
SENATE BILL 5864

State of Washington

67th Legislature

2022 Regular Session

By Senators L. Wilson and Dozier

1 AN ACT Relating to unemployment eligibility for certain
2 unvaccinated employees; amending RCW 50.20.010, 50.20.050, and
3 50.29.021; reenacting and amending RCW 50.20.050; creating a new
4 section; providing an effective date; providing an expiration date;
5 and declaring an emergency.

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

7 **Sec. 1.** RCW 50.20.010 and 2021 c 251 s 2 are each amended to
8 read as follows:

9 (1) An unemployed individual shall be eligible to receive waiting
10 period credits or benefits with respect to any week in his or her
11 eligibility period only if the commissioner finds that:

12 (a) The individual has registered for work at, and thereafter has
13 continued to report at, an employment office in accordance with such
14 regulation as the commissioner may prescribe, except that the
15 commissioner may by regulation waive or alter either or both of the
16 requirements of this subdivision as to individuals attached to
17 regular jobs and as to such other types of cases or situations with
18 respect to which the commissioner finds that the compliance with such
19 requirements would be oppressive, or would be inconsistent with the
20 purposes of this title;

1 (b) The individual has filed an application for an initial
2 determination and made a claim for waiting period credit or for
3 benefits in accordance with the provisions of this title;

4 (c) The individual is able to work, and is available for work in
5 any trade, occupation, profession, or business for which the
6 individual is reasonably fitted.

7 (i) To be available for work, an individual must be ready, able,
8 and willing, immediately to accept any suitable work which may be
9 offered to him or her and must be actively seeking work pursuant to
10 customary trade practices and through other methods when so directed
11 by the commissioner or the commissioner's agents. If a labor
12 agreement or dispatch rules apply, customary trade practices must be
13 in accordance with the applicable agreement or rules.

14 (ii) Until June 30, 2021, an individual under quarantine or
15 isolation, as defined by the department of health, as directed by a
16 public health official during the novel coronavirus outbreak pursuant
17 to the gubernatorial declaration of emergency of February 29, 2020,
18 will meet the requirements of this subsection (1)(c) if the
19 individual is able to perform, available to perform, and actively
20 seeking work which can be performed while under quarantine or
21 isolation.

22 (iii) For the purposes of this subsection, "customary trade
23 practices" includes compliance with an electrical apprenticeship
24 training program that includes a recognized referral system under
25 apprenticeship program standards approved by the Washington state
26 apprenticeship and training council;

27 (d) The individual has been unemployed for a waiting period of
28 one week;

29 (e) The individual participates in reemployment services if the
30 individual has been referred to reemployment services pursuant to the
31 profiling system established by the commissioner under RCW 50.20.011,
32 unless the commissioner determines that:

33 (i) The individual has completed such services; or

34 (ii) There is justifiable cause for the claimant's failure to
35 participate in such services; and

36 (f) As to weeks which fall within an extended benefit period as
37 defined in RCW 50.22.010, the individual meets the terms and
38 conditions of RCW 50.22.020 with respect to benefits claimed in
39 excess of twenty-six times the individual's weekly benefit amount.

1 (2) An individual's eligibility period for regular benefits shall
2 be coincident to his or her established benefit year. An individual's
3 eligibility period for additional or extended benefits shall be the
4 periods prescribed elsewhere in this title for such benefits.

5 (3) (a) For any weeks of unemployment insurance benefits when the
6 one week waiting period is fully paid or fully reimbursed by the
7 federal government, subsection (1) (d) of this section is waived.

8 (b) For any weeks of unemployment insurance benefits when the one
9 week waiting period is partially paid or partially reimbursed by the
10 federal government, the department may, by rule, elect to waive
11 subsection (1) (d) of this section.

12 (4) During the weeks of a public health emergency, an unemployed
13 individual may also meet the requirements of subsection (1) (c) of
14 this section if:

15 (a) The unemployed individual is able to perform, available to
16 perform, and actively seeking suitable work which can be performed
17 for an employer from the individual's home; and

18 (b) The unemployed individual or another individual residing with
19 the unemployed individual is at higher risk of severe illness or
20 death from the disease that is the subject of the public health
21 emergency because the higher risk individual:

22 (i) Was in an age category that is defined as high risk for the
23 disease that is the subject of the public health emergency by:

24 (A) The federal centers for disease control and prevention;

25 (B) The department of health; or

26 (C) The equivalent agency in the state where the individual
27 resides; or

28 (ii) Has an underlying health condition, verified as required by
29 the department by rule, that is identified as a risk factor for the
30 disease that is the subject of the public health emergency by:

31 (A) The federal centers for disease control and prevention;

32 (B) The department of health; or

33 (C) The equivalent agency in the state where the individual
34 resides.

