

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5190**

67th Legislature  
2021 Regular Session

Passed by the Senate April 19, 2021  
Yeas 37 Nays 12

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**President of the Senate**

Passed by the House April 8, 2021  
Yeas 84 Nays 14

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**Speaker of the House of  
Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5190** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5190**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington                      67th Legislature                      2021 Regular Session**

**By** Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Holy, Frockt, Conway, Hasegawa, Honeyford, Keiser, King, Lovelett, Randall, Salomon, Van De Wege, Warnick, Wilson, C., and Wilson, J.)

READ FIRST TIME 02/12/21.

1            AN ACT Relating to providing health care workers with presumptive  
2 benefits during a public health emergency; amending RCW 50.04.294,  
3 50.20.010, 50.20.050, and 50.29.021; adding a new section to chapter  
4 51.32 RCW; creating a new section; and declaring an emergency.

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

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

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

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

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

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

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

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

1 (2) The following acts are considered misconduct because the acts  
2 signify a willful or wanton disregard of the rights, title, and  
3 interests of the employer or a fellow employee. These acts include,  
4 but are not limited to:

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

8 (b) Repeated inexcusable tardiness following warnings by the  
9 employer;

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

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

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

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

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

27 (3) "Misconduct" does not include:

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

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

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

33 (d) (i) A health care worker who left work for the period of  
34 quarantine consistent with the recommended guidance from the United  
35 States centers for disease control and prevention or subject to the  
36 direction of the state or local health jurisdiction because of  
37 exposure to or contracting the disease that is the subject of the  
38 declaration of the public health emergency.

39 (ii) For purposes of this subsection, "health care worker" means  
40 an individual who worked at a health care facility as defined in RCW

1 9A.50.010, and was directly involved in the delivery of health  
2 services.

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

9 **Sec. 2.** RCW 50.20.010 and 2021 c 2 s 8 are each amended to read  
10 as follows:

11 (1) An unemployed individual shall be eligible to receive waiting  
12 period credits or benefits with respect to any week in his or her  
13 eligibility period only if the commissioner finds that:

14 (a) The individual has registered for work at, and thereafter has  
15 continued to report at, an employment office in accordance with such  
16 regulation as the commissioner may prescribe, except that the  
17 commissioner may by regulation waive or alter either or both of the  
18 requirements of this subdivision as to individuals attached to  
19 regular jobs and as to such other types of cases or situations with  
20 respect to which the commissioner finds that the compliance with such  
21 requirements would be oppressive, or would be inconsistent with the  
22 purposes of this title;

23 (b) The individual has filed an application for an initial  
24 determination and made a claim for waiting period credit or for  
25 benefits in accordance with the provisions of this title;

26 (c) The individual is able to work, and is available for work in  
27 any trade, occupation, profession, or business for which the  
28 individual is reasonably fitted.

29 (i) To be available for work, an individual must be ready, able,  
30 and willing, immediately to accept any suitable work which may be  
31 offered to him or her and must be actively seeking work pursuant to  
32 customary trade practices and through other methods when so directed  
33 by the commissioner or the commissioner's agents. If a labor  
34 agreement or dispatch rules apply, customary trade practices must be  
35 in accordance with the applicable agreement or rules.

36 (ii) Until June 30, 2021, an individual under quarantine or  
37 isolation, as defined by the department of health, as directed by a  
38 public health official during the novel coronavirus outbreak pursuant  
39 to the gubernatorial declaration of emergency of February 29, 2020,

1 will meet the requirements of this subsection (1)(c) if the  
2 individual is able to perform, available to perform, and actively  
3 seeking work which can be performed while under quarantine or  
4 isolation.

5 (iii) For the purposes of this subsection, "customary trade  
6 practices" includes compliance with an electrical apprenticeship  
7 training program that includes a recognized referral system under  
8 apprenticeship program standards approved by the Washington state  
9 apprenticeship and training council;

10 (d) The individual has been unemployed for a waiting period of  
11 one week;

12 (e) The individual participates in reemployment services if the  
13 individual has been referred to reemployment services pursuant to the  
14 profiling system established by the commissioner under RCW 50.20.011,  
15 unless the commissioner determines that:

16 (i) The individual has completed such services; or

17 (ii) There is justifiable cause for the claimant's failure to  
18 participate in such services; and

19 (f) As to weeks which fall within an extended benefit period as  
20 defined in RCW 50.22.010, the individual meets the terms and  
21 conditions of RCW 50.22.020 with respect to benefits claimed in  
22 excess of twenty-six times the individual's weekly benefit amount.

