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HOUSE BILL 1730

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Heavey, Prentice, R. King and Cole.

Read first time February 7, 1991. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to unemployment compensation and benefits; amending  
2 RCW 50.20.050, 50.20.060, 50.20.120, 50.06.010, 50.06.020, and  
3 50.06.030; adding a new section to chapter 50.20 RCW; creating a new  
4 section; providing an effective date; and declaring an emergency.

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

6            **Sec. 1.** RCW 50.20.050 and 1982 1st ex.s. c 18 s 6 are each amended  
7 to read as follows:

8            (1) An individual shall be disqualified from benefits beginning  
9 with the first day of the calendar week in which he or she has left  
10 work voluntarily without good cause and thereafter until he or she has  
11 obtained bona fide work and earned wages of not less than his or her  
12 suspended weekly benefit amount in each of five calendar weeks.

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

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

3 (a) The duration of the work;

4 (b) The extent of direction and control by the employer over the  
5 work; and

6 (c) The level of skill required for the work in light of the  
7 individual's training and experience.

8 (2) An individual shall not be considered to have left work  
9 voluntarily without good cause when:

10 (a) He or she has left work to accept a bona fide offer of bona  
11 fide work as described in subsection (1) of this section; or

12 (b) The separation was:

13 (i) Caused by compelling personal reasons of the claimant,  
14 including but not limited to the claimant's marital status or domestic  
15 responsibilities. "Marital status" includes a marriage of the claimant  
16 pending within a reasonable period after leaving work; or

17 (ii) Because of the illness or disability of the claimant or the  
18 death, illness, or disability of a member of the claimant's immediate  
19 family if the claimant took all reasonable precautions, in accordance  
20 with any regulations that the commissioner may prescribe, to protect  
21 his or her employment status by having promptly notified the employer  
22 of the reason for the absence and by having promptly requested  
23 reemployment when again able to assume employment: PROVIDED, That  
24 these precautions need not have been taken when they would have been a  
25 futile act, including those instances when the futility of the act was  
26 a result of a recognized labor/management dispatch system.

27 (3) In determining under this section 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

1 fitness for the work, the individual's ability to perform the work, and  
2 such other work connected factors as the commissioner may deem  
3 pertinent, including state and national emergencies. Good cause shall  
4 not be established for voluntarily leaving work because of its distance  
5 from an individual's residence where the distance was known to the  
6 individual at the time he or she accepted the employment and where, in  
7 the judgment of the department, the distance is customarily traveled by  
8 workers in the individual's job classification and labor market, nor  
9 because of any other significant work factor which was generally known  
10 and present at the time he or she accepted employment, unless the  
11 related circumstances have so changed as to amount to a substantial  
12 involuntary deterioration of the work factor or unless the commissioner  
13 determines that other related circumstances would work an unreasonable  
14 hardship on the individual were he or she required to continue in the  
15 employment.

16 ~~((4) Subsections (1) and (3) of this section shall not apply to an  
17 individual whose marital status or domestic responsibilities cause him  
18 or her to leave employment. Such an individual shall not be eligible  
19 for unemployment insurance benefits until he or she has requalified,  
20 either by obtaining bona fide work and earning wages of not less than  
21 the suspended weekly benefit amount in each of five calendar weeks or  
22 by reporting in person to the department during ten different calendar  
23 weeks and certifying on each occasion that he or she is ready, able,  
24 and willing to immediately accept any suitable work which may be  
25 offered, is actively seeking work pursuant to customary trade  
26 practices, and is utilizing such employment counseling and placement  
27 services as are available through the department.))~~

28 **Sec. 2.** RCW 50.20.060 and 1982 1st ex.s. c 18 s 16 are each  
29 amended to read as follows:

1 (1) An individual shall be disqualified from benefits beginning  
2 with the first day of the calendar week in which he or she has been  
3 discharged or suspended for willful misconduct connected with his or  
4 her work and thereafter until he or she has ~~((obtained work and  
5 earned))~~ requalified, either by obtaining work and earning wages of not  
6 less than the suspended weekly benefit amount in each of five calendar  
7 weeks, or by reporting in person to the department during five  
8 different calendar weeks and certifying on each occasion that he or she  
9 is ready, able, and willing to immediately accept any suitable work  
10 which may be offered, is actively seeking work pursuant to customary  
11 trade practices, and is using such employment counseling and placement  
12 services as are available through the department.