35 (5) (a) During the weeks of a public health emergency, an
36 unemployed health care worker may also meet the requirements of
37 subsection (1) (c) of this section if the unemployed health care
38 worker described in RCW 50.20.050(3) and 50.29.021(1) (c) (iii) is able
39 to perform, available to perform, and actively seeking suitable work

1 which will commence after quarantine or which can be performed for an
2 employer from the individual's home.

3 (b) For purposes of this subsection, "health care worker" means
4 an individual who worked at a health care facility as defined in RCW
5 9A.50.010, and was directly involved in the delivery of health
6 services.

7 (6) An unemployed worker may also meet the requirements of
8 subsection (1)(c) of this section if the unemployed worker described
9 in RCW 50.20.050(4) is able to perform, available to perform, and
10 actively seeking suitable work which can be performed for an employer
11 where a vaccination for the novel coronavirus COVID-19 is not
12 required.

13 **Sec. 2.** RCW 50.20.050 and 2021 c 251 s 3 are each amended to
14 read as follows:

15 (1) With respect to separations that occur on or after September
16 6, 2009, and for separations that occur before April 4, 2021:

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

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

29 (i) The duration of the work;

30 (ii) The extent of direction and control by the employer over the
31 work; and

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

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

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

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

4 (A) The claimant pursued all reasonable alternatives to preserve
5 the claimant's employment status by requesting a leave of absence, by
6 having promptly notified the employer of the reason for the absence,
7 and by having promptly requested reemployment when again able to
8 assume employment. These alternatives need not be pursued, however,
9 when they would have been a futile act, including those instances
10 when the futility of the act was a result of a recognized labor/
11 management dispatch system; and

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

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

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

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

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

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

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

33 (ix) The claimant left work because of illegal activities in the
34 claimant's worksite, the claimant reported such activities to the
35 employer, and the employer failed to end such activities within a
36 reasonable period of time;

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

39 (xi) The claimant left work to enter an apprenticeship program
40 approved by the Washington state apprenticeship training council.

1 Benefits are payable beginning Sunday of the week prior to the week
2 in which the claimant begins active participation in the
3 apprenticeship program.

4 (2) With respect to separations that occur on or after April 4,
5 2021:

6 (a) A claimant shall be disqualified from benefits beginning with
7 the first day of the calendar week in which the claimant has left
8 work voluntarily without good cause and thereafter for seven calendar
9 weeks and until the claimant has obtained bona fide work in
10 employment covered by this title and earned wages in that employment
11 equal to seven times the claimant's weekly benefit amount. Good cause
12 reasons to leave work are limited to reasons listed in (b) of this
13 subsection.

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

- 18 (i) The duration of the work;
- 19 (ii) The extent of direction and control by the employer over the
20 work; and
- 21 (iii) The level of skill required for the work in light of the
22 claimant's training and experience.

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

- 26 (i) The claimant has left work to accept a bona fide offer of
27 bona fide work as described in (a) of this subsection;
- 28 (ii) The separation was necessary because of the illness or
29 disability of the claimant or the death, illness, or disability of a
30 member of the claimant's immediate family if:

31 (A) The claimant made reasonable efforts to preserve the
32 claimant's employment status by requesting a leave of absence, by
33 having promptly notified the employer of the reason for the absence,
34 and by having promptly requested reemployment when again able to
35 assume employment. These alternatives need not be pursued, however,
36 when they would have been a futile act, including those instances
37 when the futility of the act was a result of a recognized labor/
38 management dispatch system; and

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

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

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

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

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

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

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

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

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

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

33 (xii) During a public health emergency:

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

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

39 (C) The claimant or another individual residing with the claimant
40 is at higher risk of severe illness or death from the disease that is

1 the subject of the public health emergency because the higher risk
2 individual:

3 (I) Was in an age category that is defined as high risk for the
4 disease that is the subject of the public health emergency by the
5 federal centers for disease control and prevention, the department of
6 health, or the equivalent agency in the state where the individual
7 resides; or

8 (II) Has an underlying health condition, verified as required by
9 the department by rule, that is identified as a risk factor for the
10 disease that is the subject of the public health emergency by the
11 federal centers for disease control and prevention, the department of
12 health, or the equivalent agency in the state where the individual
13 resides.

