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HOUSE BILL 2385

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Williams, Green, Appleton, Ormsby, Nelson, Sells, Chase, Dunshee, Simpson, and Hasegawa

Read first time 04/23/09. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to improving unemployment benefits; and amending  
2 RCW 50.20.050, 50.20.100, 50.20.119, and 50.20.120.

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

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

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

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

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

18 ~~(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  
25 after January 4, 2004, and separations that occur before September 6,  
26 2009:

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;

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 (2) With respect to separations that occur on or after September 6,  
25 2009:

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 has good cause and is not disqualified from  
4 benefits under (a) of this subsection only under the following  
5 circumstances:

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

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

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

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

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

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

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

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

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

37 (viii) The individual's worksite safety deteriorated, the

1 individual reported the safety deterioration to the employer, and the  
2 employer failed to correct the hazards within a reasonable period of  
3 time;

4 (ix) The individual left work because of illegal activities in the  
5 individual's worksite, the individual reported such activities to the  
6 employer, and the employer failed to end the activities within a  
7 reasonable period of time;

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

10 (xi) The individual left work to enter an apprenticeship program  
11 approved by the Washington state apprenticeship training council.  
12 Benefits are payable beginning Sunday of the week prior to the week in  
13 which the individual begins active participation in the apprenticeship  
14 program; or

15 (xii) The individual left work because continuing in employment  
16 would work an unreasonable hardship on the individual. "Unreasonable  
17 hardship" means a result not due to the individual's voluntary action  
18 that would cause a reasonable person to leave that employment. The  
19 circumstances must be based on existing facts, not conjecture, and the  
20 reasons for leaving work must be significant. An individual seeking to  
21 demonstrate unreasonable hardship must show that:

22 (A) The individual left work primarily for reasons connected with  
23 his or her employment;

24 (B) The work-connected reasons were of such a compelling nature  
25 they would have caused a reasonably prudent person to leave work; and

26 (C) The individual first exhausted all reasonable alternatives  
27 before leaving work, unless pursuing reasonable alternatives would have  
28 been futile.

29 **Sec. 2.** RCW 50.20.100 and 2006 c 13 s 14 are each amended to read  
30 as follows:

31 (1) Suitable work for an individual is employment in an occupation  
32 in keeping with the individual's prior work experience, education, or  
33 training and if the individual has no prior work experience, special  
34 education, or training for employment available in the general area,  
35 then employment which the individual would have the physical and mental  
36 ability to perform. In determining whether work is suitable for an  
37 individual, the commissioner shall also consider the degree of risk

1 involved to the individual's health, safety, and morals, the  
2 individual's physical fitness, the individual's length of unemployment  
3 and prospects for securing local work in the individual's customary  
4 occupation, the distance of the available work from the individual's  
5 residence, and such other factors as the commissioner may deem  
6 pertinent, including state and national emergencies.

7 (2) For individuals with base year work experience in agricultural  
8 labor, any agricultural labor available from any employer shall be  
9 deemed suitable unless it meets conditions in RCW 50.20.110 or the  
10 commissioner finds elements of specific work opportunity unsuitable for  
11 a particular individual.

12 ~~(3) ((For part-time workers as defined in RCW 50.20.119, suitable~~  
13 ~~work includes suitable work under subsection (1) of this section that~~  
14 ~~is for seventeen or fewer hours per week.~~

15 ~~(4))~~ For individuals who have qualified for unemployment  
16 compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as  
17 applicable, an evaluation of the suitability of the work must consider  
18 the individual's need to address the physical, psychological, legal,  
19 and other effects of domestic violence or stalking.

20 **Sec. 3.** RCW 50.20.119 and 2006 c 13 s 15 are each amended to read  
21 as follows:

22 (1) ~~((With respect to claims that have an effective date on or~~  
23 ~~after January 2, 2005,))~~ An otherwise eligible individual may not be  
24 denied benefits for any week because the individual is a part-time  
25 worker and is available for, seeks, applies for, or accepts only part-  
26 time work ~~((of seventeen or fewer hours per week))~~ by reason of the  
27 application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating  
28 to availability for work and active search for work, or failure to  
29 apply for or refusal to accept suitable work.

