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**SUBSTITUTE HOUSE BILL 1106**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Fosse, Reeves, Reed, Berry, Doglio, Wylie, Kloba, Santos, and Ormsby)

READ FIRST TIME 01/24/23.

1 AN ACT Relating to qualifications for unemployment insurance when  
2 an individual voluntarily leaves work; amending RCW 50.20.050 and  
3 50.29.021; adding a new section to chapter 50.04 RCW; and creating a  
4 new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04  
7 RCW to read as follows:

8 "Vulnerable adult" has the same meaning as in RCW 74.34.020.

9 **Sec. 2.** RCW 50.20.050 and 2022 c 268 s 42 are each amended to  
10 read as follows:

11 (1) With respect to separations that occur on or after September  
12 6, 2009, and for separations that occur before April 4, 2021:

13 (a) A claimant shall be disqualified from benefits beginning with  
14 the first day of the calendar week in which the claimant left work  
15 voluntarily without good cause and thereafter for seven calendar  
16 weeks and until the claimant obtains bona fide work in employment  
17 covered by this title and earned wages in that employment equal to  
18 seven times the claimant's weekly benefit amount. Good cause reasons  
19 to leave work are limited to reasons listed in (b) of this  
20 subsection.

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

5 (i) The duration of the work;

6 (ii) The extent of direction and control by the employer over the  
7 work; and

8 (iii) The level of skill required for the work in light of the  
9 claimant's training and experience.

10 (b) A claimant has good cause and is not disqualified from  
11 benefits under (a) of this subsection only under the following  
12 circumstances:

13 (i) The claimant has left work to accept a bona fide offer of  
14 bona fide work as described in (a) of this subsection;

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

18 (A) The claimant pursued all reasonable alternatives to preserve  
19 the claimant's employment status by requesting a leave of absence, by  
20 having promptly notified the employer of the reason for the absence,  
21 and by having promptly requested reemployment when again able to  
22 assume employment. These alternatives need not be pursued, however,  
23 when they would have been a futile act, including those instances  
24 when the futility of the act was a result of a recognized labor/  
25 management dispatch system; and

26 (B) The claimant terminated the claimant's employment status, and  
27 is not entitled to be reinstated to the same position or a comparable  
28 or similar position;

29 (iii) The claimant: (A) Left work to relocate for the employment  
30 of a spouse or domestic partner that is outside the existing labor  
31 market area; and (B) remained employed as long as was reasonable  
32 prior to the move;

33 (iv) The separation was necessary to protect the claimant or the  
34 claimant's immediate family members from domestic violence, as  
35 defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

36 (v) The claimant's usual compensation was reduced by twenty-five  
37 percent or more;

38 (vi) The claimant's usual hours were reduced by twenty-five  
39 percent or more;

1 (vii) The claimant's worksite changed, such change caused a  
2 material increase in distance or difficulty of travel, and, after the  
3 change, the commute was greater than is customary for workers in the  
4 claimant's job classification and labor market;

5 (viii) The claimant's worksite safety deteriorated, the claimant  
6 reported such safety deterioration to the employer, and the employer  
7 failed to correct the hazards within a reasonable period of time;

8 (ix) The claimant left work because of illegal activities in the  
9 claimant's worksite, the claimant reported such activities to the  
10 employer, and the employer failed to end such activities within a  
11 reasonable period of time;

12 (x) The claimant's usual work was changed to work that violates  
13 the claimant's religious convictions or sincere moral beliefs; or

14 (xi) The claimant left work to enter an apprenticeship program  
15 approved by the Washington state apprenticeship training council.  
16 Benefits are payable beginning Sunday of the week prior to the week  
17 in which the claimant begins active participation in the  
18 apprenticeship program.

19 (2) With respect to separations that occur on or after April 4,  
20 2021:

21 (a) A claimant shall be disqualified from benefits beginning with  
22 the first day of the calendar week in which the claimant has left  
23 work voluntarily without good cause and thereafter for seven calendar  
24 weeks and until the claimant has obtained bona fide work in  
25 employment covered by this title and earned wages in that employment  
26 equal to seven times the claimant's weekly benefit amount. Good cause  
27 reasons to leave work are limited to reasons listed in (b) of this  
28 subsection.

