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**SUBSTITUTE HOUSE BILL 1492**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Sells, Macri, Lovick, Berry, Slatter, Thai, Pollet, Ormsby, and Stonier)

1 AN ACT Relating to extended benefits in the unemployment  
2 insurance system; amending RCW 50.22.010; reenacting and amending RCW  
3 50.22.020; adding a new section to chapter 50.22 RCW; creating a new  
4 section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.22  
7 RCW to read as follows:

8 (1) Beginning December 27, 2020, through April 12, 2021, or such  
9 subsequent date as may be provided by the employment security  
10 department by rule, an individual's eligibility period under RCW  
11 50.22.010(8)(a) shall also include any week that begins in an  
12 extended benefit period that is in effect in this state and after the  
13 individual exhausted all rights to pandemic emergency unemployment  
14 compensation, as established in the CARES act (P.L. 116-136), as  
15 amended.

16 (2) With respect to determining whether the state is in an  
17 extended benefit period beginning November 1, 2020, through December  
18 31, 2021, or such subsequent date as may be provided by the  
19 employment security department by rule, the state shall disregard the  
20 requirement in RCW 50.22.010(1)(b) that no extended benefit period

1 may begin before the fourteenth week following the end of a prior  
2 extended benefit period which was in effect.

3 (3) For purposes of subsections (1) and (2) of this section, the  
4 department may not adopt a subsequent date by rule if the federal  
5 share of extended benefits is less than 50 percent minus any  
6 reductions required by the budget control act of 2011, P.L. 112-25.

7 **Sec. 2.** RCW 50.22.010 and 2013 c 23 s 103 are each amended to  
8 read as follows:

9 As used in this chapter, unless the context clearly indicates  
10 otherwise:

11 (1) "Extended benefit period" means a period which:

12 (a) Begins with the third week after a week for which there is an  
13 "on" indicator; and

14 (b) ~~((Ends))~~ Except as provided in section 1 of this act, ends  
15 with the third week after the first week for which there is an "off"  
16 indicator: PROVIDED, That no extended benefit period shall last for a  
17 period of less than thirteen consecutive weeks, and further that no  
18 extended benefit period may begin by reason of an "on" indicator  
19 before the fourteenth week after the close of a prior extended  
20 benefit period which was in effect with respect to this state.

21 (2)(a) There is an "on" indicator for this state for a week if  
22 the commissioner determines, in accordance with the regulations of  
23 the United States secretary of labor, that for the period consisting  
24 of such week and the immediately preceding twelve weeks:

25 (i) The rate of insured unemployment, not seasonally adjusted,  
26 equaled or exceeded one hundred twenty percent of the average of such  
27 rates for the corresponding thirteen-week period ending in each of  
28 the preceding two calendar years and equaled or exceeded five  
29 percent; or

30 (ii) For benefits for weeks of unemployment beginning after March  
31 6, 1993:

32 (A) The average rate of total unemployment, seasonally adjusted,  
33 as determined by the United States secretary of labor, for the period  
34 consisting of the most recent three months for which data for all  
35 states are published before the close of the week equals or exceeds  
36 six and one-half percent; and

37 (B) The average rate of total unemployment in the state,  
38 seasonally adjusted, as determined by the United States secretary of  
39 labor, for the three-month period referred to in (a)(ii)(A) of this

1 subsection, equals or exceeds one hundred ten percent of the average  
2 for either or both of the corresponding three-month periods ending in  
3 the two preceding calendar years.