30 (2) For purposes of this section, "part-time worker" means an  
31 individual who ~~((~~(a)~~))~~ earned wages in part-time "employment" in ~~((at~~  
32 ~~least forty))~~ a majority of the weeks in the individual's base year ~~((~~(b)~~~~  
33 ~~and (b) did not earn wages in "employment" in more than seventeen hours~~  
34 ~~per week in any weeks in the individual's base year))~~.

35 **Sec. 4.** RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as  
36 follows:



1 Except as provided in RCW 50.20.--- (section 2, chapter 3, Laws of  
2 2009), benefits shall be payable as provided in this section.

3 (1)(a) For claims with an effective date on or after April 4, 2004,  
4 and before January 3, 2010, benefits shall be payable to any eligible  
5 individual during the individual's benefit year in a maximum amount  
6 equal to the lesser of twenty-six times the weekly benefit amount, as  
7 determined in subsection (2) of this section, or one-third of the  
8 individual's base year wages under this title.

9 (b) For claims with an effective date on or after January 3, 2010,  
10 benefits shall be payable to any eligible individual during the  
11 individual's benefit year in a maximum amount equal to the lesser of  
12 thirty times the weekly benefit amount, as determined in subsection (2)  
13 of this section, or one-third of the individual's base year wages under  
14 this title.

15 (2)(a) For claims with an effective date on or after April 24,  
16 2005, and before January 3, 2010, an individual's weekly benefit amount  
17 shall be an amount equal to three and eighty-five one-hundredths  
18 percent of the average quarterly wages of the individual's total wages  
19 during the two quarters of the individual's base year in which such  
20 total wages were highest.

21 (b) For claims with an effective date on or after January 3, 2010,  
22 an individual's weekly benefit amount shall be an amount equal to four  
23 percent of the average quarterly wages of the individual's total wages  
24 during the two quarters of the individual's base year in which such  
25 total wages were highest.

26 (3)(a) For claims with an effective date on or after January 3,  
27 2010, in addition to the amount payable weekly under subsection (2) of  
28 this section, an individual shall be paid a dependent allowance of five  
29 dollars weekly for: (i) Each child who is a dependent of the  
30 individual for federal income tax exemptions; and (ii) each child for  
31 whom the individual owes child support obligations and for whom no  
32 other person is receiving dependent allowances under this subsection.

33 (b) For the purposes of this subsection:

34 (i) "Child" means a biological, adopted, or foster child, a  
35 stepchild, a legal ward, or a child of a person standing in loco  
36 parentis who is: (A) Under eighteen years of age; (B) eighteen years  
37 of age or older and incapable of self-care because of a mental or  
38 physical disability; or (C) under twenty-four years of age, enrolled as

1 a student, and regularly attending classes, or is between two  
2 successive academic years or terms, at an institution of higher  
3 education.

4 (ii) "Institution of higher education" means an educational  
5 institution that: (A) Admits as regular students only individuals  
6 having a certificate of graduation from a high school, or the  
7 recognized equivalent of such a certificate; (B) is legally authorized  
8 to provide a program of education beyond high school; (C) provides an  
9 educational program for which it awards a bachelor's or higher degree,  
10 or provides a program which is acceptable for full credit toward such  
11 a degree, or offers a program of training to prepare students for  
12 gainful employment in a recognized occupation; and (D) is a public or  
13 other nonprofit institution.

14 (4) The maximum and minimum amounts payable weekly shall be  
15 determined as of each June 30th to apply to benefit years beginning in  
16 the twelve-month period immediately following such June 30th.

17 (a)(i) For claims with an effective date before January 3, 2010,  
18 the maximum amount payable weekly shall be either four hundred ninety-  
19 six dollars or sixty-three percent of the "average weekly wage" for the  
20 calendar year preceding such June 30th, whichever is greater.

21 (ii) For claims with an effective date on or after January 3, 2010,  
22 the maximum amount payable weekly shall be seventy percent of the  
23 "average weekly wage" for the calendar year preceding such June 30th,  
24 whichever is greater.

25 (b) The minimum amount payable weekly shall be fifteen percent of  
26 the "average weekly wage" for the calendar year preceding such June  
27 30th.

28 ((+4)) (5) If any weekly benefit, maximum benefit, or minimum  
29 benefit amount computed herein is not a multiple of one dollar, it  
30 shall be reduced to the next lower multiple of one dollar.

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