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**SUBSTITUTE SENATE BILL 6334**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Keiser, Kline, McDermott, and Franklin)

READ FIRST TIME 02/04/10.

1           AN ACT Relating to unemployment benefits when a person voluntarily  
2 terminates employment; amending RCW 50.20.100 and 50.20.240; reenacting  
3 and amending RCW 50.20.050; and creating a new section.

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

5           **Sec. 1.** RCW 50.20.050 and 2009 c 493 s 3 and 2009 c 247 s 1 are  
6 each reenacted and amended to read as follows:

7           (1) With respect to claims that have an effective date on or after  
8 January 4, 2004, and (~~for~~) separations that occur before September 6,  
9 2009:

10           (a) An individual shall be disqualified from benefits beginning  
11 with the first day of the calendar week in which he or she has left  
12 work voluntarily without good cause and thereafter for seven calendar  
13 weeks and until he or she has obtained bona fide work in employment  
14 covered by this title and earned wages in that employment equal to  
15 seven times his or her weekly benefit amount.

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

1 (i) The duration of the work;

2 (ii) The extent of direction and control by the employer over the  
3 work; and

4 (iii) The level of skill required for the work in light of the  
5 individual's training and experience.

6 (b) An individual is not disqualified from benefits under (a) of  
7 this subsection when:

8 (i) He or she has left work to accept a bona fide offer of bona  
9 fide work as described in (a) of this subsection;

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

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

21 (B) The claimant terminated his or her employment status, and is  
22 not entitled to be reinstated to the same position or a comparable or  
23 similar position;

24 (iii)(A) With respect to claims that have an effective date before  
25 July 2, 2006, he or she: (I) Left work to relocate for the spouse's  
26 employment that, due to a mandatory military transfer: (1) Is outside  
27 the existing labor market area; and (2) is in Washington or another  
28 state that, pursuant to statute, does not consider such an individual  
29 to have left work voluntarily without good cause; and (II) remained  
30 employed as long as was reasonable prior to the move;

31 (B) With respect to claims that have an effective date on or after  
32 July 2, 2006, he or she: (I) Left work to relocate for the spouse's  
33 employment that, due to a mandatory military transfer, is outside the  
34 existing labor market area; and (II) remained employed as long as was  
35 reasonable prior to the move;

36 (iv) The separation was necessary to protect the claimant or the  
37 claimant's immediate family members from domestic violence, as defined  
38 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

1 (v) The individual's usual compensation was reduced by twenty-five  
2 percent or more;

3 (vi) The individual's usual hours were reduced by twenty-five  
4 percent or more;

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

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

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

17 (x) The individual's usual work was changed to work that violates  
18 the individual's religious convictions or sincere moral beliefs; or

19 (xi) The individual left work to enter an apprenticeship program  
20 approved by the Washington state apprenticeship training council.  
21 Benefits are payable beginning Sunday of the week prior to the week in  
22 which the individual begins active participation in the apprenticeship  
23 program.

24 (2) With respect to separations that occur on or after September 6,  
25 2009, and before January 2, 2011:

26 (a) An individual shall be disqualified from benefits beginning  
27 with the first day of the calendar week in which he or she has left  
28 work voluntarily without good cause and thereafter for seven calendar  
29 weeks and until he or she has obtained bona fide work in employment  
30 covered by this title and earned wages in that employment equal to  
31 seven times his or her weekly benefit amount. Good cause reasons to  
32 leave work are limited to reasons listed in (b) of this subsection.

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

37 (i) The duration of the work;

1 (ii) The extent of direction and control by the employer over the  
2 work; and

3 (iii) The level of skill required for the work in light of the  
4 individual's training and experience.

5 (b) An individual has good cause and is not disqualified from  
6 benefits under (a) of this subsection only under the following  
7 circumstances:

8 (i) He or she has left work to accept a bona fide offer of bona  
9 fide work as described in (a) of this subsection;

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

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

21 (B) The claimant terminated his or her employment status, and is  
22 not entitled to be reinstated to the same position or a comparable or  
23 similar position;

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

28 (iv) The separation was necessary to protect the claimant or the  
29 claimant's immediate family members from domestic violence, as defined  
30 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

31 (v) The individual's usual compensation was reduced by twenty-five  
32 percent or more;

33 (vi) The individual's usual hours were reduced by twenty-five  
34 percent or more;

