

CHAPTER 235.

[S. B. 164.]

UNEMPLOYMENT COMPENSATION.

AN ACT relating to unemployment compensation; providing for experience rating credit; providing for relief from unemployment caused by sickness, accident, or injury; providing for benefits, contributions, funds, and the receipt of monies; amending chapter 35, Laws of 1945; repealing sections 108, 109 and 136 to 179, inclusive, chapter 35, Laws of 1945, and chapter 50, Laws of 1947; making an appropriation; declaring an emergency and providing effective dates.

Be it enacted by the Legislature of the State of Washington:

Repealing clause. SECTION 1. Sections 108 and 109 of chapter 35 of the Laws of 1945 as amended, and chapter 50 of the Laws of 1947 (sec. 9998-246 and sec. 9998-247, Rem. Rev. Stat., 1947 Supp.), are hereby repealed.

Amendment. SEC. 2. A new section to be known hereafter as section 108 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Definitions. Section 108. *Meaning of Terms.* As used in this chapter,

"Computation date." (a) "Computation date" means January first of any year.

"Cut-off date." (b) "Cut-off date" means March thirty-first next following the computation date.

"Effective date." (c) "Effective date" means June thirtieth next following the computation date.

"Credit year." (d) "Credit year" means the four consecutive calendar quarters immediately following the effective date.

"Payroll." (e) "Payroll" means all wages paid by an employer to individuals in his employment.

"Qualified employer." (f) "Qualified employer" means any employer who had employment in each of the four consecutive calendar years immediately preceding the computation date and who filed contribution reports thereon on or before the cut-off date: *Provided, however,* That no employer shall be deemed a qualified em-

ployer if he has reported no employment for four or more consecutive calendar quarters in such four calendar years: *And provided further,*

(1) When an employer or prospective employer has acquired all or substantially all the operating assets of an employer, the experience of both during such four calendar years shall be jointly considered for the purpose of determining and establishing the acquiring party's qualification for and amount of credit, and the transferring employer shall be divested of his experience, or

(2) When an employer or prospective employer has acquired an operating department, section, division or any substantial portion of the business or assets of any employer, which is clearly segregable and identifiable, the entire payroll experience of the transferring employer shall be divided between the transferring and acquiring employers in proportion to the payroll for the four preceding completed calendar quarters attributable to the operating assets conveyed and retained.

(g) "Surplus" means the lesser of (1) that amount by which the moneys in the Unemployment Compensation Fund as of the effective date, after subtracting the amount of credits previously established under this chapter and outstanding as valid on such date, exceed four times the amount of contributions paid on the payrolls reported by all employers on or before the cut-off date for the preceding calendar year, or (2) an amount equal to forty per cent (40%) of the contributions so paid for the preceding calendar year. No portion of the surplus shall be credited to any employer unless the amount of the surplus is at least ten per cent (10%) of the amount of the contributions paid on the payrolls reported by all employers on or before the cut-off date for the preceding calendar year. "Surplus."

Amendment. SEC. 3. A new section to be known hereafter as section 109 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Establishment of credits. Section 109. *Establishment of Credits.* The amount of credit for each qualified employer shall be established in the following manner:

Six credit classes of qualified employers. (a) Qualified employers shall be grouped into six credit classes, to be designated as classes 6, 5, 4, 3, 2, and 1, in accordance with the sum of the quotients of annual decreases of payroll in regard to the three consecutive calendar years immediately preceding the computation date, each such quotient to be obtained by dividing any decrease of the payroll of a qualified employer in any calendar year from the preceding calendar year by the amount of the payroll in such preceding calendar year, each division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded. Each qualified employer's credit class shall be determined from the sum of such employer's quotients of annual decrease of payroll in accordance with the following schedule:

Schedule of annual decrease quotients.

<i>Sum of Annual Decrease Quotients</i>	<i>Credit Class</i>
0.0000 to 0.0999	6
0.1000 to 0.2999	5
0.3000 to 0.4999	4
0.5000 to 0.6999	3
0.7000 to 0.7999	2
0.8000 or more	1

"Class weight."

(b) A "class weight" shall be assigned to each credit class as follows:

<i>Credit Class</i>	<i>Class Weight</i>
6	6
5	5
4	4
3	3
2	2
1	0

"Class product."

(c) The "class product" shall be obtained by dividing the total of the payrolls for the calendar year

immediately preceding the computation date for all qualified employers in the same class by the total of the payrolls of all qualified employers for such year, such division being carried out to the fourth decimal place, and multiplying the quotient by the class weight.