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

33 (i) The duration of the work;

34 (ii) The extent of direction and control by the employer over the  
35 work; and

36 (iii) The level of skill required for the work in light of the  
37 claimant's training and experience.

38 (b) A claimant has good cause and is not disqualified from  
39 benefits under (a) of this subsection only under the following  
40 circumstances:

1 (i) The claimant has left work to accept a bona fide offer of  
2 bona fide work as described in (a) of this subsection;

3 (ii) The separation was necessary because ~~((of the))~~: Of the  
4 illness or disability of the claimant ((of)); of the death, illness,  
5 or disability of a member of the claimant's immediate family ((if))  
6 for separations that occur before September 3, 2023; of the death,  
7 illness, or disability of a family member for separations that occur  
8 on or after September 3, 2023; or the care for a child or a  
9 vulnerable adult in the claimant's care is inaccessible for  
10 separations that occur on or after July 7, 2024. However, to qualify  
11 based on a circumstance in this subsection (2)(b)(ii), the following  
12 requirements must be met:

13 (A) The claimant made reasonable efforts to preserve the  
14 claimant's employment status by requesting ~~((a leave of absence, by~~  
15 ~~having promptly notified))~~ changes in working conditions or work  
16 schedule that would accommodate the death, illness, disability, or  
17 caregiving inaccessibility, or by requesting a leave of absence,  
18 promptly notifying the employer of the reason for the absence, and  
19 ~~((by having promptly requested))~~ promptly requesting reemployment  
20 when again able to assume employment. These alternatives need not be  
21 pursued, however, when they would have been a futile act, including  
22 those instances when the futility of the act was a result of a  
23 recognized labor/management dispatch system; and

24 (B) The claimant terminated the claimant's employment status, and  
25 is not entitled to be reinstated to the same position or a comparable  
26 or similar position;

27 (iii) The claimant: (A) Left work to relocate for the employment  
28 of a spouse or domestic partner that is outside the existing labor  
29 market area; and (B) remained employed as long as was reasonable  
30 prior to the move;

31 (iv) The separation was necessary to protect the claimant or the  
32 claimant's immediate family members from domestic violence, as  
33 defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

34 (v) The claimant's usual compensation was reduced by twenty-five  
35 percent or more;

36 (vi) (A) The claimant's usual hours were reduced by twenty-five  
37 percent or more; or

38 (B) If, for separations that occur on or after July 7, 2024, the  
39 claimant has had a regularly scheduled shift or split shift start or  
40 end time for the prior 90 calendar days, and the employer, without

1 request by the claimant and not based on a system of seniority,  
2 changes the regularly scheduled shift or split shift start or end  
3 time by six or more hours for that shift on a nontemporary basis;

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

8 (viii) The claimant's worksite safety deteriorated, the claimant  
9 reported such safety deterioration to the employer, and the employer  
10 failed to correct the hazards within a reasonable period of time;

11 (ix) The claimant left work because of illegal activities in the  
12 claimant's worksite, the claimant reported such activities to the  
13 employer, and the employer failed to end such activities within a  
14 reasonable period of time;

15 (x) The claimant's usual work was changed to work that violates  
16 the claimant's religious convictions or sincere moral beliefs;

17 (xi) The claimant left work to enter an apprenticeship program  
18 approved by the Washington state apprenticeship training council.  
19 Benefits are payable beginning Sunday of the week prior to the week  
20 in which the claimant begins active participation in the  
21 apprenticeship program; ((~~or~~))

22 (xii) During a public health emergency:

23 (A) The claimant was unable to perform the claimant's work for  
24 the employer from the claimant's home;

25 (B) The claimant is able to perform, available to perform, and  
26 can actively seek suitable work which can be performed for an  
27 employer from the claimant's home; and

28 (C) The claimant or another individual residing with the claimant  
29 is at higher risk of severe illness or death from the disease that is  
30 the subject of the public health emergency because the higher risk  
31 individual:

