
SUBSTITUTE SENATE BILL 5963

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Holmquist, King, Honeyford, Keiser, Franklin, Kline, Hewitt, Marr, Parlette, McCaslin, Schoesler, and Morton)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to unemployment insurance; amending RCW 50.29.021,
2 50.29.025, and 50.20.050; and creating a new section.

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

4 **Sec. 1.** RCW 50.29.021 and 2008 c 323 s 2 are each amended to read
5 as follows:

6 (1) This section applies to benefits charged to the experience
7 rating accounts of employers for claims that have an effective date on
8 or after January 4, 2004.

9 (2)(a) An experience rating account shall be established and
10 maintained for each employer, except employers as described in RCW
11 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
12 payments in lieu of contributions, taxable local government employers
13 as described in RCW 50.44.035, and those employers who are required to
14 make payments in lieu of contributions, based on existing records of
15 the employment security department.

16 (b) Benefits paid to an eligible individual shall be charged to the
17 experience rating accounts of each of such individual's employers
18 during the individual's base year in the same ratio that the wages paid

1 by each employer to the individual during the base year bear to the
2 wages paid by all employers to that individual during that base year,
3 except as otherwise provided in this section.

4 (c) When the eligible individual's separating employer is a covered
5 contribution paying base year employer, benefits paid to the eligible
6 individual shall be charged to the experience rating account of only
7 the individual's separating employer if the individual qualifies for
8 benefits under:

9 (i) RCW 50.20.050(~~(+2)~~) (1)(b)(i), as applicable, and became
10 unemployed after having worked and earned wages in the bona fide work;
11 or

12 (ii) RCW 50.20.050(~~(+2)~~) (1)(b) (v) through (x).

13 (3) The legislature finds that certain benefit payments, in whole
14 or in part, should not be charged to the experience rating accounts of
15 employers except those employers described in RCW 50.44.010, 50.44.030,
16 and 50.50.030 who have properly elected to make payments in lieu of
17 contributions, taxable local government employers described in RCW
18 50.44.035, and those employers who are required to make payments in
19 lieu of contributions, as follows:

20 (a) Benefits paid to any individual later determined to be
21 ineligible shall not be charged to the experience rating account of any
22 contribution paying employer. However, when a benefit claim becomes
23 invalid due to an amendment or adjustment of a report where the
24 employer failed to report or inaccurately reported hours worked or
25 remuneration paid, or both, all benefits paid will be charged to the
26 experience rating account of the contribution paying employer or
27 employers that originally filed the incomplete or inaccurate report or
28 reports. An employer who reimburses the trust fund for benefits paid
29 to workers and who fails to report or inaccurately reported hours
30 worked or remuneration paid, or both, shall reimburse the trust fund
31 for all benefits paid that are based on the originally filed incomplete
32 or inaccurate report or reports.

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

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

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

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

6 (d) In the case of individuals who requalify for benefits under RCW
7 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
8 the disqualifying separation shall not be charged to the experience
9 rating account of the contribution paying employer from whom that
10 separation took place.

11 (e) Benefits paid to an individual who qualifies for benefits under
12 RCW 50.20.050(~~(+2)~~) (1)(b) (iv) or (xi), as applicable, shall not be
13 charged to the experience rating account of any contribution paying
14 employer.

15 (f) With respect to claims with an effective date on or after the
16 first Sunday following April 22, 2005, benefits paid that exceed the
17 benefits that would have been paid if the weekly benefit amount for the
18 claim had been determined as one percent of the total wages paid in the
19 individual's base year shall not be charged to the experience rating
20 account of any contribution paying employer. This subsection (3)(f)
21 does not apply to the calculation of contribution rates under RCW
22 50.29.025 for rate year 2010 and thereafter.

23 (4)(a) A contribution paying base year employer, not otherwise
24 eligible for relief of charges for benefits under this section, may
25 receive such relief if the benefit charges result from payment to an
26 individual who:

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

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

32 (iii) Is unemployed as a result of closure or severe curtailment of
33 operation at the employer's plant, building, worksite, or other
34 facility. This closure must be for reasons directly attributable to a
35 catastrophic occurrence such as fire, flood, or other natural disaster;
36 or

37 (iv) Continues to be employed on a regularly scheduled permanent
38 part-time basis by a base year employer and who at some time during the

1 base year was concurrently employed and subsequently separated from at
2 least one other base year employer. Benefit charge relief ceases when
3 the employment relationship between the employer requesting relief and
4 the claimant is terminated. This subsection does not apply to shared
5 work employers under chapter 50.06 RCW.

6 (b) The employer requesting relief of charges under this subsection
7 must request relief in writing within thirty days following mailing to
8 the last known address of the notification of the valid initial
9 determination of such claim, stating the date and reason for the
10 separation or the circumstances of continued employment. The
11 commissioner, upon investigation of the request, shall determine
12 whether relief should be granted.

