

SSB 5963 - S AMD 96

By Senators Kohl-Welles and Keiser

WITHDRAWN 3/11/2009

1 On page 17, line 28, strike all of Section 3 and insert the
2 following:

3 **"Sec. 3.** RCW 50.20.050 and 2008 c 323 s 1 are each amended to
4 read as follows:

5 (1) ~~((With respect to claims that have an effective date before
6 January 4, 2004:~~

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

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

17 ~~— (i) The duration of the work;~~

18 ~~— (ii) The extent of direction and control by the employer over the
19 work; and~~

20 ~~— (iii) The level of skill required for the work in light of the
21 individual's training and experience.~~

22 ~~— (b) An individual shall not be considered to have left work
23 voluntarily without good cause when:~~

24 ~~— (i) He or she has left work to accept a bona fide offer of bona
25 fide work as described in (a) of this subsection;~~

26 ~~— (ii) The separation was because of the illness or disability of
27 the claimant or the death, illness, or disability of a member of the~~

~~1 claimant's immediate family if the claimant took all reasonable
2 precautions, in accordance with any regulations that the commissioner
3 may prescribe, to protect his or her employment status by having
4 promptly notified the employer of the reason for the absence and by
5 having promptly requested reemployment when again able to assume
6 employment: PROVIDED, That these precautions need not have been taken
7 when they would have been a futile act, including those instances when
8 the futility of the act was a result of a recognized labor/management
9 dispatch system;~~

~~10 — (iii) He or she has left work to relocate for the spouse's
11 employment that is due to an employer-initiated mandatory transfer
12 that is outside the existing labor market area if the claimant
13 remained employed as long as was reasonable prior to the move; or~~

~~14 — (iv) The separation was necessary to protect the claimant or the
15 claimant's immediate family members from domestic violence, as defined
16 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.~~

~~17 — (c) In determining under this subsection whether an individual has
18 left work voluntarily without good cause, the commissioner shall only
19 consider work connected factors such as the degree of risk involved to
20 the individual's health, safety, and morals, the individual's physical
21 fitness for the work, the individual's ability to perform the work,
22 and such other work connected factors as the commissioner may deem
23 pertinent, including state and national emergencies. Good cause shall
24 not be established for voluntarily leaving work because of its
25 distance from an individual's residence where the distance was known
26 to the individual at the time he or she accepted the employment and
27 where, in the judgment of the department, the distance is customarily
28 traveled by workers in the individual's job classification and labor
29 market, nor because of any other significant work factor which was
30 generally known and present at the time he or she accepted employment,
31 unless the related circumstances have so changed as to amount to a
32 substantial involuntary deterioration of the work factor or unless the
33 commissioner determines that other related circumstances would work an
34~~

1 ~~unreasonable hardship on the individual were he or she required to~~
2 ~~continue in the employment.~~

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

19 ~~— (2) —~~)With respect to claims that have an effective date on or
20 after January 4, 2004 and for separations that occur before September
21 6, 2009:

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

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

32 (i) The duration of the work;

33 (ii) The extent of direction and control by the employer over the
34 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
14 assume employment. These alternatives need not be pursued, however,
15 when they would have been a futile act, including those instances when
16 the 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;

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

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

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

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

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

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

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

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

27 (2) With respect to separations that occur on or after September
28 6, 2009:

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

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

5 (i) The duration of the work;

6 (ii) The extent of direction and control by the employer over the
7 work; and

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

10 (b) An individual is not disqualified from benefits under (a) of
11 this subsection only under the following circumstances:

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

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

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

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

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

32 (iv) The separation was necessary to protect the claimant or the
33 claimant's immediate family members from domestic violence, as defined
34 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 (c) The department may determine that other work-connected
25 circumstances may constitute good cause if the individual can show
26 that continuing in the employment would work an unreasonable hardship
27 on the individual. "Unreasonable hardship" means a result not due to
28 the individual's voluntary action that would cause a reasonable person
29 to leave that employment. The circumstances must be based on existing
30 facts, not conjecture, and the reasons for leaving work must be
31 significant. An individual seeking to demonstrate unreasonable
32 hardship must show:

33 (i) The individual left work primarily for reasons connected with
34 their employment;

1 (ii) The work connected reasons were of such a compelling nature
2 they would have cause a reasonably prudent person to leave work; and
3 (iii) The individual first exhausted all reasonable alternatives
4 before leaving work, or that pursuing reasonable alternatives would
5 have been futile."

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8 Renumber the sections consecutively and correct any internal
9 references accordingly.

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EFFECT: Provides that an individual has good cause to quit work only for one of the listed good cause quit provisions. Provides that ESD has the discretion to determine other work-related good cause quit reasons in addition to the ones listed if the individual can show that continuing in the employment would work an unreasonable hardship on the individual.

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