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

26 (4) With respect to claims that occur on or after October 17,
27 2021, a claimant has good cause and is not disqualified from benefits
28 under subsection (2)(a) of this section under the following
29 circumstances, in addition to those listed under subsection (2)(b) of
30 this section, if, the claimant, who was not fully vaccinated from the
31 novel coronavirus COVID-19, was terminated from work or left work due
32 to a novel coronavirus COVID-19 vaccination mandate.

33 (5) Notwithstanding subsection (1) of this section, a claimant
34 who was simultaneously employed in full-time employment and part-time
35 employment and is otherwise eligible for benefits from the loss of
36 the full-time employment shall not be disqualified from benefits
37 because the claimant:

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

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

3 **Sec. 3.** RCW 50.20.050 and 2021 c 251 s 3 and 2021 c 215 s 153
4 are each reenacted and amended to read as follows:

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

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

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

19 (i) The duration of the work;

20 (ii) The extent of direction and control by the employer over the
21 work; and

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

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

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

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

32 (A) The claimant pursued all reasonable alternatives to preserve
33 the claimant's employment status by requesting a leave of absence, by
34 having promptly notified the employer of the reason for the absence,
35 and by having promptly requested reemployment when again able to
36 assume employment. These alternatives need not be pursued, however,
37 when they would have been a futile act, including those instances
38 when the futility of the act was a result of a recognized labor/
39 management dispatch system; and

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

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

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

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

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

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

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

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

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

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

33 (2) With respect to separations that occur on or after April 4,
34 2021:

35 (a) A claimant shall be disqualified from benefits beginning with
36 the first day of the calendar week in which the claimant has left
37 work voluntarily without good cause and thereafter for seven calendar
38 weeks and until the claimant has obtained bona fide work in
39 employment covered by this title and earned wages in that employment
40 equal to seven times the claimant's weekly benefit amount. Good cause

1 reasons to leave work are limited to reasons listed in (b) of this
2 subsection.

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

7 (i) The duration of the work;

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

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

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

15 (i) The claimant has left work to accept a bona fide offer of
16 bona 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 made reasonable efforts to preserve the
21 claimant's 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
24 assume employment. These alternatives need not be pursued, however,
25 when they would have been a futile act, including those instances
26 when the futility of the act was a result of a recognized labor/
27 management dispatch system; and

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

31 (iii) The claimant: (A) Left work to relocate for the employment
32 of a spouse or domestic partner that is outside the existing labor
33 market area; and (B) remained employed as long as was reasonable
34 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
37 defined in RCW 7.105.010, or stalking, as defined in RCW 9A.46.110;

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

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

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.

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

15 (4) With respect to claims that occur on or after October 17,
16 2021, a claimant has good cause and is not disqualified from benefits
17 under subsection (2)(a) of this section under the following
18 circumstances, in addition to those listed under subsection (2)(b) of
19 this section, if, the claimant, who was not fully vaccinated from the
20 novel coronavirus COVID-19, was terminated from work or left work due
21 to a novel coronavirus COVID-19 vaccination mandate.

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

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

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

31 **Sec. 4.** RCW 50.29.021 and 2021 c 251 s 4 are each amended to
32 read as follows:

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

1 (b) Benefits paid to an eligible individual shall be charged to
2 the experience rating accounts of each of such individual's employers
3 during the individual's base year in the same ratio that the wages
4 paid by each employer to the individual during the base year bear to
5 the wages paid by all employers to that individual during that base
6 year, except as otherwise provided in this section.

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

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

15 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through
16 (x); (~~(x)~~)

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

23 (iv) RCW 50.20.050(4) when the novel coronavirus COVID-19
24 vaccination was not mandated by a federal, state, or local
25 government.