13 **Sec. 2.** RCW 50.29.025 and 2007 c 51 s 1 are each amended to read
14 as follows:

15 (1) ~~((Except as provided in subsection (2) of this section, the~~
16 ~~contribution rate for each employer subject to contributions under RCW~~
17 ~~50.24.010 shall be determined under this subsection.~~

18 ~~(a) A fund balance ratio shall be determined by dividing the~~
19 ~~balance in the unemployment compensation fund as of the September 30th~~
20 ~~immediately preceding the rate year by the total remuneration paid by~~
21 ~~all employers subject to contributions during the second calendar year~~
22 ~~preceding the rate year and reported to the department by the following~~
23 ~~March 31st. The division shall be carried to the fourth decimal place~~
24 ~~with the remaining fraction, if any, disregarded. The fund balance~~
25 ~~ratio shall be expressed as a percentage.~~

26 ~~(b) The interval of the fund balance ratio, expressed as a~~
27 ~~percentage, shall determine which tax schedule in (e) of this~~
28 ~~subsection shall be in effect for assigning tax rates for the rate~~
29 ~~year. The intervals for determining the effective tax schedule shall~~
30 ~~be:~~

| 31 | Interval of the | |
|----|---------------------------|--------------|
| 32 | Fund Balance Ratio | Effective |
| 33 | Expressed as a Percentage | Tax Schedule |
| 34 | 2.90 and above | AA |
| 35 | 2.10 to 2.89 | A |

| | | |
|---|----------------|---|
| 1 | 1.70 to 2.09 | B |
| 2 | 1.40 to 1.69 | C |
| 3 | 1.00 to 1.39 | D |
| 4 | 0.70 to 0.99 | E |
| 5 | Less than 0.70 | F |

6 ~~(c) An array shall be prepared, listing all qualified employers in~~
7 ~~ascending order of their benefit ratios. The array shall show for each~~
8 ~~qualified employer: (i) Identification number; (ii) benefit ratio;~~
9 ~~(iii) taxable payrolls for the four calendar quarters immediately~~
10 ~~preceding the computation date and reported to the department by the~~
11 ~~cut-off date; (iv) a cumulative total of taxable payrolls consisting of~~
12 ~~the employer's taxable payroll plus the taxable payrolls of all other~~
13 ~~employers preceding him or her in the array; and (v) the percentage~~
14 ~~equivalent of the cumulative total of taxable payrolls.~~

15 ~~(d) Each employer in the array shall be assigned to one of twenty~~
16 ~~rate classes according to the percentage intervals of cumulative~~
17 ~~taxable payrolls set forth in (c) of this subsection: PROVIDED, That~~
18 ~~if an employer's taxable payroll falls within two or more rate classes,~~
19 ~~the employer and any other employer with the same benefit ratio shall~~
20 ~~be assigned to the lowest rate class which includes any portion of the~~
21 ~~employer's taxable payroll.~~

22 ~~(e) Except as provided in RCW 50.29.026, the contribution rate for~~
23 ~~each employer in the array shall be the rate specified in the following~~
24 ~~tables for the rate class to which he or she has been assigned, as~~
25 ~~determined under (d) of this subsection, within the tax schedule which~~
26 ~~is to be in effect during the rate year:~~

| Percent of | | Schedules of Contributions Rates | | | | | | | | |
|------------------|----------|----------------------------------|------|------|------|------|------|------|------|--|
| Cumulative | | for Effective Tax Schedule | | | | | | | | |
| Taxable Payrolls | | | | | | | | | | |
| Rate | | | | | | | | | | |
| From | To Class | AA | A | B | C | D | E | F | | |
| 0.00 | 5.00 | 1 | 0.47 | 0.47 | 0.57 | 0.97 | 1.47 | 1.87 | 2.47 | |
| 5.01 | 10.00 | 2 | 0.47 | 0.47 | 0.77 | 1.17 | 1.67 | 2.07 | 2.67 | |
| 10.01 | 15.00 | 3 | 0.57 | 0.57 | 0.97 | 1.37 | 1.77 | 2.27 | 2.87 | |

| | | | | | | | | | | |
|----|-------|--------|----|------|------|------|------|------|------|------|
| 1 | 15.01 | 20.00 | 4 | 0.57 | 0.73 | 1.11 | 1.51 | 1.90 | 2.40 | 2.98 |
| 2 | 20.01 | 25.00 | 5 | 0.72 | 0.92 | 1.30 | 1.70 | 2.09 | 2.59 | 3.08 |
| 3 | 25.01 | 30.00 | 6 | 0.91 | 1.11 | 1.49 | 1.89 | 2.29 | 2.69 | 3.18 |
| 4 | 30.01 | 35.00 | 7 | 1.00 | 1.29 | 1.69 | 2.08 | 2.48 | 2.88 | 3.27 |
| 5 | 35.01 | 40.00 | 8 | 1.19 | 1.48 | 1.88 | 2.27 | 2.67 | 3.07 | 3.47 |
| 6 | 40.01 | 45.00 | 9 | 1.37 | 1.67 | 2.07 | 2.47 | 2.87 | 3.27 | 3.66 |
| 7 | 45.01 | 50.00 | 10 | 1.56 | 1.86 | 2.26 | 2.66 | 3.06 | 3.46 | 3.86 |
| 8 | 50.01 | 55.00 | 11 | 1.84 | 2.14 | 2.45 | 2.85 | 3.25 | 3.66 | 3.95 |
| 9 | 55.01 | 60.00 | 12 | 2.03 | 2.33 | 2.64 | 3.04 | 3.44 | 3.85 | 4.15 |
| 10 | 60.01 | 65.00 | 13 | 2.22 | 2.52 | 2.83 | 3.23 | 3.64 | 4.04 | 4.34 |
| 11 | 65.01 | 70.00 | 14 | 2.40 | 2.71 | 3.02 | 3.43 | 3.83 | 4.24 | 4.54 |
| 12 | 70.01 | 75.00 | 15 | 2.68 | 2.90 | 3.21 | 3.62 | 4.02 | 4.43 | 4.63 |
| 13 | 75.01 | 80.00 | 16 | 2.87 | 3.09 | 3.42 | 3.81 | 4.22 | 4.53 | 4.73 |
| 14 | 80.01 | 85.00 | 17 | 3.27 | 3.47 | 3.77 | 4.17 | 4.57 | 4.87 | 4.97 |
| 15 | 85.01 | 90.00 | 18 | 3.67 | 3.87 | 4.17 | 4.57 | 4.87 | 4.97 | 5.17 |
| 16 | 90.01 | 95.00 | 19 | 4.07 | 4.27 | 4.57 | 4.97 | 5.07 | 5.17 | 5.37 |
| 17 | 95.01 | 100.00 | 20 | 5.40 | 5.40 | 5.40 | 5.40 | 5.40 | 5.40 | 5.40 |