13 (2) Alcoholism shall not constitute a defense to disqualification  
14 from benefits due to misconduct.

15 ~~((2) An individual who has been discharged because of a felony or  
16 a gross misdemeanor of which he or she has been convicted, or has  
17 admitted committing to a competent authority, and which is connected  
18 with his or her work shall be disqualified from receiving any benefits  
19 for which base year credits are earned in any employment prior to the  
20 discharge. Such disqualification begins with the first day of the  
21 calendar week in which he or she has been discharged, and all benefits  
22 paid during the period the individual was disqualified shall be  
23 recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other  
24 provision of this title.))~~

25 NEW SECTION. Sec. 3. A new section is added to chapter 50.20 RCW  
26 to read as follows:

27 An individual who has been discharged because of a felony or a  
28 gross misdemeanor of which he or she has been convicted, or has  
29 admitted committing to a competent authority, and which is connected

1 with his or her work shall be disqualified from receiving any benefits  
2 for which base year credits are earned in any employment prior to the  
3 discharge. Such disqualification begins with the first day of the  
4 calendar week in which he or she has been discharged, and all benefits  
5 paid during the period the individual was disqualified shall be  
6 recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other  
7 provision of this title.

8 **Sec. 4.** RCW 50.20.120 and 1984 c 205 s 1 are each amended to read  
9 as follows:

10 (1) Subject to the other provisions of this title, benefits shall  
11 be payable to any eligible individual during the individual's benefit  
12 year in a maximum amount equal to the lesser of thirty times the weekly  
13 benefit amount (determined hereinafter) or one-third of the  
14 individual's base year wages under this title, but in no case less than  
15 fifteen times the weekly benefit amount: PROVIDED, That as to any week  
16 beginning on and after March 31, 1981, which falls in an extended  
17 benefit period as defined in RCW 50.22.010(1), as now or hereafter  
18 amended, an individual's eligibility for maximum benefits in excess of  
19 twenty-six times his or her weekly benefit amount will be subject to  
20 the terms and conditions set forth in RCW 50.22.020, as now or  
21 hereafter amended.

22 (2) An individual's weekly benefit amount shall be an amount equal  
23 to one twenty-fifth of the average quarterly wages of the individual's  
24 total wages during the two quarters of the individual's base year in  
25 which such total wages were highest. The maximum and minimum amounts  
26 payable weekly shall be determined as of each June 30th to apply to  
27 benefit years beginning in the twelve-month period immediately  
28 following such June 30th. The maximum amount payable weekly shall be  
29 fifty-five percent of the "average weekly wage" for the calendar year

1 preceding such June 30th: PROVIDED, That if as of the first December  
2 31st on which the ratio of the balance in the unemployment compensation  
3 fund to total remuneration paid by all employers subject to  
4 contributions during the calendar year ending on such December 31st and  
5 reported to the department by the following March 31st is 0.024 or  
6 more, the maximum amount payable weekly for benefit years beginning  
7 with the first full calendar week in July next following, and  
8 thereafter, shall be sixty percent of the "average weekly wage". The  
9 computation for this ratio shall be carried to the fourth decimal place  
10 with the remaining fraction, if any, disregarded: PROVIDED FURTHER,  
11 That for benefit years beginning before July 7, 1985, the maximum  
12 amount payable weekly shall not exceed one hundred eighty-five dollars.  
13 The minimum amount payable weekly shall be (~~fifteen~~) twenty-five  
14 percent of the "average weekly wage" for the calendar year preceding  
15 such June 30th. If any weekly benefit, maximum benefit, or minimum  
16 benefit amount computed herein is not a multiple of one dollar, it  
17 shall be reduced to the next lower multiple of one dollar.

18 **Sec. 5.** RCW 50.06.010 and 1984 c 65 s 1 are each amended to read  
19 as follows:

20 This chapter is enacted for the purpose of providing the protection  
21 of the unemployment compensation system to persons who have suffered a  
22 temporary total disability compensable under industrial insurance or  
23 crime victims compensation laws (~~and~~) or who are reentering the work  
24 force after a temporary career disruption because of domestic  
25 responsibilities, marital status, or compelling personal reasons. It  
26 is a recognition by this legislature of the economic hardship  
27 confronting those persons who have not been promptly reemployed after  
28 a prolonged period of (~~temporary total disability~~) absence from the  
29 work force.