32 (I) Was in an age category that is defined as high risk for the  
33 disease that is the subject of the public health emergency by the  
34 federal centers for disease control and prevention, the department of  
35 health, or the equivalent agency in the state where the individual  
36 resides; or

37 (II) Has an underlying health condition, verified as required by  
38 the department by rule, that is identified as a risk factor for the  
39 disease that is the subject of the public health emergency by the  
40 federal centers for disease control and prevention, the department of

1 health, or the equivalent agency in the state where the individual  
2 resides; or

3 (xiii) For separations that occur on or after July 7, 2024, the  
4 claimant: (A) Left work to relocate in order to follow a minor child  
5 who moved outside of the claimant's labor market; (B) remained  
6 employed as long as was reasonable prior to relocating; and (C) had  
7 parental rights over the minor child at the time of the job  
8 separation.

9 (3) With respect to claims that occur on or after July 4, 2021, a  
10 claimant has good cause and is not disqualified from benefits under  
11 subsection (2)(a) of this section under the following circumstances,  
12 in addition to those listed under subsection (2)(b) of this section,  
13 if, during a public health emergency, the claimant worked at a health  
14 care facility as defined in RCW 9A.50.010, was directly involved in  
15 the delivery of health services, and left work for the period of  
16 quarantine consistent with the recommended guidance from the United  
17 States centers for disease control and prevention or subject to the  
18 direction of the state or local health jurisdiction because of  
19 exposure to or contracting the disease that is the subject of the  
20 declaration of the public health emergency.

21 (4) Notwithstanding subsection (1) of this section, a claimant  
22 who was simultaneously employed in full-time employment and part-time  
23 employment and is otherwise eligible for benefits from the loss of  
24 the full-time employment shall not be disqualified from benefits  
25 because the claimant:

26 (a) Voluntarily quit the part-time employment before the loss of  
27 the full-time employment; and

28 (b) Did not have prior knowledge that the claimant would be  
29 separated from full-time employment.

30 **Sec. 3.** RCW 50.29.021 and 2021 c 251 s 4 are each amended to  
31 read as follows:

32 (1)(a) An experience rating account shall be established and  
33 maintained for each employer, except employers as described in RCW  
34 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
35 payments in lieu of contributions, taxable local government employers  
36 as described in RCW 50.44.035, and those employers who are required  
37 to make payments in lieu of contributions, based on existing records  
38 of the employment security department.

1 (b) Benefits paid to an eligible individual shall be charged to  
2 the experience rating accounts of each of such individual's employers  
3 during the individual's base year in the same ratio that the wages  
4 paid by each employer to the individual during the base year bear to  
5 the wages paid by all employers to that individual during that base  
6 year, except as otherwise provided in this section.

7 (c) When the eligible individual's separating employer is a  
8 covered contribution paying base year employer, benefits paid to the  
9 eligible individual shall be charged to the experience rating account  
10 of only the individual's separating employer if the individual  
11 qualifies for benefits under:

12 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and  
13 became unemployed after having worked and earned wages in the bona  
14 fide work;

15 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through  
16 (x); or

17 (iii) During a public health emergency, the claimant worked at a  
18 health care facility as defined in RCW 9A.50.010, was directly  
19 involved in the delivery of health services, and was terminated from  
20 work due to entering quarantine because of exposure to or contracting  
21 the disease that is the subject of the declaration of the public  
22 health emergency.

23 (2) The legislature finds that certain benefit payments, in whole  
24 or in part, should not be charged to the experience rating accounts  
25 of employers except those employers described in RCW 50.44.010,  
26 50.44.030, and 50.50.030 who have properly elected to make payments  
27 in lieu of contributions, taxable local government employers  
28 described in RCW 50.44.035, and those employers who are required to  
29 make payments in lieu of contributions, as follows:

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

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

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

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

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

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

10 (e) Benefits paid to an individual who qualifies for benefits  
11 under RCW 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), (~~(xii)~~)  
12 (xii), or (xiii), or (3), as applicable, shall not be charged to the  
13 experience rating account of any contribution paying employer.

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

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

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

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

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

38 (j) Benefits paid for all weeks starting with the week ending  
39 March 28, 2020, and ending with the week ending May 30, 2020, shall

1 not be charged to the experience rating account of any contribution  
2 paying employer.