18 ~~(f) The contribution rate for each employer not qualified to be in~~
19 ~~the array shall be as follows:~~

20 ~~(i) Employers who do not meet the definition of "qualified~~
21 ~~employer" by reason of failure to pay contributions when due shall be~~
22 ~~assigned a contribution rate two tenths higher than that in rate class~~
23 ~~20 for the applicable rate year, except employers who have an approved~~
24 ~~agency deferred payment contract by September 30 of the previous rate~~
25 ~~year. If any employer with an approved agency deferred payment~~
26 ~~contract fails to make any one of the succeeding deferred payments or~~
27 ~~fails to submit any succeeding tax report and payment in a timely~~
28 ~~manner, the employer's tax rate shall immediately revert to a~~
29 ~~contribution rate two tenths higher than that in rate class 20 for the~~
30 ~~applicable rate year; and~~

31 ~~(ii) For all other employers not qualified to be in the array, the~~
32 ~~contribution rate shall be a rate equal to the average industry rate as~~
33 ~~determined by the commissioner; however, the rate may not be less than~~
34 ~~one percent.~~

35 ~~(2) Beginning with~~) For contributions assessed for rate years 2005
36 through 2009, the contribution rate for each employer subject to
37 contributions under RCW 50.24.010 shall be the sum of the array
38 calculation factor rate and the graduated social cost factor rate

1 determined under this subsection, and the solvency surcharge determined
2 under RCW 50.29.041, if any.

3 (a) The array calculation factor rate shall be determined as
4 follows:

5 (i) An array shall be prepared, listing all qualified employers in
6 ascending order of their benefit ratios. The array shall show for each
7 qualified employer: (A) Identification number; (B) benefit ratio; and
8 (C) taxable payrolls for the four consecutive calendar quarters
9 immediately preceding the computation date and reported to the
10 employment security department by the cut-off date.

11 (ii) Each employer in the array shall be assigned to one of forty
12 rate classes according to his or her benefit ratio as follows, and,
13 except as provided in RCW 50.29.026, the array calculation factor rate
14 for each employer in the array shall be the rate specified in the rate
15 class to which the employer has been assigned:

| | Benefit Ratio | | Rate | Rate |
|----|---------------|-----------|-------|-----------|
| | At least | Less than | Class | (percent) |
| 16 | | 0.000001 | 1 | 0.00 |
| 17 | | 0.000001 | 2 | 0.13 |
| 18 | 0.000001 | 0.001250 | 3 | 0.25 |
| 19 | 0.001250 | 0.002500 | 4 | 0.38 |
| 20 | 0.002500 | 0.003750 | 5 | 0.50 |
| 21 | 0.003750 | 0.005000 | 6 | 0.63 |
| 22 | 0.005000 | 0.006250 | 7 | 0.75 |
| 23 | 0.006250 | 0.007500 | 8 | 0.88 |
| 24 | 0.007500 | 0.008750 | 9 | 1.00 |
| 25 | 0.008750 | 0.010000 | 10 | 1.15 |
| 26 | 0.010000 | 0.011250 | 11 | 1.30 |
| 27 | 0.011250 | 0.012500 | 12 | 1.45 |
| 28 | 0.012500 | 0.013750 | 13 | 1.60 |
| 29 | 0.013750 | 0.015000 | 14 | 1.75 |
| 30 | 0.015000 | 0.016250 | 15 | 1.90 |
| 31 | 0.016250 | 0.017500 | 16 | 2.05 |
| 32 | 0.017500 | 0.018750 | 17 | 2.20 |
| 33 | 0.018750 | 0.020000 | 18 | 2.35 |
| 34 | 0.020000 | 0.021250 | 19 | 2.50 |
| 35 | 0.021250 | 0.022500 | | |
| 36 | | | | |

| | | | | |
|----|----------|----------|----|------|
| 1 | 0.022500 | 0.023750 | 20 | 2.65 |
| 2 | 0.023750 | 0.025000 | 21 | 2.80 |
| 3 | 0.025000 | 0.026250 | 22 | 2.95 |
| 4 | 0.026250 | 0.027500 | 23 | 3.10 |
| 5 | 0.027500 | 0.028750 | 24 | 3.25 |
| 6 | 0.028750 | 0.030000 | 25 | 3.40 |
| 7 | 0.030000 | 0.031250 | 26 | 3.55 |
| 8 | 0.031250 | 0.032500 | 27 | 3.70 |
| 9 | 0.032500 | 0.033750 | 28 | 3.85 |
| 10 | 0.033750 | 0.035000 | 29 | 4.00 |
| 11 | 0.035000 | 0.036250 | 30 | 4.15 |
| 12 | 0.036250 | 0.037500 | 31 | 4.30 |
| 13 | 0.037500 | 0.040000 | 32 | 4.45 |
| 14 | 0.040000 | 0.042500 | 33 | 4.60 |
| 15 | 0.042500 | 0.045000 | 34 | 4.75 |
| 16 | 0.045000 | 0.047500 | 35 | 4.90 |
| 17 | 0.047500 | 0.050000 | 36 | 5.05 |
| 18 | 0.050000 | 0.052500 | 37 | 5.20 |
| 19 | 0.052500 | 0.055000 | 38 | 5.30 |
| 20 | 0.055000 | 0.057500 | 39 | 5.35 |
| 21 | 0.057500 | | 40 | 5.40 |

