
SENATE BILL 6334

State of Washington 61st Legislature 2010 Regular Session

By Senators Kohl-Welles, Keiser, Kline, McDermott, and Franklin

Read first time 01/12/10. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to unemployment benefits when a person voluntarily
2 terminates employment; reenacting and amending RCW 50.20.050; and
3 creating a new section.

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

5 **Sec. 1.** RCW 50.20.050 and 2009 c 493 s 3 and 2009 c 247 s 1 are
6 each reenacted and amended to read as follows:

7 (1) With respect to claims that have an effective date on or after
8 January 4, 2004, and (~~for~~) separations that occur before September 6,
9 2009:

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

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

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

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

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

36 (iv) The separation was necessary to protect the claimant or the
37 claimant's immediate family members from domestic violence, as defined
38 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, and before July 4, 2010:

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. Good cause reasons to
32 leave work are limited to reasons listed in (b) of this subsection.

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

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 necessary because of the illness or
11 disability of the claimant or the death, illness, or disability of a
12 member of the claimant's immediate family if:

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

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

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

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

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

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

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

1 (viii) The individual's worksite safety deteriorated, the
2 individual reported such safety deterioration to the employer, and the
3 employer failed to correct the hazards within a reasonable period of
4 time;

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

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

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

16 (3) With respect to separations that occur on or after July 4,
17 2010:

18 (a) Except as provided in (b) and (c) of this subsection, an
19 individual shall be disqualified from benefits beginning with the first
20 day of the calendar week in which he or she has left work voluntarily
21 and thereafter for seven calendar weeks and until he or she has
22 obtained bona fide work in employment covered by this title and earned
23 wages in that employment equal to seven times his or her weekly benefit
24 amount.

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

29 (i) The duration of the work;

30 (ii) The extent of direction and control by the employer over the
31 work; and

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

34 (b) An individual is not disqualified from benefits under (a) of
35 this subsection under the following circumstances:

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

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

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

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

15 (iii) The claimant:

16 (A) Left work to relocate for the employment of a spouse or
17 domestic partner that is outside the existing labor market area; and

18 (B) Remained employed as long as was reasonable prior to the move;

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

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

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

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

30 (viii) The individual's worksite safety deteriorated, the
31 individual reported such safety deterioration to the employer, and the
32 employer failed to correct the hazards within a reasonable period of
33 time;

34 (ix) The individual left work because of illegal activities in the
35 individual's worksite, the individual reported such activities to the
36 employer, and the employer failed to end such activities within a
37 reasonable period of time;

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

3 (xi) The individual left work to enter an apprenticeship program
4 approved by the Washington state apprenticeship training council.
5 Benefits are payable beginning Sunday of the week prior to the week in
6 which the individual begins active participation in the apprenticeship
7 program.

8 (c) An individual also is not disqualified from benefits under (a)
9 of this subsection if the individual left work because continuing in
10 employment would work an unreasonable hardship on the individual.
11 "Unreasonable hardship" means a result not due to the individual's
12 voluntary action that would cause a reasonable person to leave that
13 employment. The circumstances must be based on existing facts, not
14 conjecture, and the reasons for leaving work must be significant. An
15 individual seeking to demonstrate unreasonable hardship must show that:

16 (i) The individual left work primarily for reasons connected with
17 his or her employment;

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

20 (iii) The individual first exhausted all reasonable alternatives
21 before leaving work, unless pursuing reasonable alternatives would have
22 been futile.

23 (4) Notwithstanding subsections ((+2+)) (1) through (3) of this
24 section, for separations occurring on or after July 26, 2009, an
25 individual who was simultaneously employed in full-time employment and
26 part-time employment and is otherwise eligible for benefits from the
27 loss of the full-time employment shall not be disqualified from
28 benefits because the individual:

29 (a) Voluntarily quit the part-time employment before the loss of
30 the full-time employment; and

31 (b) Did not have prior knowledge that he or she would be separated
32 from full-time employment.

33 NEW SECTION. Sec. 2. If any part of this act is found to be in
34 conflict with federal requirements that are a prescribed condition to
35 the allocation of federal funds to the state or the eligibility of
36 employers in this state for federal unemployment tax credits, the
37 conflicting part of this act is inoperative solely to the extent of the

1 conflict, and the finding or determination does not affect the
2 operation of the remainder of this act. Rules adopted under this act
3 must meet federal requirements that are a necessary condition to the
4 receipt of federal funds by the state or the granting of federal
5 unemployment tax credits to employers in this state.

6 NEW SECTION. **Sec. 3.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

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