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**HOUSE BILL 1106**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Fosse and Reeves

Prefiled 01/03/23.

1 AN ACT Relating to qualifications for unemployment insurance when  
2 an individual voluntarily leaves work; amending RCW 50.20.050 and  
3 50.29.021; adding a new section to chapter 50.04 RCW; and creating a  
4 new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04  
7 RCW to read as follows:

8 "Vulnerable adult" has the same meaning as in RCW 74.34.020.

9 **Sec. 2.** RCW 50.20.050 and 2022 c 268 s 42 are each amended to  
10 read as follows:

11 (1) With respect to separations that occur on or after September  
12 6, 2009, and for separations that occur before April 4, 2021:

13 (a) A claimant shall be disqualified from benefits beginning with  
14 the first day of the calendar week in which the claimant left work  
15 voluntarily without good cause and thereafter for seven calendar  
16 weeks and until the claimant obtains bona fide work in employment  
17 covered by this title and earned wages in that employment equal to  
18 seven times the claimant's weekly benefit amount. Good cause reasons  
19 to leave work are limited to reasons listed in (b) of this  
20 subsection.

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

5 (i) The duration of the work;

6 (ii) The extent of direction and control by the employer over the  
7 work; and

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

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

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

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

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

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

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

33 (iv) The separation was necessary to protect the claimant or the  
34 claimant's immediate family members from domestic violence, as  
35 defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

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

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

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

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

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

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

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

19 (2) With respect to separations that occur on or after April 4,  
20 2021:

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

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

33 (i) The duration of the work;

34 (ii) The extent of direction and control by the employer over the  
35 work; and

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

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

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

3 (ii) The separation was necessary because ~~((of the))~~: Of the  
4 illness or disability of the claimant ((of)); of the death, illness,  
5 or disability of a member of the claimant's immediate family ((if))  
6 for separations that occur before September 3, 2023; of the death,  
7 illness, or disability of a family member for separations that occur  
8 on or after September 3, 2023; or the care for a child or a  
9 vulnerable adult in the claimant's care is inaccessible for  
10 separations that occur on or after July 7, 2024, so long as:

11 (A) The claimant made reasonable efforts to preserve the  
12 claimant's employment status by requesting ~~((a leave of absence, by~~  
13 ~~having promptly notified))~~ changes in working conditions or work  
14 schedule that would accommodate the death, illness, disability, or  
15 caregiving inaccessibility, or by requesting a leave of absence,  
16 promptly notifying the employer of the reason for the absence, and  
17 ~~((by having promptly requested))~~ promptly requesting reemployment  
18 when again able to assume employment. These alternatives need not be  
19 pursued, however, when they would have been a futile act, including  
20 those instances when the futility of the act was a result of a  
21 recognized labor/management dispatch system; and

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

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

29 (iv) The separation was necessary to protect the claimant or the  
30 claimant's immediate family members from domestic violence, as  
31 defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

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

34 (vi) (A) The claimant's usual hours were reduced by twenty-five  
35 percent or more; or

36 (B) If, for separations that occur on or after July 7, 2024, the  
37 claimant has had a regularly scheduled shift or split shift start or  
38 end time for the prior 90 calendar days, and the employer, without  
39 request by the claimant and not based on a system of seniority,

1 changes the regularly scheduled shift or split shift start or end  
2 time by six or more hours for that shift on a nontemporary basis;

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 individual'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;

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; ((~~or~~))

21 (xii) During a public health emergency:

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

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

27 (C) The claimant or another individual residing with the claimant  
28 is at higher risk of severe illness or death from the disease that is  
29 the subject of the public health emergency because the higher risk  
30 individual:

31 (I) Was in an age category that is defined as high risk for the  
32 disease that is the subject of the public health emergency by the  
33 federal centers for disease control and prevention, the department of  
34 health, or the equivalent agency in the state where the individual  
35 resides; or

36 (II) Has an underlying health condition, verified as required by  
37 the department by rule, that is identified as a risk factor for the  
38 disease that is the subject of the public health emergency by the  
39 federal centers for disease control and prevention, the department of

1 health, or the equivalent agency in the state where the individual  
2 resides; or

3 (xiii) For separations that occur on or after July 7, 2024, the  
4 claimant left work to relocate outside the existing labor market  
5 because of the geographical location of, proximity to, or separation  
6 from a minor child, where the claimant's parental rights to the minor  
7 child have not been terminated.

8 (3) With respect to claims that occur on or after July 4, 2021, a  
9 claimant has good cause and is not disqualified from benefits under  
10 subsection (2)(a) of this section under the following circumstances,  
11 in addition to those listed under subsection (2)(b) of this section,  
12 if, during a public health emergency, the claimant worked at a health  
13 care facility as defined in RCW 9A.50.010, was directly involved in  
14 the delivery of health services, and left work for the period of  
15 quarantine consistent with the recommended guidance from the United  
16 States centers for disease control and prevention or subject to the  
17 direction of the state or local health jurisdiction because of  
18 exposure to or contracting the disease that is the subject of the  
19 declaration of the public health emergency.