22 (b) The graduated social cost factor rate shall be determined as
23 follows:

24 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
25 the commissioner shall calculate the flat social cost factor for a rate
26 year by dividing the total social cost by the total taxable payroll.
27 The division shall be carried to the second decimal place with the
28 remaining fraction disregarded unless it amounts to five hundredths or
29 more, in which case the second decimal place shall be rounded to the
30 next higher digit. The flat social cost factor shall be expressed as
31 a percentage.

32 (B) If, on the cut-off date, the balance in the unemployment
33 compensation fund is determined by the commissioner to be an amount
34 that will provide more than ten months of unemployment benefits, the
35 commissioner shall calculate the flat social cost factor for the rate
36 year immediately following the cut-off date by reducing the total
37 social cost by the dollar amount that represents the number of months

1 for which the balance in the unemployment compensation fund on the cut-
2 off date will provide benefits above ten months and dividing the result
3 by the total taxable payroll. However, the calculation under this
4 subsection ~~((+2+))~~ (1)(b)(i)(B) for a rate year may not result in a
5 flat social cost factor that is more than four-tenths lower than the
6 calculation under (b)(i)(A) of this subsection for that rate year.

7 For the purposes of this subsection, the commissioner shall
8 determine the number of months of unemployment benefits in the
9 unemployment compensation fund using the benefit cost rate for the
10 average of the three highest calendar benefit cost rates in the twenty
11 consecutive completed calendar years immediately preceding the cut-off
12 date or a period of consecutive calendar years immediately preceding
13 the cut-off date that includes three recessions, if longer.

14 (C) The minimum flat social cost factor calculated under this
15 subsection ~~((+2+))~~ (1)(b) shall be six-tenths of one percent, except
16 that if the balance in the unemployment compensation fund is determined
17 by the commissioner to be an amount that will provide:

18 (I) At least twelve months but less than fourteen months of
19 unemployment benefits, the minimum shall be five-tenths of one percent;
20 or

21 (II) At least fourteen months of unemployment benefits, the minimum
22 shall be five-tenths of one percent, except that, for employers in rate
23 class 1, the minimum shall be forty-five hundredths of one percent.

24 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
25 graduated social cost factor rate for each employer in the array is the
26 flat social cost factor multiplied by the percentage specified as
27 follows for the rate class to which the employer has been assigned in
28 (a)(ii) of this subsection, except that the sum of an employer's array
29 calculation factor rate and the graduated social cost factor rate may
30 not exceed six and five-tenths percent or, for employers whose North
31 American industry classification system code is within "111," "112,"
32 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six
33 percent through rate year 2007 and may not exceed five and seven-tenths
34 percent for rate years 2008 and ~~((thereafter))~~ 2009:

- 35 (I) Rate class 1 - 78 percent;
- 36 (II) Rate class 2 - 82 percent;
- 37 (III) Rate class 3 - 86 percent;
- 38 (IV) Rate class 4 - 90 percent;

- 1 (V) Rate class 5 - 94 percent;
- 2 (VI) Rate class 6 - 98 percent;
- 3 (VII) Rate class 7 - 102 percent;
- 4 (VIII) Rate class 8 - 106 percent;
- 5 (IX) Rate class 9 - 110 percent;
- 6 (X) Rate class 10 - 114 percent;
- 7 (XI) Rate class 11 - 118 percent; and
- 8 (XII) Rate classes 12 through 40 - 120 percent.

9 (B) For contributions assessed beginning July 1, 2005, through
10 December 31, 2007, for employers whose North American industry
11 classification system code is "111," "112," "1141," "115," "3114,"
12 "3117," "42448," or "49312," the graduated social cost factor rate is
13 zero.

14 (iii) For the purposes of this section:

15 (A) "Total social cost" means the amount calculated by subtracting
16 the array calculation factor contributions paid by all employers with
17 respect to the four consecutive calendar quarters immediately preceding
18 the computation date and paid to the employment security department by
19 the cut-off date from the total unemployment benefits paid to claimants
20 in the same four consecutive calendar quarters. To calculate the flat
21 social cost factor for rate year 2005, the commissioner shall calculate
22 the total social cost using the array calculation factor contributions
23 that would have been required to be paid by all employers in the
24 calculation period if (a) of this subsection had been in effect for the
25 relevant period.

26 (B) "Total taxable payroll" means the total amount of wages subject
27 to tax, as determined under RCW 50.24.010, for all employers in the
28 four consecutive calendar quarters immediately preceding the
29 computation date and reported to the employment security department by
30 the cut-off date.

31 (c) For employers who do not meet the definition of "qualified
32 employer" by reason of failure to pay contributions when due:

33 (i) The array calculation factor rate shall be two-tenths higher
34 than that in rate class 40, except employers who have an approved
35 agency-deferred payment contract by September 30th of the previous rate
36 year. If any employer with an approved agency-deferred payment
37 contract fails to make any one of the succeeding deferred payments or
38 fails to submit any succeeding tax report and payment in a timely

1 manner, the employer's tax rate shall immediately revert to an array
2 calculation factor rate two-tenths higher than that in rate class 40;
3 and

4 (ii) The social cost factor rate shall be the social cost factor
5 rate assigned to rate class 40 under (b)(ii) of this subsection.