23 (2) An individual's eligibility period for regular benefits shall  
24 be coincident to his or her established benefit year. An individual's  
25 eligibility period for additional or extended benefits shall be the  
26 periods prescribed elsewhere in this title for such benefits.

27 (3)(a) For any weeks of unemployment insurance benefits when the  
28 one week waiting period is fully paid or fully reimbursed by the  
29 federal government, subsection (1)(d) of this section is waived.

30 (b) For any weeks of unemployment insurance benefits when the one  
31 week waiting period is partially paid or partially reimbursed by the  
32 federal government, the department may, by rule, elect to waive  
33 subsection (1)(d) of this section.

34 (4) During the weeks of a public health emergency, an unemployed  
35 individual may also meet the requirements of subsection (1)(c) of  
36 this section if:

37 (a) The unemployed individual is able to perform, available to  
38 perform, and actively seeking suitable work which can be performed  
39 for an employer from the individual's home; and

1 (b) The unemployed individual or another individual residing with  
2 the unemployed individual is at higher risk of severe illness or  
3 death from the disease that is the subject of the public health  
4 emergency because the higher risk individual:

5 (i) Was in an age category that is defined as high risk for the  
6 disease that is the subject of the public health emergency by:

7 (A) The federal centers for disease control and prevention;

8 (B) The department of health; or

9 (C) The equivalent agency in the state where the individual  
10 resides; or

11 (ii) Has an underlying health condition, verified as required by  
12 the department by rule, that is identified as a risk factor for the  
13 disease that is the subject of the public health emergency by:

14 (A) The federal centers for disease control and prevention;

15 (B) The department of health; or

16 (C) The equivalent agency in the state where the individual  
17 resides.

18 (5)(a) During the weeks of a public health emergency, an  
19 unemployed health care worker may also meet the requirements of  
20 subsection (1)(c) of this section if the unemployed health care  
21 worker described in RCW 50.20.050(3) and 50.29.021(1)(c)(iii) is able  
22 to perform, available to perform, and actively seeking suitable work  
23 which will commence after quarantine or which can be performed for an  
24 employer from the individual's home.

25 (b) For purposes of this subsection, "health care worker" means  
26 an individual who worked at a health care facility as defined in RCW  
27 9A.50.010, and was directly involved in the delivery of health  
28 services.

29 **Sec. 3.** RCW 50.20.050 and 2021 c 2 s 10 are each amended to read  
30 as follows:

31 (1) With respect to separations that occur on or after September  
32 6, 2009, and for separations that occur before April 4, 2021:

33 (a) A claimant shall be disqualified from benefits beginning with  
34 the first day of the calendar week in which the claimant left work  
35 voluntarily without good cause and thereafter for seven calendar  
36 weeks and until the claimant obtains bona fide work in employment  
37 covered by this title and earned wages in that employment equal to  
38 seven times the claimant's weekly benefit amount. Good cause reasons

1 to leave work are limited to reasons listed in (b) of this  
2 subsection.

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

7 (i) The duration of the work;

8 (ii) The extent of direction and control by the employer over the  
9 work; and

10 (iii) The level of skill required for the work in light of  
11 (~~the~~) the claimant's training and experience.

12 (b) A claimant has good cause and is not disqualified from  
13 benefits under (a) of this subsection only under the following  
14 circumstances:

15 (i) The claimant has left work to accept a bona fide offer of  
16 bona fide work as described in (a) of this subsection;

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

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

28 (B) The claimant terminated the claimant's employment status, and  
29 is not entitled to be reinstated to the same position or a comparable  
30 or similar position;

31 (iii) The claimant: (A) Left work to relocate for the employment  
32 of a spouse or domestic partner that is outside the existing labor  
33 market area; and (B) remained employed as long as was reasonable  
34 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  
37 defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

38 (v) The claimant's usual compensation was reduced by twenty-five  
39 percent or more;

1 (vi) The claimant's usual hours were reduced by twenty-five  
2 percent or more;