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

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

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

13 (iii) Is unemployed as a result of closure or severe curtailment  
14 of operation at the employer's plant, building, worksite, or other  
15 facility. This closure must be for reasons directly attributable to a  
16 catastrophic occurrence such as fire, flood, or other natural  
17 disaster, or to the presence of any dangerous, contagious, or  
18 infectious disease that is the subject of a public health emergency  
19 at the employer's plant, building, worksite, or other facility;

20 (iv) Continues to be employed on a regularly scheduled permanent  
21 part-time basis by a base year employer and who at some time during  
22 the base year was concurrently employed and subsequently separated  
23 from at least one other base year employer. Benefit charge relief  
24 ceases when the employment relationship between the employer  
25 requesting relief and the claimant is terminated. This subsection  
26 does not apply to shared work employers under chapter 50.60 RCW;

27 (v) Continues to be employed on a regularly scheduled permanent  
28 part-time basis by a base year employer and who qualified for two  
29 consecutive unemployment claims where wages were attributable to at  
30 least one employer who employed the individual in both base years.  
31 Benefit charge relief ceases when the employment relationship between  
32 the employer requesting relief and the claimant is terminated. This  
33 subsection does not apply to shared work employers under chapter  
34 50.60 RCW;

35 (vi) Was hired to replace an employee who is a member of the  
36 military reserves or National Guard and was called to federal active  
37 military service by the president of the United States and is  
38 subsequently laid off when that employee is reemployed by their  
39 employer upon release from active duty within the time provided for  
40 reemployment in RCW 73.16.035;

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

7 (viii) Was discharged because the individual was unable to  
8 satisfy a job prerequisite required by law or administrative rule.

9 (b) The employer requesting relief of charges under this  
10 subsection must request relief in writing within (~~thirty~~) 30 days  
11 following mailing to the last known address of the notification of  
12 the valid initial determination of such claim, stating the date and  
13 reason for the separation or the circumstances of continued  
14 employment. The commissioner, upon investigation of the request,  
15 shall determine whether relief should be granted.

16 (4) When a benefit claim becomes invalid due to an amendment or  
17 adjustment of a report where the employer failed to report or  
18 inaccurately reported hours worked or remuneration paid, or both, all  
19 benefits paid will be charged to the experience rating account of the  
20 contribution paying employer or employers that originally filed the  
21 incomplete or inaccurate report or reports. An employer who  
22 reimburses the trust fund for benefits paid to workers and who fails  
23 to report or inaccurately reported hours worked or remuneration paid,  
24 or both, shall reimburse the trust fund for all benefits paid that  
25 are based on the originally filed incomplete or inaccurate report or  
26 reports.

27 (5) An employer's experience rating account may not be relieved  
28 of charges for a benefit payment and an employer who reimburses the  
29 trust fund for benefit payments may not be credited for a benefit  
30 payment if a benefit payment was made because the employer or  
31 employer's agent failed to respond timely or adequately to a written  
32 request of the department for information relating to the claim or  
33 claims without establishing good cause for the failure and the  
34 employer or employer's agent has a pattern of such failures. The  
35 commissioner has the authority to determine whether the employer has  
36 good cause under this subsection.

37 (a) For the purposes of this subsection, "adequately" means  
38 providing accurate information of sufficient quantity and quality  
39 that would allow a reasonable person to determine eligibility for  
40 benefits.

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

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

8 (B) Twenty percent of the total current claims against the  
9 employer.

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

13 NEW SECTION. **Sec. 4.** If any part of this act is found to be in  
14 conflict with federal requirements that are a prescribed condition to  
15 the allocation of federal funds to the state or the eligibility of  
16 employers in this state for federal unemployment tax credits, the  
17 conflicting part of this act is inoperative solely to the extent of  
18 the conflict, and the finding or determination does not affect the  
19 operation of the remainder of this act. Rules adopted under this act  
20 must meet federal requirements that are a necessary condition to the  
21 receipt of federal funds by the state or the granting of federal  
22 unemployment tax credits to employers in this state.

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