(d) The surplus to be credited to each class shall be the product obtained by dividing the class product for each class by the sum of the class products for all classes and multiplying the quotient by the surplus to be credited to all employers. No portion of the surplus shall be credited to credit class 1.

Surplus to be credited.

(e) The "class credit factor" shall be the quotient obtained by dividing the portion of the surplus assigned to any class of qualified employers by the sum of the payrolls of all employers in that class for the calendar year immediately preceding the computation date, such division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded.

"Class credit factor."

(f) The portion of the surplus which is to be credited to any qualified employer is the product obtained by multiplying his payroll in the calendar year immediately preceding the computation date by the class credit factor of his class.

Surplus credited to qualified employer.

(g) As soon as practicable after the effective date, each qualified employer shall be furnished a notice showing the amount of credit to which he is entitled, if any. The amount shown on the notice may be applied only against contributions which are payable by him on wages paid in the credit year and reported not later than the date prescribed by the Commissioner for payment of contributions on wages paid in the last quarter of such credit year, except that when an employer or prospective employer has acquired all or substantially all the operating assets of a qualified employer, any unused portion of the credit of the transferring employing unit shall be transferred to the acquiring employer who

Notice to qualified employer showing entitled credits.

Application of credits.

Unused credits.

may apply such acquired credit only upon contributions which accrue and become due from such employer by reason of employment subsequent to the date of acquisition and prior to the end of the current credit year: *Provided*, That the transferring employing unit has submitted all reports and has paid all contributions and interest due to the date of such acquisition.

Proviso.

Amendment.

SEC. 4. A new section to be known hereafter as section 110 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Section 110. *Experience Rating Credit Redetermination, Correction and Appeal Procedure.*

Redetermination of employer credits.

(a) Redetermination of Employer Credit. Within one year from the effective date the Commissioner may reconsider the credit allowed any employer whenever he finds that there has been an error in the computation evident from the payroll data or other facts submitted by the employer prior to the cut-off date. When an increase is due, he shall issue to such employer a supplementary credit notice reflecting the increase in the employer's credit; however, when a credit notice has been issued to an employer whose credit is reduced, such notice shall be deemed cancelled and a revised notice issued. If the credit shown by the incorrect notice has already been applied in payment of contributions in excess of the correct credit, the employer shall thereupon become liable for payment into the fund in an amount equal to the excess of the credit taken by him over the credit to which he is entitled and such amount shall be deemed and collected as contributions payable under this act.

Notice.

Correction or modification of employer's payroll.

(b) Corrections. (1) Corrections or modifications of an employer's payroll shall not be taken into account for the purpose of an increase of his credit unless such corrections or modifications were established on or before the cut-off date.

(2) Corrections or modifications of an employer's payroll may be taken into account within three years after the cut-off date, for the purpose of a reduction of his credit.

(c) Increases or Reductions Not to Affect Other Credit. Increases or reductions of an employer's credit shall not affect the credits established or to be established for any other employer, and shall further not affect any other computation made under this chapter.

Increases or reductions shall not affect other credit.

(d) Appeal Procedure. Any employer dissatisfied with the amount of credit shown on his credit notice or revision thereof may file a request for adjustment with the Commissioner within thirty days of the mailing of such credit notice to the employer, showing wherein the amount of credit may be in error. Should such request for adjustment be denied the employer may within ten days of the mailing of such notice of denial of adjustment file with the Appeal Tribunal a petition for hearing which shall be heard in the same manner as a petition for a denial of refund. The appellate procedure prescribed by this act for further appeal shall apply to all denials of adjustment.

Appeal procedure.

Request for adjustment.

Petition for hearing to Appeal Tribunal.

SEC. 5. The provisions of sections 1, 2, 3 and 4 of this act shall take effect July 1, 1949: *Provided, however,* The experience rating credits heretofore issued pursuant to the provisions of chapter 50 of the Laws of 1947 are hereby authorized to be applied in payment of contributions until such credits have been used or expire on July 31, 1949, as provided by chapter 50 of the Laws of 1947.

Effective date of provisions.

CHAPTER XI. DISABILITY COMPENSATION

SEC. 6. Sections 136 through section 179, inclusive, of chapter 35 of the Laws of 1945 (sec. 9998-274 through sec. 318, Rem. Rev. Stat., 1945 Supp.), are hereby repealed.