1       **Sec. 6.** RCW 50.06.020 and 1984 c 65 s 2 are each amended to read  
2 as follows:

3       The benefits of this chapter shall be allowed only to:

4       (1) Individuals who have suffered a temporary total disability and  
5 have received compensation under the industrial insurance or crime  
6 victims compensation laws of this state, any other state or the United  
7 States for a period of not less than thirteen consecutive calendar  
8 weeks by reason of such temporary total disability ((shall be allowed  
9 the benefits of this chapter)); and

10       (2) Individuals who are reentering the work force after an absence  
11 related to domestic responsibilities, marital status, or compelling  
12 personal reasons, as defined by department rule, which reasons shall  
13 include but not be limited to providing care for family members,  
14 participating full-time in a formal educational or training program, or  
15 suffering temporary total disability because of a nonwork-related  
16 injury.

17       **Sec. 7.** RCW 50.06.030 and 1987 c 278 s 3 are each amended to read  
18 as follows:

19       (1) In the case of individuals eligible under RCW 50.06.020(1), an  
20 application for initial determination made pursuant to this chapter, to  
21 be considered timely, must be filed in writing with the employment  
22 security department within twenty-six weeks following the week in which  
23 the period of temporary total disability commenced. Notice from the  
24 department of labor and industries shall satisfy this requirement. The  
25 records of the agency supervising the award of compensation shall be  
26 conclusive evidence of the fact of temporary disability and the  
27 beginning date of such disability.

1       (2) In the case of individuals eligible under RCW 50.06.020(2), an  
2 application for initial determination may be filed in writing at any  
3 time after the individual begins seeking full-time employment.

4       (3) The employment security department shall process and issue an  
5 initial determination of entitlement or nonentitlement as the case may  
6 be.

7       (4) For the purpose of this chapter, a special base year is  
8 established for an individual consisting of either the first four of  
9 the last five completed calendar quarters or the last four completed  
10 calendar quarters immediately prior to the first day of the calendar  
11 week in which the individual's temporary total disability commenced,  
12 and a special individual benefit year is established consisting of the  
13 entire period of disability and a fifty-two consecutive week period  
14 commencing with the first day of the calendar week immediately  
15 following the week or part thereof with respect to which the individual  
16 received his final temporary total disability compensation under the  
17 applicable industrial insurance or crime victims compensation laws  
18 except that no special benefit year shall have a duration in excess of  
19 three hundred twelve calendar weeks: PROVIDED HOWEVER, That such  
20 special benefit year will not be established unless the criteria  
21 contained in RCW 50.04.030 has been met, except that an individual  
22 meeting the disability and filing requirements of this chapter and who  
23 has an unexpired benefit year established which would overlap the  
24 special benefit year provided by this chapter, notwithstanding the  
25 provisions in RCW 50.04.030 relating to the establishment of a  
26 subsequent benefit year and RCW 50.40.010 relating to waiver of rights,  
27 may elect to establish a special benefit year under this chapter:  
28 PROVIDED FURTHER, that the unexpired benefit year shall be terminated  
29 with the beginning of the special benefit year if the individual elects  
30 to establish such special benefit year.

1       (5) For the purposes of establishing a benefit year, the department  
2 shall initially use the first four of the last five completed calendar  
3 quarters as the base year. If a benefit year is not established using  
4 the first four of the last five calendar quarters as the base year, the  
5 department shall use the last four completed calendar quarters as the  
6 base year.

7       NEW SECTION.   **Sec. 8.**       If any part of this act is found to be  
8 in conflict with federal requirements which are a prescribed condition  
9 to the allocation of federal funds to the state or the eligibility of  
10 employers in this state for federal unemployment tax credits, the  
11 conflicting part of this act is hereby declared to be inoperative  
12 solely to the extent of the conflict, and such finding or determination  
13 shall not affect the operation of the remainder of this act. The rules  
14 under this act shall meet federal requirements which are a necessary  
15 condition to the receipt of federal funds by the state or the granting  
16 of federal unemployment tax credits to employers in this state.

17       NEW SECTION.   **Sec. 9.**       If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21       NEW SECTION.   **Sec. 10.**       Section 4 of this act is necessary for  
22 the immediate preservation of the public peace, health, or safety, or  
23 support of the state government and its existing public institutions,  
24 and shall take effect July 7, 1991, for new claims filed on or after  
25 July 7, 1991.