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

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

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

29 **Sec. 3.** RCW 50.29.021 and 2021 c 251 s 4 are each amended to  
30 read as follows:

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

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

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

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

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

13 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through  
14 (x); or

15 (iii) During a public health emergency, the claimant worked at a  
16 health care facility as defined in RCW 9A.50.010, was directly  
17 involved in the delivery of health services, and was terminated from  
18 work due to entering quarantine because of exposure to or contracting  
19 the disease that is the subject of the declaration of the public  
20 health emergency.

21 (2) The legislature finds that certain benefit payments, in whole  
22 or in part, should not be charged to the experience rating accounts  
23 of employers except those employers described in RCW 50.44.010,  
24 50.44.030, and 50.50.030 who have properly elected to make payments  
25 in lieu of contributions, taxable local government employers  
26 described in RCW 50.44.035, and those employers who are required to  
27 make payments in lieu of contributions, as follows:

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

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

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

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

39 (c) Benefits paid which represent the state's share of benefits  
40 payable as extended benefits defined under RCW 50.22.010(6) shall not

1 be charged to the experience rating account of any contribution  
2 paying employer.

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

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

12 (f) Benefits paid that exceed the benefits that would have been  
13 paid if the weekly benefit amount for the claim had been determined  
14 as one percent of the total wages paid in the individual's base year  
15 shall not be charged to the experience rating account of any  
16 contribution paying employer. This subsection (2)(f) does not apply  
17 to the calculation of contribution rates under RCW 50.29.025 for rate  
18 year 2010 and thereafter.

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

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

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

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

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



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

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

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

11 (iii) Is unemployed as a result of closure or severe curtailment  
12 of operation at the employer's plant, building, worksite, or other  
13 facility. This closure must be for reasons directly attributable to a  
14 catastrophic occurrence such as fire, flood, or other natural  
15 disaster, or to the presence of any dangerous, contagious, or  
16 infectious disease that is the subject of a public health emergency  
17 at the employer's plant, building, worksite, or other facility;

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

25 (v) Continues to be employed on a regularly scheduled permanent  
26 part-time basis by a base year employer and who qualified for two  
27 consecutive unemployment claims where wages were attributable to at  
28 least one employer who employed the individual in both base years.  
29 Benefit charge relief ceases when the employment relationship between  
30 the employer requesting relief and the claimant is terminated. This  
31 subsection does not apply to shared work employers under chapter  
32 50.60 RCW;

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

39 (vii) Worked for an employer for 20 weeks or less, and was laid  
40 off at the end of temporary employment when that employee temporarily

1 replaced a permanent employee receiving family or medical leave  
2 benefits under Title 50A RCW, and the layoff is due to the return of  
3 that permanent employee. This subsection (3)(a)(vii) applies to  
4 claims with an effective date on or after January 1, 2020; or

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

7 (b) The employer requesting relief of charges under this  
8 subsection must request relief in writing within (~~thirty~~) 30 days  
9 following mailing to the last known address of the notification of  
10 the valid initial determination of such claim, stating the date and  
11 reason for the separation or the circumstances of continued  
12 employment. The commissioner, upon investigation of the request,  
13 shall determine whether relief should be granted.

14 (4) When a benefit claim becomes invalid due to an amendment or  
15 adjustment of a report where the employer failed to report or  
16 inaccurately reported hours worked or remuneration paid, or both, all  
17 benefits paid will be charged to the experience rating account of the  
18 contribution paying employer or employers that originally filed the  
19 incomplete or inaccurate report or reports. An employer who  
20 reimburses the trust fund for benefits paid to workers and who fails  
21 to report or inaccurately reported hours worked or remuneration paid,  
22 or both, shall reimburse the trust fund for all benefits paid that  
23 are based on the originally filed incomplete or inaccurate report or  
24 reports.

25 (5) An employer's experience rating account may not be relieved  
26 of charges for a benefit payment and an employer who reimburses the  
27 trust fund for benefit payments may not be credited for a benefit  
28 payment if a benefit payment was made because the employer or  
29 employer's agent failed to respond timely or adequately to a written  
30 request of the department for information relating to the claim or  
31 claims without establishing good cause for the failure and the  
32 employer or employer's agent has a pattern of such failures. The  
33 commissioner has the authority to determine whether the employer has  
34 good cause under this subsection.

35 (a) For the purposes of this subsection, "adequately" means  
36 providing accurate information of sufficient quantity and quality  
37 that would allow a reasonable person to determine eligibility for  
38 benefits.

39 (b)(i) For the purposes of this subsection, "pattern" means a  
40 benefit payment was made because the employer or employer's agent

1 failed to respond timely or adequately to a written request of the  
2 department for information relating to a claim or claims without  
3 establishing good cause for the failure, if the greater of the  
4 following calculations for an employer is met:

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

6 (B) Twenty percent of the total current claims against the  
7 employer.

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

11 NEW SECTION. **Sec. 4.** 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  
16 the 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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