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

1 (viii) The individual's worksite safety deteriorated, the  
2 individual reported such safety deterioration to the employer, and the  
3 employer failed to correct the hazards within a reasonable period of  
4 time;

5 (ix) The individual left work because of illegal activities in the  
6 individual's worksite, the individual reported such activities to the  
7 employer, and the employer failed to end such activities within a  
8 reasonable period of time;

9 (x) The individual's usual work was changed to work that violates  
10 the individual's religious convictions or sincere moral beliefs; or

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

16 (3) With respect to separations that occur on or after January 2,  
17 2011:

18 (a) Except as provided in (b) and (c) of this subsection, an  
19 individual shall be disqualified from benefits beginning with the first  
20 day of the calendar week in which he or she has left work voluntarily  
21 and thereafter for seven calendar weeks and until he or she has  
22 obtained bona fide work in employment covered by this title and earned  
23 wages in that employment equal to seven times his or her weekly benefit  
24 amount.

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

29 (i) The duration of the work;

30 (ii) The extent of direction and control by the employer over the  
31 work; and

32 (iii) The level of skill required for the work in light of the  
33 individual's training and experience.

34 (b) An individual is not disqualified from benefits under (a) of  
35 this subsection under the following circumstances:

36 (i) He or she has left work to accept a bona fide offer of bona  
37 fide work as described in (a) of this subsection;

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

4        (A) The claimant pursued all reasonable alternatives to preserve  
5 his or her employment status by requesting a leave of absence, by  
6 having promptly notified the employer of the reason for the absence,  
7 and by having promptly requested reemployment when again able to assume  
8 employment. These alternatives need not be pursued, however, when they  
9 would have been a futile act, including those instances when the  
10 futility of the act was a result of a recognized labor/management  
11 dispatch system; and

12        (B) The claimant terminated his or her employment status, and is  
13 not entitled to be reinstated to the same position or a comparable or  
14 similar position;

15        (iii) The claimant:

16        (A) Left work to relocate for the employment of a spouse or  
17 domestic partner that is outside the existing labor market area; and

18        (B) Remained employed as long as was reasonable prior to the move;

19        (iv) The separation was necessary to protect the claimant or the  
20 claimant's immediate family members from domestic violence, as defined  
21 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

22        (v) The individual's usual compensation was reduced by twenty-five  
23 percent or more;

24        (vi) The individual's usual hours were reduced by twenty-five  
25 percent or more;

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

30        (viii) The individual's worksite safety deteriorated, the  
31 individual reported such safety deterioration to the employer, and the  
32 employer failed to correct the hazards within a reasonable period of  
33 time;

34        (ix) The individual left work because of illegal activities in the  
35 individual's worksite, the individual reported such activities to the  
36 employer, and the employer failed to end such activities within a  
37 reasonable period of time;

1       (x) The individual's usual work was changed to work that violates  
2 the individual's religious convictions or sincere moral beliefs; or

3       (xi) The individual left work to enter an apprenticeship program  
4 approved by the Washington state apprenticeship training council.  
5 Benefits are payable beginning Sunday of the week prior to the week in  
6 which the individual begins active participation in the apprenticeship  
7 program.

8       (c) An individual also is not disqualified from benefits under (a)  
9 of this subsection if the individual left work because continuing in  
10 employment would work an unreasonable hardship on the individual.  
11 "Unreasonable hardship" means a result not due to the individual's  
12 voluntary action that would cause a reasonable person to leave that  
13 employment. The circumstances must be based on existing facts, not  
14 conjecture, and the reasons for leaving work must be significant. An  
15 individual seeking to demonstrate unreasonable hardship must show that:

16       (i) The individual left work primarily for reasons connected with  
17 his or her employment;

18       (ii) The work-connected reasons were of such a compelling nature  
19 they would have caused a reasonably prudent person to leave work; and

20       (iii) The individual first exhausted all reasonable alternatives  
21 before leaving work, unless pursuing reasonable alternatives would have  
22 been futile.

23       (4) Notwithstanding subsections ((+2+)) (1) through (3) of this  
24 section, for separations occurring on or after July 26, 2009, an  
25 individual who was simultaneously employed in full-time employment and  
26 part-time employment and is otherwise eligible for benefits from the  
27 loss of the full-time employment shall not be disqualified from  
28 benefits because the individual:

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

31       (b) Did not have prior knowledge that he or she would be separated  
32 from full-time employment.