6 (d) For all other employers not qualified to be in the array:

7 (i) For rate years 2005, 2006, and 2007:

8 (A) The array calculation factor rate shall be a rate equal to the
9 average industry array calculation factor rate as determined by the
10 commissioner, plus fifteen percent of that amount; however, the rate
11 may not be less than one percent or more than the array calculation
12 factor rate in rate class 40; and

13 (B) The social cost factor rate shall be a rate equal to the
14 average industry social cost factor rate as determined by the
15 commissioner, plus fifteen percent of that amount, but not more than
16 the social cost factor rate assigned to rate class 40 under (b)(ii) of
17 this subsection.

18 (ii) (~~Beginning with~~) For contributions assessed for rate years
19 2008 and 2009:

20 (A) The array calculation factor rate shall be a rate equal to the
21 average industry array calculation factor rate as determined by the
22 commissioner, multiplied by the history factor, but not less than one
23 percent or more than the array calculation factor rate in rate class
24 40;

25 (B) The social cost factor rate shall be a rate equal to the
26 average industry social cost factor rate as determined by the
27 commissioner, multiplied by the history factor, but not more than the
28 social cost factor rate assigned to rate class 40 under (b)(ii) of this
29 subsection; and

30 (C) The history factor shall be based on the total amounts of
31 benefits charged and contributions paid in the three fiscal years
32 ending prior to the computation date by employers not qualified to be
33 in the array, other than employers in (c) of this subsection, who were
34 first subject to contributions in the calendar year ending three years
35 prior to the computation date. The commissioner shall calculate the
36 history ratio by dividing the total amount of benefits charged by the
37 total amount of contributions paid in this three-year period by these
38 employers. The division shall be carried to the second decimal place

1 with the remaining fraction disregarded unless it amounts to five
 2 one-hundredths or more, in which case the second decimal place shall be
 3 rounded to the next higher digit. The commissioner shall determine the
 4 history factor according to the history ratio as follows:

| | | | | |
|----|-------|----------|-----------|-----------|
| 5 | | History | | History |
| 6 | | Ratio | | Factor |
| 7 | | | | (percent) |
| 8 | | At least | Less than | |
| 9 | (I) | | .95 | 90 |
| 10 | (II) | .95 | 1.05 | 100 |
| 11 | (III) | 1.05 | | 115 |

12 (2) For contributions assessed in rate year 2010 and thereafter,
 13 the contribution rate for each employer subject to contributions under
 14 RCW 50.24.010 shall be the sum of the array calculation factor rate and
 15 the graduated social cost factor rate determined under this subsection,
 16 and the solvency surcharge determined under RCW 50.29.041, if any.

17 (a) The array calculation factor rate shall be determined as
 18 follows:

19 (i) An array shall be prepared, listing all qualified employers in
 20 ascending order of their benefit ratios. The array shall show for each
 21 qualified employer: (A) Identification number; (B) benefit ratio; and
 22 (C) taxable payrolls for the four consecutive calendar quarters
 23 immediately preceding the computation date and reported to the
 24 employment security department by the cut-off date.

25 (ii) Each employer in the array shall be assigned to one of forty
 26 rate classes according to his or her benefit ratio as follows, and,
 27 except as provided in RCW 50.29.026, the array calculation factor rate
 28 for each employer in the array shall be the rate specified in the rate
 29 class to which the employer has been assigned:

| | | | | |
|----|--|----------------------|------------------|------------------|
| 30 | | <u>Benefit Ratio</u> | <u>Rate</u> | <u>Rate</u> |
| 31 | | <u>At least</u> | <u>Less than</u> | <u>Class</u> |
| 32 | | | <u>0.000001</u> | <u>1</u> |
| 33 | | <u>0.000001</u> | <u>0.001250</u> | <u>2</u> |
| | | | | <u>(percent)</u> |
| | | | | <u>0.00</u> |
| | | | | <u>0.11</u> |

