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**SUBSTITUTE HOUSE BILL 2967**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Commerce & Labor (originally sponsored by Representatives Conway, Wood, McIntire, Simpson, Hasegawa, and Ormsby)

READ FIRST TIME 02/05/08.

1            AN ACT Relating to allowing individuals who left work to enter  
2 certain apprenticeship programs to receive unemployment insurance  
3 benefits; amending RCW 50.20.050 and 50.29.021; and creating a new  
4 section.

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

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

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

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 shall not be considered to have left work  
7 voluntarily without good cause 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 because of the illness or disability of the  
11 claimant or the death, illness, or disability of a member of the  
12 claimant's immediate family if the claimant took all reasonable  
13 precautions, in accordance with any regulations that the commissioner  
14 may prescribe, to protect his or her employment status by having  
15 promptly notified the employer of the reason for the absence and by  
16 having promptly requested reemployment when again able to assume  
17 employment: PROVIDED, That these precautions need not have been taken  
18 when they would have been a futile act, including those instances when  
19 the futility of the act was a result of a recognized labor/management  
20 dispatch system;

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

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

28 (c) In determining under this subsection whether an individual has  
29 left work voluntarily without good cause, the commissioner shall only  
30 consider work-connected factors such as the degree of risk involved to  
31 the individual's health, safety, and morals, the individual's physical  
32 fitness for the work, the individual's ability to perform the work, and  
33 such other work connected factors as the commissioner may deem  
34 pertinent, including state and national emergencies. Good cause shall  
35 not be established for voluntarily leaving work because of its distance  
36 from an individual's residence where the distance was known to the  
37 individual at the time he or she accepted the employment and where, in  
38 the judgment of the department, the distance is customarily traveled by

1 workers in the individual's job classification and labor market, nor  
2 because of any other significant work factor which was generally known  
3 and present at the time he or she accepted employment, unless the  
4 related circumstances have so changed as to amount to a substantial  
5 involuntary deterioration of the work factor or unless the commissioner  
6 determines that other related circumstances would work an unreasonable  
7 hardship on the individual were he or she required to continue in the  
8 employment.

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

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

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

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 is not disqualified from benefits under (a) of  
6 this subsection 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 necessary because of the illness or  
10 disability of the claimant or the death, illness, or disability of a  
11 member of the claimant's immediate family if:

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

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

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

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

35 (iv) The separation was necessary to protect the claimant or the  
36 claimant's immediate family members from domestic violence, as defined  
37 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; ((~~or~~))

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 **Sec. 2.** RCW 50.29.021 and 2007 c 146 s 2 are each amended to read  
22 as follows:

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

26 (2)(a) An experience rating account shall be established and  
27 maintained for each employer, except employers as described in RCW  
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
29 payments in lieu of contributions, taxable local government employers  
30 as described in RCW 50.44.035, and those employers who are required to  
31 make payments in lieu of contributions, based on existing records of  
32 the employment security department.

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

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

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

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

10 (ii) RCW 50.20.050(2)(b) (v) through (x).

11 (3) The legislature finds that certain benefit payments, in whole  
12 or in part, should not be charged to the experience rating accounts of  
13 employers except those employers described in RCW 50.44.010, 50.44.030,  
14 and 50.50.030 who have properly elected to make payments in lieu of  
15 contributions, taxable local government employers described in RCW  
16 50.44.035, and those employers who are required to make payments in  
17 lieu of contributions, as follows:

18 (a) Benefits paid to any individual later determined to be  
19 ineligible shall not be charged to the experience rating account of any  
20 contribution paying employer. However, when a benefit claim becomes  
21 invalid due to an amendment or adjustment of a report where the  
22 employer failed to report or inaccurately reported hours worked or  
23 remuneration paid, or both, all benefits paid will be charged to the  
24 experience rating account of the contribution paying employer or  
25 employers that originally filed the incomplete or inaccurate report or  
26 reports. An employer who reimburses the trust fund for benefits paid  
27 to workers and who fails to report or inaccurately reported hours  
28 worked or remuneration paid, or both, shall reimburse the trust fund  
29 for all benefits paid that are based on the originally filed incomplete  
30 or inaccurate report or reports.

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

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

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

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

5 (d) In the case of individuals who requalify for benefits under RCW  
6 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
7 the disqualifying separation shall not be charged to the experience  
8 rating account of the contribution paying employer from whom that  
9 separation took place.

10 (e) ~~((Individuals))~~ Benefits paid to an individual who ~~((qualify))~~  
11 qualifies for benefits under RCW 50.20.050(2)(b) (iv) or (xi), as  
12 applicable, shall not ~~((have their benefits))~~ be charged to the  
13 experience rating account of any contribution paying employer.

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

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

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

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

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

34 (iv) Continues to be employed on a regularly scheduled permanent  
35 part-time basis by a base year employer and who at some time during the  
36 base year was concurrently employed and subsequently separated from at  
37 least one other base year employer. Benefit charge relief ceases when

1 the employment relationship between the employer requesting relief and  
2 the claimant is terminated. This subsection does not apply to shared  
3 work employers under chapter 50.06 RCW.

4 (b) The employer requesting relief of charges under this subsection  
5 must request relief in writing within thirty days following mailing to  
6 the last known address of the notification of the valid initial  
7 determination of such claim, stating the date and reason for the  
8 separation or the circumstances of continued employment. The  
9 commissioner, upon investigation of the request, shall determine  
10 whether relief should be granted.

11 NEW SECTION. **Sec. 3.** If any part of this act is found to be in  
12 conflict with federal requirements that are a prescribed condition to  
13 the allocation of federal funds to the state or the eligibility of  
14 employers in this state for federal unemployment tax credits, the  
15 conflicting part of this act is inoperative solely to the extent of the  
16 conflict, and the finding or determination does not affect the  
17 operation of the remainder of this act. Rules adopted under this act  
18 must meet federal requirements that are a necessary condition to the  
19 receipt of federal funds by the state or the granting of federal  
20 unemployment tax credits to employers in this state.

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