

HOUSE BILL REPORT

HB 2437

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to disqualification from employment benefits.

Brief Description: Relating discharge for disqualification from unemployment benefits to recent work.

Sponsor(s): Representatives R. King, Heavey, Prentice, Franklin, G. Cole and J. Kohl.

Brief History:

Reported by House Committee on:
Commerce & Labor, January 21, 1992, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 7 members: Representatives Heavey, Chair; G. Cole; Franklin; Jones; R. King; O'Brien; and Prentice.

Minority Report: *Do not pass.* Signed by 3 members: Representatives Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; and Vance.

Staff: Chris Cordes (786-7117).

Background:

To be eligible for unemployment compensation, an unemployed person must register for work at an employment office, be able and willing to accept suitable work, and be actively searching for work. The claimant will be disqualified for benefits if he or she voluntarily quits a job without good cause or was terminated for misconduct connected with work. If the claimant was terminated because of a felony or gross misdemeanor conviction, or because of admitting the commission of a felony or gross misdemeanor to a competent authority, the claimant may not receive any benefits based on base year wage credits earned before the termination.

Until 1988, the Employment Security Department determined a claimant's benefit eligibility under the "last employer

rule." The rule requires the department to review only the reasons the claimant left his or her last job. In a 1988 court decision, the Washington Court of Appeals disapproved the department's policy based on the last employer rule. The court found that a hospital employee who had been discharged for theft of hospital property, and who had been subsequently employed and terminated from other jobs, could not base eligibility on the wage credits accrued during employment with the hospital even though the job termination for theft was not the employee's last job separation. The department's determination that benefit charges would be made against the hospital was overturned.

After the Othello case was decided, the department began reviewing all of a claimant's separations from employment during the base year for potentially disqualifying separations. The department determined that this procedure created administrative difficulties. The department now reviews previous job separations if a felony or gross misdemeanor is involved or if the last job would not have requalified the claimant for benefits if a disqualification had been applied.

Summary of Substitute Bill:

The Legislature recognizes that unemployment insurance provides partial replacement of wages for unemployed workers and that eligibility for benefits is primarily related to the last job separation. It is the Legislature's intent that determination of eligibility be limited to the reasons for separation from the last separation.

The provisions that disqualify an employee from unemployment benefits because of voluntarily quitting work or because of work-connected misconduct are amended to apply only to the claimant's most recent job separation.

The provision that disqualifies an employee from receiving base year credits because of a work-connected felony or gross misdemeanor is amended to:

- (1) include cases in which the employee voluntarily leaves work because of the felony or misdemeanor;
- (2) delete the provision that disqualifies the employee from receiving any benefits for which base year credits are earned in employment prior to the discharge and substitute a provision requiring cancellation of the hourly wage credits based on the employment from which discharge occurred;
- (3) add requirements that the employer report the felony or gross misdemeanor admission or conviction within six months

and that the employee disclose, when applying for benefits, any felony or gross misdemeanor conviction occurring in the previous two years; and

(4) delete the provision defining the period when the employee's disqualification begins and substitute a provision permitting the recovery of benefits paid in error based on wage credits that should have been removed from the base year.

Substitute Bill Compared to Original Bill: The substitute bill adds a caption heading to a section of the bill.

Fiscal Note: Requested January 13, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Employment Security Department implemented an administrative procedure that was cumbersome and expensive in response to a court decision. The department's interpretation of the case was unnecessarily broad. The "last employer rule" that has been used since the beginning of the unemployment system should still be the rule that the department uses to evaluate disqualification for benefits. Without the rule, employees who worked for several different employers during their base year will be at a disadvantage in applying for benefits. The last employer rule is administratively efficient. The department should also be directed to treat the issue of disqualification for voluntarily quitting work or work-related misconduct separately from the issue of cancelling wage credits for a work-related felony or gross misdemeanor.

Testimony Against: The bill would restrict the department's ability to examine job terminations that occurred because of the employee's misconduct and apply appropriate disqualifications. If this issue is to be addressed, a larger package of claims management issues should also be considered.

Witnesses: (In favor) Martha Lindley, Unemployment Law Project; Bill Knowles; Graeme Sackrison, Employment Security Department; Tomas Villanueva, United Farmworkers; Jeff Johnson, Washington State Labor Council; Rebecca Smith, Evergreen Legal Services; Marco Iniguez; and Edelmira Morfin. (Opposed) Clif Finch, Association of Washington Business.