Repealing clause.

Amendment. SEC. 7. A new section to be known hereafter as section 136 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Unemployment and disability compensation related. Section 136. *Unemployment and Disability Compensation Related.* The general provisions of chapters I, II, III, IV, V, VI, VII, X, XII and XIII, of the Unemployment Compensation Act shall apply in respect to chapter XI, Disability Compensation, except as hereinafter made specifically non-applicable.

(a) Sections 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 89, 108, 109, 110, 111, 112, 113, 114, 115 and 116 shall not apply in respect to chapter XI, Disability Compensation.

Amendment. SEC. 8. A new section to be known hereafter as section 137 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Definitions. Section 137. *Definitions.* The following words and phrases as used in the provisions of this chapter shall have the following meanings unless the context clearly requires otherwise:

"Disability." (a) "Disability" shall mean any physical or mental condition due to an injury or illness which renders an individual incapable of performing his regular or customary work. In no case shall the term "disability" include any injury or illness caused by or arising in connection with pregnancy up to the termination of such pregnancy and for a period of four (4) weeks thereafter.

"Disabled." (b) "Disabled"—An individual with a "disability" shall be deemed disabled.

"Disability benefits." (c) "Disability benefits" shall mean the compensation payable to an individual with respect to his unemployment due to a "disability".

Amendment. SEC. 9. A new section to be known hereafter as section 138 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Section 138. *Disability Compensation Fund.* There is hereby established a Disability Compensation Fund which shall be maintained separate and apart from all public moneys or funds of this state including the Unemployment Compensation Fund and the Unemployment Compensation Administration Fund. This Fund shall be administered by the Commissioner exclusively for the purpose of providing "disability benefits" as that term is defined herein. All moneys which are deposited or paid into this Fund are hereby made available to the Commissioner and shall be expended solely for the purpose of paying disability benefits, payment of refunds, and defraying the costs of administration under the provisions of this chapter. All moneys in this Fund shall be deposited, administered, and disbursed by the treasurer of the Fund under rules and regulations prescribed by the Commissioner and none of the provisions of section 5501 of Remington's Revised Statutes, as amended, shall be applicable to this Fund. The Treasurer of the Unemployment Compensation Fund shall be the treasurer of the Disability Compensation Fund and shall give a bond in an amount fixed by the State Administration Board in a form prescribed by law or approved by the Attorney General. Said bond shall be conditioned upon the faithful performance of the Treasurer's duties in connection with the Disability Compensation Fund and the premiums for said bond shall be paid from such Fund. All sums recovered on the official bond for losses sustained by this Fund shall be deposited in said Fund.

Disability
Compensa-
tion Fund
established.

Administra-
tion and
purpose
of Fund.

Treasurer.

Bond of
Treasurer.

SEC. 10. A new section to be known hereafter as section 139 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Amendment.

Section 139. *Sources of Disability Compensation Fund.* All moneys in the Disability Compensation

Sources of Disability Compensation Fund.

Fund shall be commingled and undivided and said fund shall consist of:

- (a) All disability compensation contributions collected pursuant to the provisions of this act;
- (b) all interest on disability compensation contributions collected pursuant to the provisions of this act;
- (c) interest earned upon any moneys in the fund;
- (d) any property or securities acquired through the use of moneys belonging to the fund;
- (e) all earnings of such property or securities; and
- (f) all moneys received for the fund from any other source, or granted to this state for the payment of disability benefits or the cost of administration.

Amendment.

SEC. 11. A new section to be known hereafter as section 140 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Administration expenses.

Section 140. *Administration Expenses.* The Commissioner is hereby authorized to allocate to and use for the expense of administering the provisions of this chapter a sum not to exceed six hundredths of one per cent (0.06%) of the wages for the preceding calendar year reported for disability compensation purposes not later than the following March. All officers and employees administering the provisions of this chapter shall be selected and appointed on the basis of merit in the same manner as other personnel of the Employment Security Department:

Provided, however, The Commissioner may enter into contracts with established medical organizations for the purpose of employing such organizations' facilities and personnel to administer this act more efficiently.

Maximum amount.

Appointment of personnel.

Proviso.

Amendment.

SEC. 12. A new section to be known hereafter as section 141 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Section 141. *Disability Benefit Eligibility Conditions.* An individual shall be eligible to receive disability benefits with respect to any period in which he is unemployed due to a disability if the Commissioner finds that:

Disability benefit eligibility requirements.