3 (vii) The claimant's worksite changed, such change caused a  
4 material increase in distance or difficulty of travel, and, after the  
5 change, the commute was greater than is customary for workers in the  
6 claimant's job classification and labor market;

7 (viii) The claimant's worksite safety deteriorated, the claimant  
8 reported such safety deterioration to the employer, and the employer  
9 failed to correct the hazards within a reasonable period of time;

10 (ix) The claimant left work because of illegal activities in the  
11 claimant's worksite, the claimant reported such activities to the  
12 employer, and the employer failed to end such activities within a  
13 reasonable period of time;

14 (x) The claimant's usual work was changed to work that violates  
15 the claimant's religious convictions or sincere moral beliefs; or

16 (xi) The claimant left work to enter an apprenticeship program  
17 approved by the Washington state apprenticeship training council.  
18 Benefits are payable beginning Sunday of the week prior to the week  
19 in which the claimant begins active participation in the  
20 apprenticeship program.

21 (2) With respect to separations that occur on or after April 4,  
22 2021:

23 (a) A claimant shall be disqualified from benefits beginning with  
24 the first day of the calendar week in which the claimant has left  
25 work voluntarily without good cause and thereafter for seven calendar  
26 weeks and until the claimant has obtained bona fide work in  
27 employment covered by this title and earned wages in that employment  
28 equal to seven times the claimant's weekly benefit amount. Good cause  
29 reasons to leave work are limited to reasons listed in (b) of this  
30 subsection.

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

35 (i) The duration of the work;

36 (ii) The extent of direction and control by the employer over the  
37 work; and

38 (iii) The level of skill required for the work in light of the  
39 claimant's training and experience.



1 (b) A claimant has good cause and is not disqualified from  
2 benefits under (a) of this subsection only under the following  
3 circumstances:

4 (i) The claimant has left work to accept a bona fide offer of  
5 bona fide work as described in (a) of this subsection;

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

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

17 (B) The claimant terminated the claimant's employment status, and  
18 is not entitled to be reinstated to the same position or a comparable  
19 or similar position;

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

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

27 (v) The claimant's usual compensation was reduced by twenty-five  
28 percent or more;

29 (vi) The claimant's usual hours were reduced by twenty-five  
30 percent or more;

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

35 (viii) The claimant's worksite safety deteriorated, the claimant  
36 reported such safety deterioration to the employer, and the employer  
37 failed to correct the hazards within a reasonable period of time;

38 (ix) The claimant left work because of illegal activities in the  
39 claimant's worksite, the claimant reported such activities to the

1 employer, and the employer failed to end such activities within a  
2 reasonable period of time;

3 (x) The claimant's usual work was changed to work that violates  
4 the claimant's religious convictions or sincere moral beliefs;

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

10 (xii) During a public health emergency:

11 (A) The claimant was unable to perform the claimant's work for  
12 the employer from the claimant's home;

13 (B) The claimant is able to perform, available to perform, and  
14 can actively seek suitable work which can be performed for an  
15 employer from the claimant's home; and

16 (C) The claimant or another individual residing with the claimant  
17 is at higher risk of severe illness or death from the disease that is  
18 the subject of the public health emergency because the higher risk  
19 individual:

20 (I) Was in an age category that is defined as high risk for the  
21 disease that is the subject of the public health emergency by the  
22 federal centers for disease control and prevention, the department of  
23 health, or the equivalent agency in the state where the individual  
24 resides; or

25 (II) Has an underlying health condition, verified as required by  
26 the department by rule, that is identified as a risk factor for the  
27 disease that is the subject of the public health emergency by the  
28 federal centers for disease control and prevention, the department of  
29 health, or the equivalent agency in the state where the individual  
30 resides.

31 (3) With respect to claims that occur on or after July 4, 2021, a  
32 claimant has good cause and is not disqualified from benefits under  
33 subsection (2)(a) of this section under the following circumstances,  
34 in addition to those listed under subsection (2)(b) of this section,  
35 if, during a public health emergency, the claimant worked at a health  
36 care facility as defined in RCW 9A.50.010, was directly involved in  
37 the delivery of health services, and left work for the period of  
38 quarantine consistent with the recommended guidance from the United  
39 States centers for disease control and prevention or subject to the  
40 direction of the state or local health jurisdiction because of

1 exposure to or contracting the disease that is the subject of the  
2 declaration of the public health emergency.

