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ENGROSSED HOUSE BILL 1749

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Clements, Lisk, Blanton, Chandler, Lambert,  
Honeyford, Sheldon, Horn, Skinner, Hargrove, Fuhrman, Stevens,  
Radcliff, Huff, Schoesler and Backlund

Read first time 02/07/95. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to defining misconduct for unemployment insurance  
2 purposes; and amending RCW 50.04.293.

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

4 **Sec. 1.** RCW 50.04.293 and 1993 c 483 s 1 are each amended to read  
5 as follows:

6 (1) "Misconduct" means an employee's ((act or failure to act in  
7 willful disregard of his or her employer's interest where the effect of  
8 the employee's act or failure to act is to harm the employer's  
9 business)) on-the-job conduct, whether an act or a failure to act,  
10 that:

11 (a) In fact violates a written rule of his or her employer and the  
12 rule is reasonable under the circumstances of the employment;

13 (b) Is connected with the employee's work; and

14 (c) Is intentional or grossly negligent, or is continued after  
15 documented notice or warning, and is not a result of incompetence,  
16 inefficiency, erroneous judgment, or ordinary negligence.

17 (2) In the case of an employee's off-the-job conduct, "misconduct"  
18 is conduct, whether an act or a failure to act, that:

1 (a) Has a reasonable and direct relation to the conduct of the  
2 employer's business;

3 (b) Results in some harm to the employer's interest;

4 (c) Was done with intent or knowledge that the employer's interest  
5 would suffer; and

6 (d) Meets the requirements of subsection (1) (a) and (b) of this  
7 section.

8 (3) If a determination of an allowance of benefits is appealed by  
9 an employer on the grounds that the employee's conduct was misconduct  
10 that violated an unwritten rule of the employer, this subsection shall  
11 apply. The employer shall have the burden of establishing by a  
12 preponderance of the evidence that: (a) Except for the requirement of  
13 a written rule, the requirements of subsection (1) or (2) of this  
14 section, whichever applies, are met; and (b) as established by at least  
15 two competent witnesses, both the rule in issue and the expectation  
16 that the rule would be followed were communicated to the employee.

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