(a) A claim for disability benefits has been filed in accordance with the provisions of this act and such regulations as the Commissioner may prescribe;

Claim has been filed.

(b) he has been continuously disabled for a waiting period of seven (7) consecutive days during each period of disability: *Provided, however,* That a waiting period shall not be required for a second period of disability due to the same or related cause or causes commencing not later than three (3) weeks subsequent to the termination of a prior disability compensated pursuant to the provisions of this act: *And provided further,* When unemployment immediately precedes an individual's period of disability, which disability exists for a period of not less than seven (7) days, he may apply consecutive days of such unemployment toward his disability waiting period credit if such days of unemployment occurred during a period in which he would have been eligible for waiting period credit or benefits pursuant to the Unemployment Compensation Act except for his disability;

Has been disabled continuously for waiting period.

(c) he has within the base year earned wages sufficient to qualify him for unemployment compensation benefits; and

Has qualified for unemployment compensation and benefits.

(d) he is under the care of a legally licensed physician or surgeon or legally licensed dentist acting within the scope of his practice and has complied with such regulations as the Commissioner may prescribe relating to proof of his disability including certification or examination by a physician or a surgeon licensed pursuant to the provisions of sections 10008 or 10056 of Remington's Revised Statutes and practicing in this state, a dentist licensed

Is under care of physician or dentist.

by and practicing within this state or any physician, surgeon, or dentist in the employ of the United States government: *Provided, however,* If the Commissioner shall designate the physician or surgeon to make the examination, the fees, if any, for such examination shall be paid from the Disability Compensation Fund.

Proviso.

Amendment.

SEC. 13. A new section to be known hereafter as section 142 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Claims for deceased and incompetent persons.

Section 142. *Claims for Deceased and Incompetent Persons.* Benefits due a deceased or legally declared incompetent person may be claimed by and paid to the disabled individual's spouse, the head of the family with whom he resides, his legal representative, or his estate.

Amendment.

SEC. 14. A new section to be known hereafter as section 143 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Attachment to labor market.

Section 143. *Attachment to Labor Market.* An eligible individual may be disqualified for disability waiting period credit or disability benefits with respect to any week unless he has made proof of his attachment to the labor market in accordance with such regulations as the Commissioner shall prescribe. Such regulations may require proof that:

Proof of attachment.

(a) The individual has received remuneration from an employing unit or employing units for personal services performed for at least ten (10) days at some time during the three (3) months period preceding the first day of his current disability unless during such period the individual has been unable to work or apply for work due to a disability; or

(b) if the individual has been unemployed during the three (3) months period preceding the first day of his current disability he has within the month immediately preceding his disability demonstrated his availability for work by applying for work

through the Washington State Employment Service or some other referral agency approved by the Commissioner or actively seeking work on his own behalf unless during such period the individual was unable to work or apply for work due to a disability.

SEC. 15. A new section to be known hereafter as section 144 is hereby added to chapter 35 of the Laws of 1945, to read as follows: Amendment.

Section 144. *Disability Benefit Disqualifications.* Disability benefit disqualifications.
 An individual shall be disqualified for waiting period credit or disability benefits for the period with respect to which

(a) he has wilfully made a false statement or representation or wilfully failed to report a material fact, to obtain any benefit under the provisions of this chapter and for the fifty-two (52) next following weeks; False statement or failure to report material fact.

(b) he is suffering from a willful and intentional self-inflicted disability, or Willful self-inflicted disability.

(c) he is suffering from a disability occasioned while perpetrating a felony. Disability acquired committing a felony.

SEC. 16. A new section to be known hereafter as section 145 is hereby added to chapter 35 of the Laws of 1945, to read as follows: Amendment.

Section 145. *Industrial Insurance Limitation.* Industrial insurance limitation.
 An individual shall not be entitled to waiting period credit or disability benefits for any period with respect to which he has been awarded temporary total disability benefits under the Workmen's Compensation law or occupational disease law of this or any other state or of the Federal government.

SEC. 17. A new section to be known hereafter as section 146 is hereby added to chapter 35 of the Laws of 1945, to read as follows: Amendment.

Section 146. *Subrogation.* Subrogation.
 Whenever an individual has been paid benefits for disability under this act and whose claim for temporary total disability compensation for the same disability under the

Reimbursement to Disability Compensation Fund.