3 (4) Notwithstanding subsection (1) of this section, a claimant  
4 who was simultaneously employed in full-time employment and part-time  
5 employment and is otherwise eligible for benefits from the loss of  
6 the full-time employment shall not be disqualified from benefits  
7 because the claimant:

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

10 (b) Did not have prior knowledge that the claimant would be  
11 separated from full-time employment.

12 **Sec. 4.** RCW 50.29.021 and 2021 c 2 s 16 are each amended to read  
13 as follows:

14 (1)(a) An experience rating account shall be established and  
15 maintained for each employer, except employers as described in RCW  
16 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
17 payments in lieu of contributions, taxable local government employers  
18 as described in RCW 50.44.035, and those employers who are required  
19 to make payments in lieu of contributions, based on existing records  
20 of the employment security department.

21 (b) Benefits paid to an eligible individual shall be charged to  
22 the experience rating accounts of each of such individual's employers  
23 during the individual's base year in the same ratio that the wages  
24 paid by each employer to the individual during the base year bear to  
25 the wages paid by all employers to that individual during that base  
26 year, except as otherwise provided in this section.

27 (c) When the eligible individual's separating employer is a  
28 covered contribution paying base year employer, benefits paid to the  
29 eligible individual shall be charged to the experience rating account  
30 of only the individual's separating employer if the individual  
31 qualifies for benefits under:

32 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and  
33 became unemployed after having worked and earned wages in the bona  
34 fide work; (~~or~~)

35 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through  
36 (x); or

37 (iii) During a public health emergency, the claimant worked at a  
38 health care facility as defined in RCW 9A.50.010, was directly  
39 involved in the delivery of health services, and was terminated from

1 work due to entering quarantine because of exposure to or contracting  
2 the disease that is the subject of the declaration of the public  
3 health emergency.

4 (2) The legislature finds that certain benefit payments, in whole  
5 or in part, should not be charged to the experience rating accounts  
6 of employers except those employers described in RCW 50.44.010,  
7 50.44.030, and 50.50.030 who have properly elected to make payments  
8 in lieu of contributions, taxable local government employers  
9 described in RCW 50.44.035, and those employers who are required to  
10 make payments in lieu of contributions, as follows:

11 (a) Benefits paid to any individual later determined to be  
12 ineligible shall not be charged to the experience rating account of  
13 any contribution paying employer, except as provided in subsection  
14 (4) of this section.

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

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

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

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

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

31 (e) Benefits paid to an individual who qualifies for benefits  
32 under RCW 50.20.050 (1)(b) (iv) or (xi) (~~(xii)~~), (2)(b) (iv), (xi), or  
33 (xii), or (3), as applicable, shall not be charged to the experience  
34 rating account of any contribution paying employer.

35 (f) Benefits paid that exceed the benefits that would have been  
36 paid if the weekly benefit amount for the claim had been determined  
37 as one percent of the total wages paid in the individual's base year  
38 shall not be charged to the experience rating account of any  
39 contribution paying employer. This subsection (2)(f) does not apply

1 to the calculation of contribution rates under RCW 50.29.025 for rate  
2 year 2010 and thereafter.

3 (g) Upon approval of an individual's training benefits plan  
4 submitted in accordance with RCW 50.22.155(2), an individual is  
5 considered enrolled in training, and regular benefits beginning with  
6 the week of approval shall not be charged to the experience rating  
7 account of any contribution paying employer.

8 (h) Training benefits paid to an individual under RCW 50.22.155  
9 shall not be charged to the experience rating account of any  
10 contribution paying employer.

11 (i)(i) Benefits paid during the one week waiting period when the  
12 one week waiting period is fully paid or fully reimbursed by the  
13 federal government shall not be charged to the experience rating  
14 account of any contribution paying employer.

15 (ii) In the event the one week waiting period is partially paid  
16 or partially reimbursed by the federal government, the department  
17 may, by rule, elect to not charge, in full or in part, benefits paid  
18 during the one week waiting period to the experience rating account  
19 of any contribution paying employer.