4 (b) This subsection applies as provided under the tax relief,  
5 unemployment insurance reauthorization, and job creation act of 2010  
6 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent  
7 date as may be provided by the department by rule, consistent with  
8 the purposes of this subsection:

9 (i) The average rate of insured unemployment, not seasonally  
10 adjusted, equaled or exceeded one hundred twenty percent of the  
11 average of such rates for the corresponding thirteen-week period  
12 ending in all of the preceding three calendar years and equaled or  
13 exceeded five percent; or

14 (ii) The average rate of total unemployment, seasonally adjusted,  
15 as determined by the United States secretary of labor, for the period  
16 consisting of the most recent three months for which data for all  
17 states are published before the close of the week equals or exceeds  
18 six and one-half percent; and

19 (iii) The average rate of total unemployment in the state,  
20 seasonally adjusted, as determined by the United States secretary of  
21 labor, for the three-month period referred to in (b)(ii) of this  
22 subsection, equals or exceeds one hundred ten percent of the average  
23 for any of the corresponding three-month periods ending in the three  
24 preceding calendar years.

25 (3)(a) "High unemployment period" means any period of  
26 unemployment beginning after March 6, 1993, during which an extended  
27 benefit period would be in effect if:

28 (i) The average rate of total unemployment, seasonally adjusted,  
29 as determined by the United States secretary of labor, for the period  
30 consisting of the most recent three months for which data for all  
31 states are published before the close of the week equals or exceeds  
32 eight percent; and

33 (ii) The average rate of total unemployment in the state,  
34 seasonally adjusted, as determined by the United States secretary of  
35 labor, for the three-month period referred to in (a)(i) of this  
36 subsection, equals or exceeds one hundred ten percent of the average  
37 for either or both of the corresponding three-month periods ending in  
38 the two preceding calendar years.

39 (b) This subsection applies as provided under the tax relief,  
40 unemployment insurance reauthorization, and job creation act of 2010

1 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent  
2 date as may be provided by the department by rule, consistent with  
3 the purposes of this subsection:

4 (i) The average rate of total unemployment, seasonally adjusted,  
5 as determined by the United States secretary of labor, for the period  
6 consisting of the most recent three months for which data for all  
7 states are published before the close of the week equals or exceeds  
8 eight percent; and

9 (ii) The average rate of total unemployment in the state,  
10 seasonally adjusted, as determined by the United States secretary of  
11 labor, for the three-month period referred to in (a)(i) of this  
12 subsection, equals or exceeds one hundred ten percent of the average  
13 for any of the corresponding three-month periods ending in the three  
14 preceding calendar years.

15 (4) There is an "off" indicator for this state for a week only  
16 if, for the period consisting of such week and immediately preceding  
17 twelve weeks, none of the options specified in subsection (2) or (3)  
18 of this section result in an "on" indicator.

19 (5) "Regular benefits" means benefits payable to an individual  
20 under this title or under any state law (including benefits payable  
21 to federal civilian employees and to ex-servicemen or ex-servicewomen  
22 pursuant to 5 U.S.C. chapter 85) other than extended benefits or  
23 additional benefits.

24 (6) "Extended benefits" means benefits payable for weeks of  
25 unemployment beginning in an extended benefit period to an individual  
26 under this title or under any state law (including benefits payable  
27 to federal civilian employees and to ex-servicemen or ex-servicewomen  
28 pursuant to 5 U.S.C. chapter 85) other than regular or additional  
29 benefits.

30 (7) "Additional benefits" are benefits totally financed by the  
31 state and payable under this title to exhaustees by reason of  
32 conditions of high unemployment or by reason of other special  
33 factors.

34 (8) "Eligibility period" of an individual means:

35 (a) (~~The~~) Except as provided in section 1 of this act, the  
36 period consisting of the weeks in his or her benefit year which begin  
37 in an extended benefit period that is in effect in this state and, if  
38 his or her benefit year ends within such extended benefit period, any  
39 weeks thereafter which begin in such period; or

1 (b) For an individual who is eligible for emergency unemployment  
2 compensation during the extended benefit period beginning February  
3 15, 2009, the period consisting of the week ending February 28, 2009,  
4 and applies as provided under the tax relief, unemployment insurance  
5 reauthorization, and job creation act of 2010 (P.L. 111-312) as it  
6 existed on December 17, 2010, or such subsequent date as may be  
7 provided by the department by rule, consistent with the purposes of  
8 this subsection.

