

# HOUSE BILL ANALYSIS

## HB 3031

**Brief Description:** Defining misconduct for unemployment purposes.

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**Sponsors:** Representatives McMorris, Boldt, Chandler and Clements.

Hearing: February 4, 1998

### **BACKGROUND:**

A person claiming unemployment insurance benefits is disqualified if he or she was discharged or suspended by the employer for misconduct connected with the work. The claimant is disqualified for five weeks and until he or she works and earns a specified amount of wages.

Since 1993, "misconduct" has been defined as an employee's act or failure to act in willful disregard of the employer's interest where the effect is to harm the employer's business.

Before the 1993 amendment, "misconduct" was not defined in the statute, but was interpreted through court cases. The Washington Supreme Court used the following test for on-the-job misconduct: (1) the employer's rule that was violated was reasonable under the circumstances of the employment; (2) the violative conduct was connected with work; (3) the employee's conduct violated the rule; and (4) the violations were intentional, grossly negligent, or continued to take place after notice or warnings, and the conduct was not mere incompetence, inefficiency, erroneous judgment, or ordinary negligence.

For off-the-job misconduct, the court also required a showing that the conduct resulted in some harm to the employer's interest and was done with the intent or knowledge that the employer's interest would suffer.

### **SUMMARY OF BILL:**

The definition of misconduct for purposes of unemployment insurance is modified. Language is deleted that required the employee to act in willful disregard of the employer's interest with the effect being to harm the employer's business. New provisions are added that define on-the-job misconduct and off-the-job misconduct.

On-the-job misconduct is an employee's act or failure to act that violates a reasonable rule, order or standard of behavior of the employee's employer and that is connected with the employee's work. It does not include an employee's conduct that is a result of incompetence, inefficiency, erroneous judgment, or ordinary negligence.

Off-the-job misconduct is an employee's act or failure to act that: (1) violates a reasonable rule, order or standard of behavior of the employee's employer; (2) is connected with the employee's work or has a reasonable relation to the conduct of the employer's business; (3) results in some harm to the employer's interest; and (4) was done with the knowledge that the employer's interest would be harmed.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill is passed.