20 (j) Benefits paid for all weeks starting with the week ending  
21 March 28, 2020, and ending with the week ending May 30, 2020, shall  
22 not be charged to the experience rating account of any contribution  
23 paying employer.

24 (3)(a) A contribution paying base year employer, except employers  
25 as provided in subsection (5) of this section, not otherwise eligible  
26 for relief of charges for benefits under this section, may receive  
27 such relief if the benefit charges result from payment to an  
28 individual who:

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

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

34 (iii) Is unemployed as a result of closure or severe curtailment  
35 of operation at the employer's plant, building, worksite, or other  
36 facility. This closure must be for reasons directly attributable to a  
37 catastrophic occurrence such as fire, flood, or other natural  
38 disaster, or to the presence of any dangerous, contagious, or  
39 infectious disease that is the subject of a public health emergency  
40 at the employer's plant, building, worksite, or other facility;

1 (iv) Continues to be employed on a regularly scheduled permanent  
2 part-time basis by a base year employer and who at some time during  
3 the base year was concurrently employed and subsequently separated  
4 from at least one other base year employer. Benefit charge relief  
5 ceases when the employment relationship between the employer  
6 requesting relief and the claimant is terminated. This subsection  
7 does not apply to shared work employers under chapter 50.60 RCW;

8 (v) Continues to be employed on a regularly scheduled permanent  
9 part-time basis by a base year employer and who qualified for two  
10 consecutive unemployment claims where wages were attributable to at  
11 least one employer who employed the individual in both base years.  
12 Benefit charge relief ceases when the employment relationship between  
13 the employer requesting relief and the claimant is terminated. This  
14 subsection does not apply to shared work employers under chapter  
15 50.60 RCW;

16 (vi) Was hired to replace an employee who is a member of the  
17 military reserves or National Guard and was called to federal active  
18 military service by the president of the United States and is  
19 subsequently laid off when that employee is reemployed by their  
20 employer upon release from active duty within the time provided for  
21 reemployment in RCW 73.16.035;

22 (vii) Worked for an employer for (~~(twenty)~~) 20 weeks or less, and  
23 was laid off at the end of temporary employment when that employee  
24 temporarily replaced a permanent employee receiving family or medical  
25 leave benefits under Title 50A RCW, and the layoff is due to the  
26 return of that permanent employee. This subsection (3)(a)(vii)  
27 applies to claims with an effective date on or after January 1, 2020;  
28 or

29 (viii) Was discharged because the individual was unable to  
30 satisfy a job prerequisite required by law or administrative rule.

31 (b) The employer requesting relief of charges under this  
32 subsection must request relief in writing within thirty days  
33 following mailing to the last known address of the notification of  
34 the valid initial determination of such claim, stating the date and  
35 reason for the separation or the circumstances of continued  
36 employment. The commissioner, upon investigation of the request,  
37 shall determine whether relief should be granted.

38 (4) When a benefit claim becomes invalid due to an amendment or  
39 adjustment of a report where the employer failed to report or  
40 inaccurately reported hours worked or remuneration paid, or both, all

1 benefits paid will be charged to the experience rating account of the  
2 contribution paying employer or employers that originally filed the  
3 incomplete or inaccurate report or reports. An employer who  
4 reimburses the trust fund for benefits paid to workers and who fails  
5 to report or inaccurately reported hours worked or remuneration paid,  
6 or both, shall reimburse the trust fund for all benefits paid that  
7 are based on the originally filed incomplete or inaccurate report or  
8 reports.

9 (5) An employer's experience rating account may not be relieved  
10 of charges for a benefit payment and an employer who reimburses the  
11 trust fund for benefit payments may not be credited for a benefit  
12 payment if a benefit payment was made because the employer or  
13 employer's agent failed to respond timely or adequately to a written  
14 request of the department for information relating to the claim or  
15 claims without establishing good cause for the failure and the  
16 employer or employer's agent has a pattern of such failures. The  
17 commissioner has the authority to determine whether the employer has  
18 good cause under this subsection.

19 (a) For the purposes of this subsection, "adequately" means  
20 providing accurate information of sufficient quantity and quality  
21 that would allow a reasonable person to determine eligibility for  
22 benefits.