9 (9) "Additional benefit eligibility period" of an individual  
10 means the period consisting of the weeks in his or her benefit year  
11 which begin in an additional benefit period that is in effect and, if  
12 his or her benefit year ends within such additional benefit period,  
13 any weeks thereafter which begin in such period.

14 (10) "Exhaustee" means an individual who, with respect to any  
15 week of unemployment in his or her eligibility period:

16 (a) Has received, prior to such week, all of the regular benefits  
17 that were payable to him or her under this title or any other state  
18 law (including dependents' allowances and regular benefits payable to  
19 federal civilian employees and ex-servicemen or ex-servicewomen under  
20 5 U.S.C. chapter 85) in his or her current benefit year that includes  
21 such week; or

22 (b) Has received, prior to such week, all of the regular benefits  
23 that were available to him or her under this title or any other state  
24 law (including dependents' allowances and regular benefits available  
25 to federal civilian employees and ex-servicemen or ex-servicewomen  
26 under 5 U.S.C. chapter 85) in his or her current benefit year that  
27 includes such week, after the cancellation of some or all of his or  
28 her wage credits or the total or partial reduction of his or her  
29 rights to regular benefits: PROVIDED, That, for the purposes of (a)  
30 and (b) of this subsection, an individual shall be deemed to have  
31 received in his or her current benefit year all of the regular  
32 benefits that were payable to him or her, or available to him or her,  
33 as the case may be, even though:

34 (i) As a result of a pending appeal with respect to wages or  
35 employment, or both, that were not included in the original monetary  
36 determination with respect to his or her current benefit year, he or  
37 she may subsequently be determined to be entitled to more regular  
38 benefits; or

39 (ii) By reason of the seasonal provisions of another state law,  
40 he or she is not entitled to regular benefits with respect to such

1 week of unemployment (although he or she may be entitled to regular  
2 benefits with respect to future weeks of unemployment in the next  
3 season, as the case may be, in his or her current benefit year), and  
4 he or she is otherwise an exhaustee within the meaning of this  
5 section with respect to his or her right to regular benefits under  
6 such state law seasonal provisions during the season or off season in  
7 which that week of unemployment occurs; or

8 (iii) Having established a benefit year, no regular benefits are  
9 payable to him or her during such year because his or her wage  
10 credits were canceled or his or her right to regular benefits was  
11 totally reduced as the result of the application of a  
12 disqualification; or

13 (c) His or her benefit year having ended prior to such week, he  
14 or she has insufficient wages or employment, or both, on the basis of  
15 which he or she could establish in any state a new benefit year that  
16 would include such week, or having established a new benefit year  
17 that includes such week, he or she is precluded from receiving  
18 regular benefits by reason of the provision in RCW 50.04.030 which  
19 meets the requirement of section 3304(a)(7) of the federal  
20 unemployment tax act, or the similar provision in any other state  
21 law; and

22 (d)(i) Has no right for such week to unemployment benefits or  
23 allowances, as the case may be, under the railroad unemployment  
24 insurance act, the trade expansion act of 1962, and such other  
25 federal laws as are specified in regulations issued by the United  
26 States secretary of labor; and

27 (ii) Has not received and is not seeking for such week  
28 unemployment benefits under the unemployment compensation law of  
29 Canada, unless the appropriate agency finally determines that he or  
30 she is not entitled to unemployment benefits under such law for such  
31 week.

32 (11) "State law" means the unemployment insurance law of any  
33 state, approved by the United States secretary of labor under section  
34 3304 of the internal revenue code of 1954.

35 **Sec. 3.** RCW 50.22.020 and 1993 c 483 s 16 and 1993 c 58 s 3 are  
36 each reenacted and amended to read as follows:

37 When the result would not be inconsistent with the other  
38 provisions of this chapter, the provisions of this title and  
39 commissioner's regulations enacted pursuant thereto, which apply to

1 claims for, or the payment of, regular benefits, shall apply to  
2 claims for, and the payment of, extended benefits: PROVIDED, That

3 (1) Payment of extended compensation under this chapter shall not  
4 be made to any individual for any week of unemployment in his or her  
5 eligibility period—

6 (a) During which he or she fails to accept any offer of suitable  
7 work (as defined in subsection (3) of this section) or fails to apply  
8 for any suitable work to which he or she was referred by the  
9 employment security department; or

10 (b) During which he or she fails to actively engage in seeking  
11 work.