Workmen's Compensation Act of this state is allowed, the Department of Labor and Industries shall reimburse the Disability Compensation Fund to the extent of the payment from the Disability Compensation Fund out of the amount allowed on said claim for temporary total disability under the said Workmen's Compensation Act; and whenever an individual has been paid benefits for disability pursuant to a private plan approved by the Commissioner under the provisions of this act and whose claim for temporary total disability compensation for the same disability under the Workmen's Compensation Act of this state is allowed, the Department of Labor and Industries shall reimburse such insurer to the extent of payment to the claimant by the insurer out of the amount allowed on said claim for temporary total disability under the Workmen's Compensation Act. In accordance with the foregoing provisions of this section the Commissioner, or in the case of payment by a private insurer, the insurer, shall be subrogated to such rights as such individual has under the Workmen's Compensation Act of this state. Any moneys received by the Commissioner pursuant to the provisions of this section shall be deposited in the Disability Compensation Fund.

Reimbursement of insurer under private plan.

Subrogation to rights of individual under Workmen's Compensation.

Amendment.

SEC. 18. A new section to be known hereafter as section 147 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Total and weekly amount of disability benefits.

Section 147. *Amount of Disability Benefits.* The total amount of disability benefits and the weekly amount of disability benefit payable to an eligible individual under this chapter during any one benefit year shall be amounts equal to the total amount of unemployment compensation and the weekly benefit amount of unemployment compensation to which such individual would be entitled computed in accordance with the provisions of section 80 of the Unemployment Compensation Act. Benefits for pe-

riods of less than a full week shall be computed at the rate of one seventh (1/7) of his weekly benefit amount for each full day during which he is disabled.

Benefits of less than full week.

The weekly benefit amount payable to an individual under any of the provisions of this chapter, if not a multiple of one dollar (\$1) shall in each case be computed to the next higher multiple of one dollar (\$1).

Weekly benefit amount computations

SEC. 19. A new section to be known hereafter as section 148 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Amendment.

Section 148. *Effective Date for Filing.* No payment shall be made for disability from the Disability Compensation Fund for any week commencing prior to January 1, 1950.

Effective date for payments from Disability Compensation Fund.

SEC. 20. A new section to be known hereafter as section 149 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Amendment.

Section 149. *Non-Liability of State for Disability Benefits.* Disability benefits shall be deemed to be due and payable under this act only to the extent provided in this act and to the extent that moneys are available therefor to the credit of the Disability Compensation Fund, and neither the state nor the Commissioner shall be liable for any amount in excess of such sums.

Non-liability of state for disability benefits.

SEC. 21. A new section to be known hereafter as section 150 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Amendment.

Section 150. *Disability Contributions.* On and after July 1, 1949, each employer subject to the Unemployment Compensation Act except as exempted by the provisions of this chapter shall deduct from "wages" paid individuals in his employment a contribution equal to one per cent (1%) of such "wages," which contributions the employer shall pay into the Disability Compensation Fund. All moneys

Disability contributions.

Amount of deduction from wages.

Deductions held in trust by employer.

deducted by an employer from "wages" paid for employment shall be held in trust by such employer for the sole and exclusive purpose of payment to the Disability Compensation Fund. If at any pay period the employer fails to deduct the employee contribution from "wages" paid such deduction must be withheld from the "wages" paid at the next pay period or the employer alone shall be liable for such contribution and the same shall not subsequently be deducted by the employer from "wages" paid.

Failure of employer to deduct from wages.

Amendment.

SEC. 22. A new section to be known hereafter as section 151 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Payments of contributions to Disability Compensation Fund.

Section 151. *Payment to Disability Compensation Fund.* Contributions shall become due and be paid by each employer to the Treasurer of the Disability Compensation Fund in accordance with such regulations as the Commissioner may prescribe. If such contributions are not paid on the date on which they are due and payable as prescribed by the Commissioner, the provisions of the Unemployment Compensation Act relating to contributions, including interest, refund and adjustment, lien rights, assessments, collection remedies, appeal and review procedure shall apply to such disability contribution payments: *And provided further,* On March 31 of each year the Treasurer of the Disability Compensation Fund shall deduct from the Disability Compensation Fund and remit to the State Treasurer for payment into the General Fund one per cent (1%) of the disability compensation contributions collected for the prior calendar year.

Failure to pay contributions on due date.

Annual payment to General Fund.

Amendment.

SEC. 23. A new section to be known hereafter as section 152 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Experience rating study.

