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HOUSE BILL 2276

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Kirby and Chandler

Read first time 02/16/2007. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to upholding state standards in determining  
2 disqualification for leaving work voluntarily; and amending RCW  
3 50.20.050 and 50.29.021.

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

5            **Sec. 1.** RCW 50.20.050 and 2006 c 13 s 2 are each amended to read  
6 as follows:

7            (1) With respect to claims that have an effective date before  
8 January 4, 2004:

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

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

19            (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 shall not be considered to have left work  
6 voluntarily without good cause when:

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

9 (ii) The separation was because of the illness or disability of the  
10 claimant or the death, illness, or disability of a member of the  
11 claimant's immediate family if the claimant took all reasonable  
12 precautions, in accordance with any regulations that the commissioner  
13 may prescribe, to protect his or her employment status by having  
14 promptly notified the employer of the reason for the absence and by  
15 having promptly requested reemployment when again able to assume  
16 employment: PROVIDED, That these precautions need not have been taken  
17 when they would have been a futile act, including those instances when  
18 the futility of the act was a result of a recognized labor/management  
19 dispatch system;

20 (iii) He or she has left work to relocate for the spouse's  
21 employment that is due to an employer-initiated mandatory transfer that  
22 is outside the existing labor market area if the claimant remained  
23 employed as long as was reasonable prior to the move; or

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

27 (c) In determining under this subsection 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  
31 fitness for the work, the individual's ability to perform the work, and  
32 such other work connected factors as the commissioner may deem  
33 pertinent, including state and national emergencies. Good cause shall  
34 not be established for voluntarily leaving work because of its distance  
35 from an individual's residence where the distance was known to the  
36 individual at the time he or she accepted the employment and where, in  
37 the judgment of the department, the distance is customarily traveled by  
38 workers in the individual's job classification and labor market, nor

1 because of any other significant work factor which was generally known  
2 and present at the time he or she accepted employment, unless the  
3 related circumstances have so changed as to amount to a substantial  
4 involuntary deterioration of the work factor or unless the commissioner  
5 determines that other related circumstances would work an unreasonable  
6 hardship on the individual were he or she required to continue in the  
7 employment.

8 (d) Subsection (1)(a) and (c) of this section shall not apply to an  
9 individual whose marital status or domestic responsibilities cause him  
10 or her to leave employment. Such an individual shall not be eligible  
11 for unemployment insurance benefits beginning with the first day of the  
12 calendar week in which he or she left work and thereafter for seven  
13 calendar weeks and until he or she has requalified, either by obtaining  
14 bona fide work in employment covered by this title and earning wages in  
15 that employment equal to seven times his or her weekly benefit amount  
16 or by reporting in person to the department during ten different  
17 calendar weeks and certifying on each occasion that he or she is ready,  
18 able, and willing to immediately accept any suitable work which may be  
19 offered, is actively seeking work pursuant to customary trade  
20 practices, and is utilizing such employment counseling and placement  
21 services as are available through the department. This subsection does  
22 not apply to individuals covered by (b)(ii) or (iii) of this  
23 subsection.

24 (2) With respect to claims that have an effective date on or after  
25 January 4, 2004:

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.

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

- 36 (i) The duration of the work;
- 37 (ii) The extent of direction and control by the employer over the  
38 work; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (xi) The individual left work because:

18 (A) The employer was not in compliance with chapter 49.46 RCW. If  
19 the employer is not subject to chapter 49.46 RCW, the employer was  
20 paying less than the state minimum wage; or

21 (B) The employer allowed smoking in the workplace in which the  
22 employee worked.

23 **Sec. 2.** RCW 50.29.021 and 2006 c 13 s 6 are each amended to read  
24 as follows:

25 (1) This section applies to benefits charged to the experience  
26 rating accounts of employers for claims that have an effective date on  
27 or after January 4, 2004.

28 (2)(a) An experience rating account shall be established and  
29 maintained for each employer, except employers as described in RCW  
30 50.44.010 and 50.44.030 who have properly elected to make payments in  
31 lieu of contributions, taxable local government employers as described  
32 in RCW 50.44.035, and those employers who are required to make payments  
33 in lieu of contributions, based on existing records of the employment  
34 security department.