12 (2) If any individual is ineligible for extended compensation for  
13 any week by reason of a failure described in subsections (1)(a) or  
14 (1)(b) of this section, the individual shall be ineligible to receive  
15 extended compensation for any week which begins during a period which  
16 —

17 (a) Begins with the week following the week in which such failure  
18 occurs; and

19 (b) Does not end until such individual has been employed during  
20 at least four weeks which begin after such failure and the total of  
21 the remuneration earned by the individual for being so employed is  
22 not less than the product of four multiplied by the individual's  
23 weekly benefit amount (as determined under RCW 50.20.120) for his or  
24 her benefit year.

25 (3) For purposes of this section, the term "suitable work" means,  
26 with respect to any individual, any work which is within such  
27 individual's capabilities and which does not involve conditions  
28 described in RCW 50.20.110: PROVIDED, That if the individual  
29 furnishes evidence satisfactory to the employment security department  
30 that such individual's prospects for obtaining work in his or her  
31 customary occupation within a reasonably short period are good, the  
32 determination of whether any work is suitable work with respect to  
33 such individual shall be made in accordance with RCW 50.20.100.

34 (4) Extended compensation shall not be denied under subsection  
35 (1)(a) of this section to any individual for any week by reason of a  
36 failure to accept an offer of, or apply for, suitable work if:

37 (a) The gross average weekly remuneration payable to such  
38 individual for the position does not exceed the sum of—

39 (i) The individual's weekly benefit amount (as determined under  
40 RCW 50.20.120) for his or her benefit year; plus

1 (ii) The amount (if any) of supplemental unemployment  
2 compensation benefits (as defined in section 501(c)(17)(D) of the  
3 Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable  
4 to such individual for such week;

5 (b) The position was not offered to such individual in writing  
6 (~~and~~) or was not listed with the employment security department;

7 (c) Such failure would not result in a denial of compensation  
8 under the provisions of RCW 50.20.080 and 50.20.100 to the extent  
9 such provisions are not inconsistent with the provisions of  
10 subsections (3) and (5) of this section; or

11 (d) The position pays wages less than the higher of—

12 (i) The minimum wage provided by section (6)(a)(1) of the Fair  
13 Labor Standards Act of 1938, without regard to any exemption; or

14 (ii) Any applicable state or local minimum wage.

15 (5) For purposes of this section, an individual shall be treated  
16 as actively engaged in seeking work during any week if:

17 (a) The individual has engaged in a systematic and sustained  
18 effort to obtain work during such week; and

19 (b) The individual provides tangible evidence to the employment  
20 security department that he or she has engaged in such an effort  
21 during such week.

22 (6) The employment security department shall refer applicants for  
23 benefits under this chapter to any suitable work to which subsections  
24 (4)(a) through (4)(d) of this section would not apply.

25 (7) No provisions of this title which terminates a  
26 disqualification for voluntarily leaving employment, being discharged  
27 for misconduct, or refusing suitable employment shall apply for  
28 purposes of determining eligibility for extended compensation unless  
29 such termination is based upon employment subsequent to the date of  
30 such disqualification.

31 (8) The provisions of subsections (1) through (7) of this section  
32 shall apply with respect to weeks of unemployment beginning after  
33 March 31, 1981: PROVIDED HOWEVER, That the provisions of subsections  
34 (1) through (7) of this section shall not apply to those weeks of  
35 unemployment beginning after March 6, 1993, and before January 1,  
36 1995.

37 NEW SECTION. **Sec. 4.** Section 1 of this act is remedial and  
38 curative in nature and applies retroactively and prospectively to the  
39 dates listed in that section.



1        NEW SECTION.    **Sec. 5.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect immediately.

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