Section 152. *Experience Rating.* The Commissioner shall conduct a study concerning the desirability of experience rating the contributions

payable to the Disability Compensation Fund and shall, on or before January 1, 1951, report his findings to the Legislature with any recommendations for legislation with respect thereto.

SEC. 24. A new section to be known hereafter as section 153 is hereby added to chapter 35 of the Laws of 1945, to read as follows: Amendment.

Section 153. *Religious Exemption.* Any individual who adheres to the faith or teachings of any church, sect, or denomination and in accordance with its creed, tenets, or principles, depends for healing upon prayer or spiritual means in the practice of religion shall be exempt from the provisions of this act and excluded therefrom upon the filing with the Employment Security Department and with his or her employer, affidavits, in duplicate, stating such adherence and dependence, and disclaiming any and all benefits under this act, and stating therein the name of the employer of such individual, which affidavits shall contain certifications by an officer of the individual's church, or certifications of any practitioner in the State of Washington who is authorized to practice healing based upon prayer or spiritual means, stating such adherence and dependence of such individual. Thereafter said individual and his employer shall be exempt from liability for contributions with respect to said individual provided for under this act, and the employer shall be entitled to rely upon the affidavit filed with it unless and until it shall receive notice from the Commissioner that the provisions hereof have not been complied with or that such affidavit is not in proper form. In case such individual, after the filing of such affidavits, obtains new employment, he must file new affidavits in order to be exempt from the provisions of this act. Religious exemption from provisions of act.

Filing of affidavits of religious adherence.

Contents of affidavit.

Must file new affidavit for new employment.

Amendment. SEC. 25. A new section to be known hereafter as section 154 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Refund for overpayment to Fund. Section 154. *Overpayment to Disability Compensation Fund.* Refund shall be made from the Disability Compensation Fund of any sum received into the fund in excess of one per cent (1%) of the first three thousand dollars (\$3,000) of remuneration paid to an individual for services in one (1) calendar year (whether paid to him by one or more employers). If such excess sum has been deducted from remuneration paid to such individual (by one or more employers) it shall be refunded to the individual. That part of such excess sum which has not been deducted from remuneration paid to an individual by any employer as required by this act, after deduction of all claims of the Employment Security Department, shall be refunded to the employer who paid such excess sum. Any individual or employer entitled to a refund under the provisions of this section may file a petition for refund, adjustment, or credit with the Commissioner within three (3) years after the deduction or payment in question was made. Refunds, adjustments, and credits, provided for by this section shall be made in the same manner as provided for refund of unemployment compensation contributions and the appeal procedure in respect thereto shall be applicable to any employer or individual who files a petition for refund, or adjustment, of disability compensation contributions pursuant to the provisions of this section. Whenever an employer has deducted more than the correct amount of disability contributions imposed by this act from any payment made to any individual for services, but such excess amount has not been paid to the Disability Compensation Fund, the employer shall be liable to the individual for such excess amount and neither the

Excess payments.

Refund to employee.

Refund to employer.

Petition for refund.

Time limit for filing.

Excess funds deducted by employer but not yet deposited in Fund.

Commissioner, the State, nor the Disability Compensation Fund shall be liable therefor.

SEC. 26. A new section to be known hereafter as section 155 is hereby added to chapter 35 of the Laws of 1945, to read as follows: Amendment.

Section 155. *Private Plans.* The Commissioner may approve a private plan for the payment of disability benefits provided the majority of the employees of any separate establishment of an employer consent to such plan. At the end of each calendar year the Commissioner shall determine the amount expended by the Employment Security Department for additional administrative expense occasioned by the existence of such private plans; the total amount so determined shall be prorated among the approved private plans in effect during the calendar year on the basis of the amount of wages paid in employment by employers to individuals participating in such plans; the Commissioner shall assess the insurers of the private plans the amounts so prorated which amounts shall not exceed two hundredths of one per cent (0.02%) of wages paid to individuals participating in such plans during the calendar year. With the exception of such contributions, and reimbursement to the Disability Compensation Fund in accordance with the provisions of section 160 such employers with approved private plans shall be exempt from contribution to the Disability Compensation Fund for the period such plans remain in effect and are approved by the Commissioner. Private plans.
Approval of majority of employees.
Additional administrative costs of private plans.
Costs to be pro-rated among the private plans.
Assessment of costs.
Maximum assessments.
Employers exempt from contributions to Fund.

SEC. 27. A new section to be known hereafter as section 156 is hereby added to chapter 35 of the Laws of 1945, to read as follows: Amendment.

