

**RCW 50.04.294 Misconduct—Gross misconduct.** With respect to claims that have an effective date on or after January 4, 2004:

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Misconduct" does not include:

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

(b) Inadvertence or ordinary negligence in isolated instances;

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

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

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

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a

criminal court, or has admitted committing, or conduct connected with the individual's work that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee. [2021 c 251 s 1; 2006 c 13 s 9. Prior: 2003 2nd sp.s. c 4 s 6.]

**Conflict with federal requirements—2021 c 251 ss 1-4:** "If any part of sections 1 through 4 of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of sections 1 through 4 of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of sections 1 through 4 of this act. Rules adopted under sections 1 through 4 of this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2021 c 251 s 5.]

**Effective date—2021 c 251:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2021]." [2021 c 251 s 7.]

**Retroactive application—2006 c 13 ss 8-22:** See note following RCW 50.04.293.

**Conflict with federal requirements—Part headings not law—Severability—2006 c 13:** See notes following RCW 50.20.120.

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.