor strike ends at the earlier of: The second Sunday following the first date of the strike; or the date the strike is terminated (rather than on the first Sunday following the first day of the strike, as provided in the underlying bill).

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