
HOUSE BILL 2118

State of Washington

66th Legislature

2019 Regular Session

By Representatives Shea, McCaslin, Irwin, Walsh, and Boehnke

Read first time 02/22/19. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to misconduct for purposes of unemployment
2 insurance; and amending RCW 50.04.294.

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

4 **Sec. 1.** RCW 50.04.294 and 2006 c 13 s 9 are each amended to read
5 as follows:

6 With respect to claims that have an effective date on or after
7 January 4, 2004:

8 (1) "Misconduct" includes, but is not limited to, the following
9 conduct by a claimant:

10 (a) Willful or wanton disregard of the rights, title, and
11 interests of the employer or a fellow employee;

12 (b) Deliberate violations or disregard of standards of behavior
13 which the employer has the right to expect of an employee;

14 (c) Carelessness or negligence that causes or would likely cause
15 serious bodily harm to the employer or a fellow employee; or

16 (d) Carelessness or negligence of such degree or recurrence to
17 show an intentional or substantial disregard of the employer's
18 interest.

19 (2) The following acts are considered misconduct because the acts
20 signify a willful or wanton disregard of the rights, title, and

1 interests of the employer or a fellow employee. These acts include,
2 but are not limited to:

3 (a) Insubordination showing a deliberate, willful, or purposeful
4 refusal to follow the reasonable directions or instructions of the
5 employer;

6 (b) Repeated inexcusable tardiness following warnings by the
7 employer;

8 (c) Dishonesty related to employment, including but not limited
9 to deliberate falsification of company records, theft, deliberate
10 deception, or lying;

11 (d) Repeated and inexcusable absences, including absences for
12 which the employee was able to give advance notice and failed to do
13 so;

14 (e) Deliberate acts that are illegal, provoke violence or
15 violation of laws, or violate the collective bargaining agreement.
16 However, an employee who engages in lawful union activity may not be
17 disqualified due to misconduct;

18 (f) Violation of a company rule if the rule is reasonable and if
19 the claimant knew or should have known of the existence of the rule;
20 ((~~or~~))

21 (g) Violations of law by the claimant while acting within the
22 scope of employment that substantially affect the claimant's job
23 performance or that substantially harm the employer's ability to do
24 business; or

25 (h) Circumstances that, under Washington state law or rule,
26 require the employer to discharge the employee or prohibit the
27 continued employment of the employee.

28 (3) "Misconduct" does not include:

29 (a) Inefficiency, unsatisfactory conduct, or failure to perform
30 well as the result of inability or incapacity;

31 (b) Inadvertence or ordinary negligence in isolated instances; or

32 (c) Good faith errors in judgment or discretion.

33 (4) "Gross misconduct" means a criminal act in connection with an
34 individual's work for which the individual has been convicted in a
35 criminal court, or has admitted committing, or conduct connected with
36 the individual's work that demonstrates a flagrant and wanton
37 disregard of and for the rights, title, or interest of the employer
38 or a fellow employee.

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