| | | | | |
|----|-----------------|-----------------|-----------|-------------|
| 1 | <u>0.001250</u> | <u>0.002500</u> | <u>3</u> | <u>0.22</u> |
| 2 | <u>0.002500</u> | <u>0.003750</u> | <u>4</u> | <u>0.33</u> |
| 3 | <u>0.003750</u> | <u>0.005000</u> | <u>5</u> | <u>0.43</u> |
| 4 | <u>0.005000</u> | <u>0.006250</u> | <u>6</u> | <u>0.54</u> |
| 5 | <u>0.006250</u> | <u>0.007500</u> | <u>7</u> | <u>0.65</u> |
| 6 | <u>0.007500</u> | <u>0.008750</u> | <u>8</u> | <u>0.76</u> |
| 7 | <u>0.008750</u> | <u>0.010000</u> | <u>9</u> | <u>0.88</u> |
| 8 | <u>0.010000</u> | <u>0.011250</u> | <u>10</u> | <u>1.01</u> |
| 9 | <u>0.011250</u> | <u>0.012500</u> | <u>11</u> | <u>1.14</u> |
| 10 | <u>0.012500</u> | <u>0.013750</u> | <u>12</u> | <u>1.28</u> |
| 11 | <u>0.013750</u> | <u>0.015000</u> | <u>13</u> | <u>1.41</u> |
| 12 | <u>0.015000</u> | <u>0.016250</u> | <u>14</u> | <u>1.54</u> |
| 13 | <u>0.016250</u> | <u>0.017500</u> | <u>15</u> | <u>1.67</u> |
| 14 | <u>0.017500</u> | <u>0.018750</u> | <u>16</u> | <u>1.80</u> |
| 15 | <u>0.018750</u> | <u>0.020000</u> | <u>17</u> | <u>1.94</u> |
| 16 | <u>0.020000</u> | <u>0.021250</u> | <u>18</u> | <u>2.07</u> |
| 17 | <u>0.021250</u> | <u>0.022500</u> | <u>19</u> | <u>2.20</u> |
| 18 | <u>0.022500</u> | <u>0.023750</u> | <u>20</u> | <u>2.38</u> |
| 19 | <u>0.023750</u> | <u>0.025000</u> | <u>21</u> | <u>2.50</u> |
| 20 | <u>0.025000</u> | <u>0.026250</u> | <u>22</u> | <u>2.63</u> |
| 21 | <u>0.026250</u> | <u>0.027500</u> | <u>23</u> | <u>2.75</u> |
| 22 | <u>0.027500</u> | <u>0.028750</u> | <u>24</u> | <u>2.88</u> |
| 23 | <u>0.028750</u> | <u>0.030000</u> | <u>25</u> | <u>3.00</u> |
| 24 | <u>0.030000</u> | <u>0.031250</u> | <u>26</u> | <u>3.13</u> |
| 25 | <u>0.031250</u> | <u>0.032500</u> | <u>27</u> | <u>3.25</u> |
| 26 | <u>0.032500</u> | <u>0.033750</u> | <u>28</u> | <u>3.38</u> |
| 27 | <u>0.033750</u> | <u>0.035000</u> | <u>29</u> | <u>3.50</u> |
| 28 | <u>0.035000</u> | <u>0.036250</u> | <u>30</u> | <u>3.63</u> |
| 29 | <u>0.036250</u> | <u>0.037500</u> | <u>31</u> | <u>3.75</u> |
| 30 | <u>0.037500</u> | <u>0.040000</u> | <u>32</u> | <u>4.00</u> |
| 31 | <u>0.040000</u> | <u>0.042500</u> | <u>33</u> | <u>4.25</u> |
| 32 | <u>0.042500</u> | <u>0.045000</u> | <u>34</u> | <u>4.50</u> |
| 33 | <u>0.045000</u> | <u>0.047500</u> | <u>35</u> | <u>4.75</u> |
| 34 | <u>0.047500</u> | <u>0.050000</u> | <u>36</u> | <u>5.00</u> |
| 35 | <u>0.050000</u> | <u>0.052500</u> | <u>37</u> | <u>5.15</u> |
| 36 | <u>0.052500</u> | <u>0.055000</u> | <u>38</u> | <u>5.25</u> |
| 37 | <u>0.055000</u> | <u>0.057500</u> | <u>39</u> | <u>5.30</u> |

1
2 (b) The graduated social cost factor rate shall be determined as
3 follows:

4 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
5 the commissioner shall calculate the flat social cost factor for a rate
6 year by dividing the total social cost by the total taxable payroll.
7 The division shall be carried to the second decimal place with the
8 remaining fraction disregarded unless it amounts to five hundredths or
9 more, in which case the second decimal place shall be rounded to the
10 next higher digit. The flat social cost factor shall be expressed as
11 a percentage.

12 (B) If, on the cut-off date, the balance in the unemployment
13 compensation fund is determined by the commissioner to be an amount
14 that will provide more than ten months of unemployment benefits, the
15 commissioner shall calculate the flat social cost factor for the rate
16 year immediately following the cut-off date by reducing the total
17 social cost by the dollar amount that represents the number of months
18 for which the balance in the unemployment compensation fund on the cut-
19 off date will provide benefits above ten months and dividing the result
20 by the total taxable payroll. However, the calculation under this
21 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
22 cost factor that is more than four-tenths lower than the calculation
23 under (b)(i)(A) of this subsection for that rate year.

24 For the purposes of this subsection, the commissioner shall
25 determine the number of months of unemployment benefits in the
26 unemployment compensation fund using the benefit cost rate for the
27 average of the three highest calendar benefit cost rates in the twenty
28 consecutive completed calendar years immediately preceding the cut-off
29 date or a period of consecutive calendar years immediately preceding
30 the cut-off date that includes three recessions, if longer.

31 (C) The minimum flat social cost factor calculated under this
32 subsection (2)(b) shall be six-tenths of one percent, except that if
33 the balance in the unemployment compensation fund is determined by the
34 commissioner to be an amount that will provide:

35 (I) At least ten months but less than eleven months of unemployment
36 benefits, the minimum shall be five-tenths of one percent; or

1 (II) At least eleven months but less than twelve months of
2 unemployment benefits, the minimum shall be forty-five hundredths of
3 one percent; or

4 (III) At least twelve months but less than thirteen months of
5 unemployment benefits, the minimum shall be four-tenths of one percent;
6 or

7 (IV) At least thirteen months but less than fifteen months of
8 unemployment benefits, the minimum shall be thirty-five hundredths of
9 one percent; or

10 (V) At least fifteen months but less than seventeen months of
11 unemployment benefits, the minimum shall be twenty-five hundredths of
12 one percent; or

13 (VI) At least seventeen months but less than eighteen months of
14 unemployment benefits, the minimum shall be fifteen hundredths of one
15 percent; or

16 (VII) At least eighteen months of unemployment benefits, the
17 minimum shall be fifteen hundredths of one percent through rate year
18 2011 and shall be zero thereafter.