23 (b) (i) For the purposes of this subsection, "pattern" means a  
24 benefit payment was made because the employer or employer's agent  
25 failed to respond timely or adequately to a written request of the  
26 department for information relating to a claim or claims without  
27 establishing good cause for the failure, if the greater of the  
28 following calculations for an employer is met:

29 (A) At least three times in the previous two years; or

30 (B) Twenty percent of the total current claims against the  
31 employer.

32 (ii) If an employer's agent is utilized, a pattern is established  
33 based on each individual client employer that the employer's agent  
34 represents.

35 NEW SECTION. **Sec. 5.** If any part of sections 1 through 4 of  
36 this act is found to be in conflict with federal requirements that  
37 are a prescribed condition to the allocation of federal funds to the  
38 state or the eligibility of employers in this state for federal  
39 unemployment tax credits, the conflicting part of sections 1 through

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

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 51.32  
9 RCW to read as follows:

10 (1) For health care employees who are covered under this title,  
11 there exists a prima facie presumption that any infectious or  
12 contagious diseases which are the subject of a public health  
13 emergency are occupational diseases under RCW 51.08.140 during a  
14 public health emergency.

15 (2) The health care employee must provide verification, as  
16 required by the department by rule, to the department or the self-  
17 insurer that the employee is in quarantine or has contracted the  
18 disease after exposure to the infectious or contagious disease that  
19 is the subject of the public health emergency.

20 (3) This presumption of occupational disease may be rebutted by  
21 clear and convincing evidence that:

22 (a) The exposure to the infectious or contagious disease which is  
23 the subject of the public health emergency occurred from other  
24 employment or nonemployment activities; or

25 (b) The employee was working from the employee's home or other  
26 location not under the employer's control, on leave from the  
27 employee's employment, or some combination thereof, for the period of  
28 quarantine outlined for the disease immediately prior to the  
29 employee's date of disease contraction or period of incapacity  
30 resulting from exposure to the disease which is the subject of the  
31 public health emergency.

32 (4) (a) RCW 51.32.090(7) does not apply to an occupational disease  
33 under this section except that no worker shall receive compensation  
34 for or during the day on which the occupational disease was  
35 contracted. For the purposes of this subsection (4), the day on which  
36 the occupational disease was contracted is whichever date occurs  
37 first of the following:

38 (i) The date that the worker first missed work due to symptoms of  
39 the infectious or contagious disease;



1 (ii) The date the worker was quarantined by a medical provider or  
2 public health official; or

3 (iii) The date the worker received a positive test result  
4 confirming contraction of the infectious or contagious disease.

5 (b) If leave or similar benefits are paid to the worker as part  
6 of a federal or state program for these employees during the public  
7 health emergency, total temporary disability benefits are not payable  
8 for the same period of time covered by this federal or state program.

9 (5) Costs of claims allowed under this section shall not affect  
10 the experience rating of employers insured by the state fund. When  
11 calculating assessments due to the department for which total claim  
12 costs are the basis, self-insured employers and self-insurance  
13 hospital groups formed under RCW 51.14.150 and 51.14.160 may deduct  
14 the cost of payments made under this section from the total of all  
15 claim costs reported.

16 (6) For purposes of this section:

17 (a) "Health care employee" means an employee of any health care  
18 facility or other organization that provides emergency or medical  
19 services who has or likely has had direct contact with any person who  
20 has been exposed to or tested positive for any infectious or  
21 contagious diseases which are the subject of a public health  
22 emergency.

23 (b) "Health care facility" has the same meaning as in RCW  
24 9A.50.010.

25 (c) "Public health emergency" means a declaration or order that  
26 covers the jurisdiction where the employee was working on the date of  
27 exposure concerning any dangerous, contagious, or infectious  
28 diseases, including a pandemic, and is issued as follows:

29 (i) The president of the United States has declared a national or  
30 regional emergency; or

31 (ii) The governor of Washington declared a state of emergency  
32 under RCW 43.06.010(12).

33 (7) The presumption in subsection (1) of this section takes  
34 effect on the day the national, regional, or state emergency is  
35 declared and continues until this declaration is revoked.

36 (8) The provisions of RCW 51.28.055 concerning time limits for  
37 filing claims for occupational disease apply to claims covered under  
38 this section.

1        NEW SECTION.    **Sec. 7.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect immediately.

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