33       **Sec. 2.** RCW 50.20.100 and 2006 c 13 s 14 are each amended to read  
34 as follows:

35       (1) Suitable work for an individual is employment in an occupation  
36 in keeping with the individual's prior work experience, education, or  
37 training and if the individual has no prior work experience, special

1 education, or training for employment available in the general area,  
2 then employment which the individual would have the physical and mental  
3 ability to perform. In determining whether work is suitable for an  
4 individual, the commissioner shall also consider the degree of risk  
5 involved to the individual's health, safety, and morals, the  
6 individual's physical fitness, the individual's length of unemployment  
7 and prospects for securing local work in the individual's customary  
8 occupation, the distance of the available work from the individual's  
9 residence, and such other factors as the commissioner may deem  
10 pertinent, including state and national emergencies.

11 (2) For individuals with base year work experience in agricultural  
12 labor, any agricultural labor available from any employer shall be  
13 deemed suitable unless it meets conditions in RCW 50.20.110 or the  
14 commissioner finds elements of specific work opportunity unsuitable for  
15 a particular individual.

16 (3) For part-time workers as defined in RCW 50.20.119, suitable  
17 work includes suitable work under subsection (1) of this section that  
18 is for seventeen or fewer hours per week.

19 (4) For individuals who have qualified for unemployment  
20 compensation benefits under RCW 50.20.050 (1)(b)(iv) ~~((or))~~,  
21 (2)(b)(iv), or (3)(b)(iv), as applicable, an evaluation of the  
22 suitability of the work must consider the individual's need to address  
23 the physical, psychological, legal, and other effects of domestic  
24 violence or stalking.

25 **Sec. 3.** RCW 50.20.240 and 2006 c 13 s 16 are each amended to read  
26 as follows:

27 (1)(a) To ensure that following the initial application for  
28 benefits, an individual is actively engaged in searching for work, the  
29 employment security department shall implement a job search monitoring  
30 program. Effective January 4, 2004, the department shall contract with  
31 employment security agencies in other states to ensure that individuals  
32 residing in those states and receiving benefits under this title are  
33 actively engaged in searching for work in accordance with the  
34 requirements of this section. The department may use interactive voice  
35 technology and other electronic means to ensure that individuals are  
36 subject to comparable job search monitoring, regardless of whether they  
37 reside in Washington or elsewhere.

1 (b) Except for those individuals with employer attachment or union  
2 referral, individuals who qualify for unemployment compensation under  
3 RCW 50.20.050 (1)(b)(iv) (~~(1)(b)(iv)~~), (2)(b)(iv), or (3)(b)(iv), as  
4 applicable, and individuals in commissioner-approved training, an  
5 individual who has received five or more weeks of benefits under this  
6 title, regardless of whether the individual resides in Washington or  
7 elsewhere, must provide evidence of seeking work, as directed by the  
8 commissioner or the commissioner's agents, for each week beyond five in  
9 which a claim is filed. With regard to claims with an effective date  
10 before January 4, 2004, the evidence must demonstrate contacts with at  
11 least three employers per week or documented in-person job search  
12 activity at the local reemployment center. With regard to claims with  
13 an effective date on or after January 4, 2004, the evidence must  
14 demonstrate contacts with at least three employers per week or  
15 documented in-person job search activities at the local reemployment  
16 center at least three times per week.

17 (c) In developing the requirements for the job search monitoring  
18 program, the commissioner or the commissioner's agents shall utilize an  
19 existing advisory committee having equal representation of employers  
20 and workers.

21 (2) Effective January 4, 2004, an individual who fails to comply  
22 fully with the requirements for actively seeking work under RCW  
23 50.20.010 shall lose all benefits for all weeks during which the  
24 individual was not in compliance, and the individual shall be liable  
25 for repayment of all such benefits under RCW 50.20.190.

26 NEW SECTION. **Sec. 4.** If any part of this act is found to be in  
27 conflict with federal requirements that are a prescribed condition to  
28 the allocation of federal funds to the state or the eligibility of  
29 employers in this state for federal unemployment tax credits, the  
30 conflicting part of this act is inoperative solely to the extent of the  
31 conflict, and the finding or determination does not affect the  
32 operation of the remainder of this act. Rules adopted under this act  
33 must meet federal requirements that are a necessary condition to the  
34 receipt of federal funds by the state or the granting of federal  
35 unemployment tax credits to employers in this state.

1        NEW SECTION.    **Sec. 5.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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