35 (b) Benefits paid to an eligible individual shall be charged to the  
36 experience rating accounts of each of such individual's employers  
37 during the individual's base year in the same ratio that the wages paid

1 by each employer to the individual during the base year bear to the  
2 wages paid by all employers to that individual during that base year,  
3 except as otherwise provided in this section.

4 (c) When the eligible individual's separating employer is a covered  
5 contribution paying base year employer, benefits paid to the eligible  
6 individual shall be charged to the experience rating account of only  
7 the individual's separating employer if the individual qualifies for  
8 benefits under:

9 (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed  
10 after having worked and earned wages in the bona fide work; or

11 (ii) RCW 50.20.050(2)(b)(v) through (~~(+x+)~~) (xi).

12 (3) The legislature finds that certain benefit payments, in whole  
13 or in part, should not be charged to the experience rating accounts of  
14 employers except those employers described in RCW 50.44.010 and  
15 50.44.030 who have properly elected to make payments in lieu of  
16 contributions, taxable local government employers described in RCW  
17 50.44.035, and those employers who are required to make payments in  
18 lieu of contributions, as follows:

19 (a) Benefits paid to any individual later determined to be  
20 ineligible shall not be charged to the experience rating account of any  
21 contribution paying employer.

22 (b) Benefits paid to an individual filing under the provisions of  
23 chapter 50.06 RCW shall not be charged to the experience rating account  
24 of any contribution paying employer only if:

25 (i) The individual files under RCW 50.06.020(1) after receiving  
26 crime victims' compensation for a disability resulting from a nonwork-  
27 related occurrence; or

28 (ii) The individual files under RCW 50.06.020(2).

29 (c) Benefits paid which represent the state's share of benefits  
30 payable as extended benefits defined under RCW 50.22.010(6) shall not  
31 be charged to the experience rating account of any contribution paying  
32 employer.

33 (d) In the case of individuals who requalify for benefits under RCW  
34 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
35 the disqualifying separation shall not be charged to the experience  
36 rating account of the contribution paying employer from whom that  
37 separation took place.

1 (e) Individuals who qualify for benefits under RCW  
2 50.20.050(2)(b)(iv), as applicable, shall not have their benefits  
3 charged to the experience rating account of any contribution paying  
4 employer.

5 (f) With respect to claims with an effective date on or after the  
6 first Sunday following April 22, 2005, benefits paid that exceed the  
7 benefits that would have been paid if the weekly benefit amount for the  
8 claim had been determined as one percent of the total wages paid in the  
9 individual's base year shall not be charged to the experience rating  
10 account of any contribution paying employer.

11 (4)(a) A contribution paying base year employer, not otherwise  
12 eligible for relief of charges for benefits under this section, may  
13 receive such relief if the benefit charges result from payment to an  
14 individual who:

15 (i) Last left the employ of such employer voluntarily for reasons  
16 not attributable to the employer;

17 (ii) Was discharged for misconduct or gross misconduct connected  
18 with his or her work not a result of inability to meet the minimum job  
19 requirements;

20 (iii) Is unemployed as a result of closure or severe curtailment of  
21 operation at the employer's plant, building, worksite, or other  
22 facility. This closure must be for reasons directly attributable to a  
23 catastrophic occurrence such as fire, flood, or other natural disaster;  
24 or

25 (iv) Continues to be employed on a regularly scheduled permanent  
26 part-time basis by a base year employer and who at some time during the  
27 base year was concurrently employed and subsequently separated from at  
28 least one other base year employer. Benefit charge relief ceases when  
29 the employment relationship between the employer requesting relief and  
30 the claimant is terminated. This subsection does not apply to shared  
31 work employers under chapter 50.60 RCW.

32 (b) The employer requesting relief of charges under this subsection  
33 must request relief in writing within thirty days following mailing to  
34 the last known address of the notification of the valid initial  
35 determination of such claim, stating the date and reason for the  
36 separation or the circumstances of continued employment. The

1 commissioner, upon investigation of the request, shall determine  
2 whether relief should be granted.

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