19 (ii) The graduated social cost factor rate for each employer in the
20 array is the flat social cost factor multiplied by the percentage
21 specified as follows for the rate class to which the employer has been
22 assigned in (a)(ii) of this subsection, except that the sum of an
23 employer's array calculation factor rate and the graduated social cost
24 factor rate may not exceed six percent or, for employers whose North
25 American industry classification system code is within "111," "112,"
26 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five
27 and four-tenths percent:

28 (A) Rate class 1 - 78 percent;

29 (B) Rate class 2 - 82 percent;

30 (C) Rate class 3 - 86 percent;

31 (D) Rate class 4 - 90 percent;

32 (E) Rate class 5 - 94 percent;

33 (F) Rate class 6 - 98 percent;

34 (G) Rate class 7 - 102 percent;

35 (H) Rate class 8 - 106 percent;

36 (I) Rate class 9 - 110 percent;

37 (J) Rate class 10 - 114 percent;

38 (K) Rate class 11 - 118 percent; and

1 (L) Rate classes 12 through 40 - 120 percent.

2 (iii) For the purposes of this section:

3 (A) "Total social cost" means the amount calculated by subtracting
4 the array calculation factor contributions paid by all employers with
5 respect to the four consecutive calendar quarters immediately preceding
6 the computation date and paid to the employment security department by
7 the cut-off date from the total unemployment benefits paid to claimants
8 in the same four consecutive calendar quarters.

9 (B) "Total taxable payroll" means the total amount of wages subject
10 to tax, as determined under RCW 50.24.010, for all employers in the
11 four consecutive calendar quarters immediately preceding the
12 computation date and reported to the employment security department by
13 the cut-off date.

14 (c) For employers who do not meet the definition of "qualified
15 employer" by reason of failure to pay contributions when due:

16 (i) The array calculation factor rate shall be two-tenths higher
17 than that in rate class 40, except employers who have an approved
18 agency-deferred payment contract by September 30th of the previous rate
19 year. If any employer with an approved agency-deferred payment
20 contract fails to make any one of the succeeding deferred payments or
21 fails to submit any succeeding tax report and payment in a timely
22 manner, the employer's tax rate shall immediately revert to an array
23 calculation factor rate two-tenths higher than that in rate class 40;
24 and

25 (ii) The social cost factor rate shall be the social cost factor
26 rate assigned to rate class 40 under (b)(ii) of this subsection.

27 (d) For all other employers not qualified to be in the array:

28 (i) The array calculation factor rate shall be a rate equal to the
29 average industry array calculation factor rate as determined by the
30 commissioner, multiplied by the history factor, but not less than one
31 percent or more than the array calculation factor rate in rate class
32 40;

33 (ii) The social cost factor rate shall be a rate equal to the
34 average industry social cost factor rate as determined by the
35 commissioner, multiplied by the history factor, but not more than the
36 social cost factor rate assigned to rate class 40 under (b)(ii) of this
37 subsection; and

1 (iii) The history factor shall be based on the total amounts of
 2 benefits charged and contributions paid in the three fiscal years
 3 ending prior to the computation date by employers not qualified to be
 4 in the array, other than employers in (c) of this subsection, who were
 5 first subject to contributions in the calendar year ending three years
 6 prior to the computation date. The commissioner shall calculate the
 7 history ratio by dividing the total amount of benefits charged by the
 8 total amount of contributions paid in this three-year period by these
 9 employers. The division shall be carried to the second decimal place
 10 with the remaining fraction disregarded unless it amounts to five
 11 one-hundredths or more, in which case the second decimal place shall be
 12 rounded to the next higher digit. The commissioner shall determine the
 13 history factor according to the history ratio as follows:

| | | | | |
|----|------------|-----------------|------------------|------------------|
| 14 | | <u>History</u> | | <u>History</u> |
| 15 | | <u>Ratio</u> | | <u>Factor</u> |
| 16 | | | | <u>(percent)</u> |
| 17 | | <u>At least</u> | <u>Less than</u> | |
| 18 | <u>(A)</u> | | <u>.95</u> | <u>90</u> |
| 19 | <u>(B)</u> | <u>.95</u> | <u>1.05</u> | <u>100</u> |
| 20 | <u>(C)</u> | <u>1.05</u> | | <u>115</u> |

21 (3) Assignment of employers by the commissioner to industrial
 22 classification, for purposes of this section, shall be in accordance
 23 with established classification practices found (~~(in the "Standard~~
 24 ~~Industrial Classification Manual" issued by the federal office of~~
 25 ~~management and budget to the third digit provided in the standard~~
 26 ~~industrial classification code, or)) in the North American industry
 27 classification system code.~~

28 **Sec. 3.** RCW 50.20.050 and 2008 c 323 s 1 are each amended to read
 29 as follows:

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

32 ~~(a) An individual shall be disqualified from benefits beginning~~
 33 ~~with the first day of the calendar week in which he or she has left~~
 34 ~~work voluntarily without good cause and thereafter for seven calendar~~

1 weeks and until he or she has obtained bona fide work in employment
2 covered by this title and earned wages in that employment equal to
3 seven times his or her weekly benefit amount.

