

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6751

60th Legislature
2008 Regular Session

Passed by the Senate March 10, 2008
YEAS 32 NAYS 16

President of the Senate

Passed by the House March 4, 2008
YEAS 62 NAYS 32

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6751** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6751

AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Roach, Pridemore, McDermott, Keiser, Franklin, and Kline)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to allowing individuals who left work to enter
2 certain apprenticeship programs to receive unemployment insurance
3 benefits; amending RCW 50.20.050 and 50.29.021; and creating a new
4 section.

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

6 **Sec. 1.** RCW 50.20.050 and 2006 c 13 s 2 are each amended to read
7 as follows:

8 (1) With respect to claims that have an effective date before
9 January 4, 2004:

10 (a) An individual shall be disqualified from benefits beginning
11 with the first day of the calendar week in which he or she has left
12 work voluntarily without good cause and thereafter for seven calendar
13 weeks and until he or she has obtained bona fide work in employment
14 covered by this title and earned wages in that employment equal to
15 seven times his or her weekly benefit amount.

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

1 (i) The duration of the work;

2 (ii) The extent of direction and control by the employer over the
3 work; and

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

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

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

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

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

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

28 (c) In determining under this subsection whether an individual has
29 left work voluntarily without good cause, the commissioner shall only
30 consider work-connected factors such as the degree of risk involved to
31 the individual's health, safety, and morals, the individual's physical
32 fitness for the work, the individual's ability to perform the work, and
33 such other work connected factors as the commissioner may deem
34 pertinent, including state and national emergencies. Good cause shall
35 not be established for voluntarily leaving work because of its distance
36 from an individual's residence where the distance was known to the
37 individual at the time he or she accepted the employment and where, in
38 the judgment of the department, the distance is customarily traveled by

1 workers in the individual's job classification and labor market, nor
2 because of any other significant work factor which was generally known
3 and present at the time he or she accepted employment, unless the
4 related circumstances have so changed as to amount to a substantial
5 involuntary deterioration of the work factor or unless the commissioner
6 determines that other related circumstances would work an unreasonable
7 hardship on the individual were he or she required to continue in the
8 employment.

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

25 (2) With respect to claims that have an effective date on or after
26 January 4, 2004:

27 (a) An individual shall be disqualified from benefits beginning
28 with the first day of the calendar week in which he or she has left
29 work voluntarily without good cause and thereafter for seven calendar
30 weeks and until he or she has obtained bona fide work in employment
31 covered by this title and earned wages in that employment equal to
32 seven times his or her weekly benefit amount.

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

37 (i) The duration of the work;

1 (ii) The extent of direction and control by the employer over the
2 work; and

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

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

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

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

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

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

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

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

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 **Sec. 2.** RCW 50.29.021 and 2007 c 146 s 2 are each amended to read
25 as follows:

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

29 (2)(a) An experience rating account shall be established and
30 maintained for each employer, except employers as described in RCW
31 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
32 payments in lieu of contributions, taxable local government employers
33 as described in RCW 50.44.035, and those employers who are required to
34 make payments in lieu of contributions, based on existing records of
35 the employment security department.

36 (b) Benefits paid to an eligible individual shall be charged to the
37 experience rating accounts of each of such individual's employers

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

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

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

12 (ii) RCW 50.20.050(2)(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) ~~((Individuals))~~ Benefits paid to an individual who ~~((qualify))~~
12 qualifies for benefits under RCW 50.20.050(2)(b) (iv) or (xi), as
13 applicable, shall not ~~((have their benefits))~~ be charged to the
14 experience rating account of any contribution paying 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.

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

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

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

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

35 (iv) Continues to be employed on a regularly scheduled permanent
36 part-time basis by a base year employer and who at some time during the
37 base year was concurrently employed and subsequently separated from at
38 least one other base year employer. Benefit charge relief ceases when

1 the employment relationship between the employer requesting relief and
2 the claimant is terminated. This subsection does not apply to shared
3 work employers under chapter 50.06 RCW.

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

11 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
12 conflict with federal requirements that are a prescribed condition to
13 the allocation of federal funds to the state or the eligibility of
14 employers in this state for federal unemployment tax credits, the
15 conflicting part of this act is inoperative solely to the extent of the
16 conflict, and the finding or determination does not affect the
17 operation of the remainder of this act. Rules adopted under this act
18 must meet federal requirements that are a necessary condition to the
19 receipt of federal funds by the state or the granting of federal
20 unemployment tax credits to employers in this state.

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