Section 156. *Nature of Private Plans.* A private plan approved by the Commissioner may be one of the following types: Types of private plans

Contract
with insurer.

(a) Contract with insurer. Any employer (or group of employers) subject to this act may secure payments to his employees for disability by making a contract for this purpose with a corporation or association licensed to do business in this state in the field of health or disability insurance. Such contracts are subject to the Commissioner's approval and to the rules and regulations promulgated by him.

Guarantee;
self-insurer.

(b) Guarantee; Self-insurer. Any employer (or group of employers) who furnishes satisfactory proof to the Commissioner of his financial ability to make payments for disability as provided in this act and who deposits with the Commissioner such securities as the Commissioner deems necessary in an amount to be determined by the Commissioner to secure the liability to make payments for disability as provided in this act and who complies with any standards, conditions, or other requirements which the Commissioner may prescribe, may guarantee payments for disability to his employees upon the Commissioner's approval.

Arrange-
ments by
employees'
associations.

(c) Arrangements by employees' associations. Arrangements for payments for disability may be made by an employee association licensed to do business in this field in this state which complies with standards, conditions, and other requirements prescribed for this purpose by the Commissioner. Such arrangements are subject to the Commissioner's approval and to rules and regulations promulgated by him.

Amendment.

SEC. 28. A new section to be known hereafter as section 157 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Approval of
private plans.

Section 157. *Approval of Private Plans.* The Commissioner shall approve any contract, guarantee, or arrangement as described in section 156 only after he has determined that:

Require-
ments.

(a) The rights afforded to the covered employees are as great as those provided under the state plan;

Coverage.

(b) the cost to the employee in relation to the benefits provided is no more than under the state plan;

Cost to employee.

(c) the plan has been made available to all individuals in the employment of the employer within this state except that if the employer maintains more than one distinct separate establishment in this state, the plan has been made available to all employees of any such establishment;

Availability to all individuals in employment of employer.

(d) the majority of the employees of the employer employed in this state have consented to the plan except that if the employer maintains more than one distinct separate establishment in this state a majority of the employees employed at any such establishment have consented to the plan;

Consent of majority of employees.

(e) the plan contains a provision that it will be in effect for not less than one year and, in any event, until December 31, 1950, and that no reduction in disability benefits or increase in employee contributions for disability benefits will be made while the plan is in effect without the prior approval of the Commissioner. Such approval shall be given only if the Commissioner finds that a majority of the employees covered by the plan have consented in writing to the modification and that the plan after such modification will continue to meet approval requirements;

Plan must be in effect at least one year.

(f) the approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Compensation Fund; the Commissioner shall adopt appropriate rules and regulations for the purpose of determining whether or not the approval of a plan or plans shall be deemed to result in a substantial selection of risks adverse to the Disability Compensation Fund; such rules and regulations shall

Risks adverse to the Fund.

Rules and regulations.

provide that all previously approved private plans underwritten by an insurer shall be taken into consideration in the determination of whether or not the approval of an additional private plan to be underwritten by such insurer results in substantial selection of risks adverse to the Disability Compensation Fund;

Inclusion of future employees.

(g) the plan provides for the inclusion of future employees;

Reimbursements to Fund by insurer.

(h) the plan provides that the insurer shall reimburse the Disability Compensation Fund in accordance with the provisions of section 160;

Rights of appeal to employee.

(i) the plan provides that an individual when denied disability benefits by the insurer shall retain all of his rights of appeal in accordance with the procedures established by the Unemployment Compensation Act, and the determination of either the appeal tribunal or the Commissioner, or in case of further appeal the determination of the Court shall be binding upon the insurer who shall thereupon make payment to the claimant in accordance with such determination.

Amendment.

SEC. 29. A new section to be known hereafter as section 158 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Reports to Commissioner.

Section 158. *Reports.* Employers whose employees are participating in an approved private plan and any insurer of an approved private plan shall furnish such reports and information and make available to the Commissioner such records as he may by regulation require for the proper administration of this act.

Amendment.

SEC. 30. A new section to be known hereafter as section 159 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Termination of private plans.

Section 159. *Termination of Private Plans.* Any approved plan failing to comply with the provisions of section 157 shall be determined by the Com-

missioner to be terminated; the interested employer or insurer may file an appeal with the appeal tribunal from such determination within ten (10) days after the date of notification or mailing, whichever is earlier, to his last known address. Such appeal shall be in accordance with the procedures established by the Unemployment Compensation Act for hearing and determining contribution appeals.