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

8 (i) The duration of the work;

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

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

13 (b) An individual shall not be considered to have left work
14 voluntarily without good cause when:

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

17 (ii) The separation was because of the illness or disability of the
18 claimant or the death, illness, or disability of a member of the
19 claimant's immediate family if the claimant took all reasonable
20 precautions, in accordance with any regulations that the commissioner
21 may prescribe, to protect his or her employment status by having
22 promptly notified the employer of the reason for the absence and by
23 having promptly requested reemployment when again able to assume
24 employment: PROVIDED, That these precautions need not have been taken
25 when they would have been a futile act, including those instances when
26 the futility of the act was a result of a recognized labor/management
27 dispatch system;

28 (iii) He or she has left work to relocate for the spouse's
29 employment that is due to an employer-initiated mandatory transfer that
30 is outside the existing labor market area if the claimant remained
31 employed as long as was reasonable prior to the move; or

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

35 (c) In determining under this subsection whether an individual has
36 left work voluntarily without good cause, the commissioner shall only
37 consider work-connected factors such as the degree of risk involved to
38 the individual's health, safety, and morals, the individual's physical

1 fitness for the work, the individual's ability to perform the work, and
2 such other work connected factors as the commissioner may deem
3 pertinent, including state and national emergencies. Good cause shall
4 not be established for voluntarily leaving work because of its distance
5 from an individual's residence where the distance was known to the
6 individual at the time he or she accepted the employment and where, in
7 the judgment of the department, the distance is customarily traveled by
8 workers in the individual's job classification and labor market, nor
9 because of any other significant work factor which was generally known
10 and present at the time he or she accepted employment, unless the
11 related circumstances have so changed as to amount to a substantial
12 involuntary deterioration of the work factor or unless the commissioner
13 determines that other related circumstances would work an unreasonable
14 hardship on the individual were he or she required to continue in the
15 employment.

16 ~~(d) Subsection (1)(a) and (c) of this section shall not apply to an~~
17 ~~individual whose marital status or domestic responsibilities cause him~~
18 ~~or her to leave employment. Such an individual shall not be eligible~~
19 ~~for unemployment insurance benefits beginning with the first day of the~~
20 ~~calendar week in which he or she left work and thereafter for seven~~
21 ~~calendar weeks and until he or she has requalified, either by obtaining~~
22 ~~bona fide work in employment covered by this title and earning wages in~~
23 ~~that employment equal to seven times his or her weekly benefit amount~~
24 ~~or by reporting in person to the department during ten different~~
25 ~~calendar weeks and certifying on each occasion that he or she is ready,~~
26 ~~able, and willing to immediately accept any suitable work which may be~~
27 ~~offered, is actively seeking work pursuant to customary trade~~
28 ~~practices, and is utilizing such employment counseling and placement~~
29 ~~services as are available through the department. This subsection does~~
30 ~~not apply to individuals covered by (b)(ii) or (iii) of this~~
31 ~~subsection.~~

32 ~~(2))~~ With respect to claims that have an effective date on or
33 after January 4, 2004, and for separations that occur before September
34 6, 2009:

35 (a) An individual shall be disqualified from benefits beginning
36 with the first day of the calendar week in which he or she has left
37 work voluntarily without good cause and thereafter for seven calendar

1 weeks and until he or she has obtained bona fide work in employment
2 covered by this title and earned wages in that employment equal to
3 seven times his or her weekly benefit amount.

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

8 (i) The duration of the work;

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

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

13 (b) An individual is not disqualified from benefits under (a) of
14 this subsection when:

15 (i) He or she has left work to accept a bona fide offer of bona
16 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 his or her 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 assume
24 employment. These alternatives need not be pursued, however, when they
25 would have been a futile act, including those instances when the
26 futility of the act was a result of a recognized labor/management
27 dispatch system; and

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

31 (iii)(A) With respect to claims that have an effective date before
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: (1) Is outside
34 the existing labor market area; and (2) is in Washington or another
35 state that, pursuant to statute, does not consider such an individual
36 to have left work voluntarily without good cause; and (II) remained
37 employed as long as was reasonable prior to the move;

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

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

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

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

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

17 (viii) The individual's worksite safety deteriorated, the
18 individual reported such safety deterioration to the employer, and the
19 employer failed to correct the hazards within a reasonable period of
20 time;

21 (ix) The individual left work because of illegal activities in the
22 individual's worksite, the individual reported such activities to the
23 employer, and the employer failed to end such activities within a
24 reasonable period of time;

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

27 (xi) The individual left work to enter an apprenticeship program
28 approved by the Washington state apprenticeship training council.
29 Benefits are payable beginning Sunday of the week prior to the week in
30 which the individual begins active participation in the apprenticeship
31 program.

32 (2) With respect to separations that occur on or after September 6,
33 2009:

34 (a) An individual shall be disqualified from benefits beginning
35 with the first day of the calendar week in which he or she has left
36 work voluntarily without good cause and thereafter for seven calendar
37 weeks and until he or she has obtained bona fide work in employment

1 covered by this title and earned wages in that employment equal to
2 seven times his or her weekly benefit amount. Good cause reasons to
3 leave work are limited to reasons listed in (b) of this subsection.

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

8 (i) The duration of the work;

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

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

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

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

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

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

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

32 (iii) The claimant: (A) Left work to relocate for the employment
33 of a spouse or domestic partner that is outside the existing labor
34 market area; and (B) remained employed as long as was reasonable prior
35 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 NEW SECTION. Sec. 4. If any part of this act is found to be in
25 conflict with federal requirements that are a prescribed condition to
26 the allocation of federal funds to the state or the eligibility of
27 employers in this state for federal unemployment tax credits, the
28 conflicting part of this act is inoperative solely to the extent of the
29 conflict, and the finding or determination does not affect the
30 operation of the remainder of this act. Rules adopted under this act
31 must meet federal requirements that are a necessary condition to the
32 receipt of federal funds by the state or the granting of federal
33 unemployment tax credits to employers in this state.

34 NEW SECTION. Sec. 5. If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

--- END ---