26 (2) The legislature finds that certain benefit payments, in whole
27 or in part, should not be charged to the experience rating accounts
28 of employers except those employers described in RCW 50.44.010,
29 50.44.030, and 50.50.030 who have properly elected to make payments
30 in lieu of contributions, taxable local government employers
31 described in RCW 50.44.035, and those employers who are required to
32 make payments in lieu of contributions, as follows:

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

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

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

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

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

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

14 (e) Benefits paid to an individual who qualifies for benefits
15 under RCW 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), or (xii),
16 ((~~or~~)) (3), or (4) when the novel coronavirus COVID-19 vaccination
17 was mandated by a federal, state, or local government, as applicable,
18 shall not be charged to the experience rating account of any
19 contribution paying employer.

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

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

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

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

39 (ii) In the event the one week waiting period is partially paid
40 or partially reimbursed by the federal government, the department

1 may, by rule, elect to not charge, in full or in part, benefits paid
2 during the one week waiting period to the experience rating account
3 of any contribution paying employer.

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

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

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

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

18 (iii) Is unemployed as a result of closure or severe curtailment
19 of operation at the employer's plant, building, worksite, or other
20 facility. This closure must be for reasons directly attributable to a
21 catastrophic occurrence such as fire, flood, or other natural
22 disaster, or to the presence of any dangerous, contagious, or
23 infectious disease that is the subject of a public health emergency
24 at the employer's plant, building, worksite, or other facility;

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

32 (v) Continues to be employed on a regularly scheduled permanent
33 part-time basis by a base year employer and who qualified for two
34 consecutive unemployment claims where wages were attributable to at
35 least one employer who employed the individual in both base years.
36 Benefit charge relief ceases when the employment relationship between
37 the employer requesting relief and the claimant is terminated. This
38 subsection does not apply to shared work employers under chapter
39 50.60 RCW;

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

7 (vii) Worked for an employer for 20 weeks or less, and was laid
8 off at the end of temporary employment when that employee temporarily
9 replaced a permanent employee receiving family or medical leave
10 benefits under Title 50A RCW, and the layoff is due to the return of
11 that permanent employee. This subsection (3)(a)(vii) applies to
12 claims with an effective date on or after January 1, 2020; or

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

15 (b) The employer requesting relief of charges under this
16 subsection must request relief in writing within thirty days
17 following mailing to the last known address of the notification of
18 the valid initial determination of such claim, stating the date and
19 reason for the separation or the circumstances of continued
20 employment. The commissioner, upon investigation of the request,
21 shall determine whether relief should be granted.

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

33 (5) An employer's experience rating account may not be relieved
34 of charges for a benefit payment and an employer who reimburses the
35 trust fund for benefit payments may not be credited for a benefit
36 payment if a benefit payment was made because the employer or
37 employer's agent failed to respond timely or adequately to a written
38 request of the department for information relating to the claim or
39 claims without establishing good cause for the failure and the
40 employer or employer's agent has a pattern of such failures. The

1 commissioner has the authority to determine whether the employer has
2 good cause under this subsection.

3 (a) For the purposes of this subsection, "adequately" means
4 providing accurate information of sufficient quantity and quality
5 that would allow a reasonable person to determine eligibility for
6 benefits.

7 (b) (i) For the purposes of this subsection, "pattern" means a
8 benefit payment was made because the employer or employer's agent
9 failed to respond timely or adequately to a written request of the
10 department for information relating to a claim or claims without
11 establishing good cause for the failure, if the greater of the
12 following calculations for an employer is met:

- 13 (A) At least three times in the previous two years; or
- 14 (B) Twenty percent of the total current claims against the
15 employer.

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

19 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
20 conflict with federal requirements that are a prescribed condition to
21 the allocation of federal funds to the state or the eligibility of
22 employers in this state for federal unemployment tax credits, the
23 conflicting part of this act is inoperative solely to the extent of
24 the conflict, and the finding or determination does not affect the
25 operation of the remainder of this act. Rules adopted under this act
26 must meet federal requirements that are a necessary condition to the
27 receipt of federal funds by the state or the granting of federal
28 unemployment tax credits to employers in this state.

29 NEW SECTION. **Sec. 6.** Section 2 of this act expires July 1,
30 2022.

31 NEW SECTION. **Sec. 7.** Section 3 of this act takes effect July 1,
32 2022.

33 NEW SECTION. **Sec. 8.** Except for section 3 of this act, this act
34 is necessary for the immediate preservation of the public peace,

1 health, or safety, or support of the state government and its
2 existing public institutions, and takes effect immediately.

--- **END** ---