Appeal.

SEC. 31. A new section to be known hereafter as section 160 is hereby added to chapter 35 of the Laws of 1945, to read as follows:

Amendment.

Section 160. *Commissioner Authorized to Make Payments and Assessments.* The Commissioner is authorized to make disability benefit payments from the Disability Compensation Fund to individuals otherwise eligible, who have ceased to be covered by private plans, whether by termination of the plan, change of employers, or other reason, upon the basis of wage credits upon which no disability contributions have been paid by reason of a private plan or plans which were then in effect: *Provided, however,* That in computing the amount of benefits to which such an individual may be entitled from the Disability Compensation Fund during the remainder of a benefit year during a portion of which he received benefits under a private plan, the amount of all benefits, at a weekly rate not exceeding the individual's weekly benefit rate pursuant to the provisions of this act, paid or to be paid to the individual under all approved private plans during that benefit year, whether before or after cessation of coverage, shall be deducted from the benefits payable from the Disability Compensation Fund during that benefit year; and *Provided further:*

Commissioner is authorized to make payments to employees where private plan ceases to cover.

Computation of amount of benefits.

(a) Disability compensation benefits paid from the Disability Compensation Fund to an unemployed individual for a period of disability commencing during the fourteen (14) days immediately

Period of disability commencing during 14 days following termination of employment.

Assessment of insurer.

subsequent to the termination of his employment shall be assessed by the Commissioner against the insurer of his last employer's private plan, if any;

Period of disability commencing more than 14 days after termination of employment.

(b) disability compensation benefits paid to unemployed individuals for periods of disability commencing more than fourteen (14) days subsequent to termination of their employments shall be prorated among the various insurers including the State Disability Compensation Fund; on March 31 of each year the Commissioner shall assess each insurer of a private plan or plans that proportion of the total of such disability benefit payments paid during the prior calendar year which the wages exempt in such calendar year by reason of the existence of such private plan or plans bears to the total wages reported for such calendar year;

Assessment of insurer.

Termination of plan prior to December 30, 1951.

(c) if prior to December 31, 1951, any private plan or plans are terminated, all disabled individuals covered by such private plan or plans shall when otherwise eligible be paid disability benefits from the Disability Compensation Fund, but amounts paid for disability commencing during the coverage of such individuals under the private plan or plans or within the three (3) months period immediately subsequent to the date of termination of the private plan or plans shall be assessed against the insurer of such terminated private plan or plans; and

Assessment against insurer.

Manner of assessment and collection.

(d) all amounts assessed in accordance with the provisions of this section shall be assessed and collected in the same manner as unemployment and disability contributions except that interest shall not accrue on such charges until thirty (30) days after notice of such assessment.

Amendment.

SEC. 32. A new section to be known hereafter as section 161 is hereby added to chapter 35 of the Laws of 1945 to read as follows:

Double benefits prohibited.

Section 161. *Double Benefits Prohibited.* In no case shall an individual covered by a private plan

and eligible to receive disability compensation benefits thereunder be considered eligible to receive disability compensation benefits from the state Disability Compensation Fund for the same benefit period.

SEC. 33. *Appropriation.* For the purposes of administering this act there is hereby appropriated from the General Fund the sum of thirty thousand dollars (\$30,000), which sum shall be repaid to the General Fund from the Disability Compensation Fund not later than July 1, 1950.

Appropriation for administration of act.

SEC. 34. *Effective Date of Act.* An emergency exists and this act is necessary for the preservation of the public peace, health, safety and welfare, and the provisions of sections 6 to 33, inclusive, shall take effect on the first day of April, 1949.

Vetoed.

Passed the Senate March 9, 1949.

Passed the House March 7, 1949.

Approved by the Governor March 21, 1949, with the exception of Section 34, which is vetoed.

CHAPTER 236.

[S. B. 186.]

HORSE RACING.

AN ACT relating to horse racing; amending chapter 55, Laws of 1933, as amended; and adding thereto new sections.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 1, chapter 55, Laws of 1933, as amended (sec. 8312-1, Rem. Rev. Stat. Supp.), is amended to read as follows:

Amendment.

Section 1. Unless the context otherwise requires, words and phrases as used herein shall mean:

Definitions.

“Commission” shall mean the Washington Horse Racing Commission, hereinafter created.

“Commission.”

“Person” shall mean and include individuals, firms, corporations and associations.

“Person.”