

competency or a (~~learning~~) training certificate under RCW (~~(+19.28.500)~~) 19.28.510 through 19.28.620. Any person, firm, (~~(or)~~) partnership, corporation, or other entity found in violation of RCW (~~(+19.28.500)~~) 19.28.510 through 19.28.620 shall be punished by a fine of not less than fifty dollars. Any equipment (~~(or apparatus)~~) maintained or installed by any person who does not possess a certificate of competency under RCW (~~(+19.28.500)~~) 19.28.510 through 19.28.620 shall not receive (~~(a safe wiring label)~~) an electrical work permit and electrical service shall not be connected or maintained to operate the equipment (~~(or apparatus)~~). Each day that a person, firm, (~~(or)~~) partnership, corporation, or other entity violates the provisions of RCW (~~(+19.28.500)~~) 19.28.510 through 19.28.620 is a separate violation.

(2) A civil penalty shall be collected in a civil action brought by the attorney general or the prosecuting attorney of the county wherein the alleged violation arose at the request of the department if any of the provisions of RCW (~~(+19.28.500)~~) 19.28.510 through 19.28.620 or any rules promulgated under RCW (~~(+19.28.500)~~) 19.28.510 through 19.28.620 are violated.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) Section 12, chapter 169, Laws of 1935, section 63, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 19.28.270; and

(2) Section 1, chapter 30, Laws of 1980 and RCW 19.28.500.

NEW SECTION. Sec. 24. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 22, 1983.

Passed the House April 18, 1983.

Approved by the Governor May 16, 1983.

Filed in Office of Secretary of State May 16, 1983.

CHAPTER 207

[Substitute Senate Bill No. 3087]

SHARED WORK COMPENSATION PLAN—UNEMPLOYMENT INSURANCE

AN ACT Relating to unemployment insurance; adding a new chapter to Title 50 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. In order to provide an economic climate conducive to the retention of skilled workers in industries adversely affected by general economic downturns and to supplement depressed buying power of employees affected by such downturns, the legislature finds that the public

interest would be served by the enactment of laws providing greater flexibility in the payment of unemployment compensation benefits in situations where qualified employers elect to retain employees at reduced hours rather than instituting layoffs.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affected unit" means a specified plant, department, shift, or other definable unit consisting of one or more employees, to which an approved shared work compensation plan applies.

(2) "Fringe benefits" include health insurance, retirement benefits under benefit pension plans as defined in section 3(35) of the employee retirement income security act of 1974, paid vacation and holidays, and sick leave, which are incidents of employment in addition to cash remuneration.

(3) "Shared work benefits" means the benefits payable to employees in an affected unit under an approved shared work compensation plan as distinguished from the benefits otherwise payable under this title.

(4) "Shared work compensation plan" means a plan of an employer, or of an employers' association, under which there is a reduction in the number of hours worked by employees rather than temporary layoffs.

(5) "Shared work employer" means an employer, one or more of whose employees are covered by a shared work compensation plan.

(6) "Usual weekly hours of work" means the normal number of hours of work for full-time employees in the affected unit when that unit is operating on a full-time basis, not to exceed forty hours and not including overtime.

(7) "Unemployment compensation" means the benefits payable under this title other than shared work benefits and includes any amounts payable pursuant to an agreement under federal law providing for compensation, assistance, or allowances with respect to unemployment.

(8) "Employers' association" means an association which is a party to a collective bargaining agreement under which there is a shared work compensation plan.

NEW SECTION. Sec. 3. An employer or employers' association wishing to participate in a shared work compensation program shall submit a written and signed shared work compensation plan to the commissioner for approval. The commissioner shall approve a shared work compensation plan only if the following criteria are met:

(1) The plan identifies the affected units to which it applies;

(2) An employee in an affected unit are identified by name, social security number, and by any other information required by the commissioner;

(3) The usual weekly hours of work for an employee in an affected unit are reduced by not less than ten percent and not more than fifty percent;

(4) Fringe benefits will continue to be provided on the same basis as before the reduction in work hours. In no event shall the level of health benefits be reduced due to a reduction in hours;

(5) The plan certifies that the aggregate reduction in work hours is in lieu of temporary layoffs which would have affected at least ten percent of the employees in the affected units to which the plan applies and which would have resulted in an equivalent reduction in work hours;

(6) During the previous four months the work force in the affected unit has not been reduced by temporary layoffs of workers of more than ten percent;

(7) The plan applies to at least ten percent of the employees in the affected unit;

(8) The plan is approved in writing by the collective bargaining agent for each collective bargaining agreement covering any employee in the affected unit;

(9) The plan will not subsidize seasonal employers during the off season nor subsidize employers who have traditionally used part-time employees; and

(10) The employer agrees to furnish reports necessary for the proper administration of the plan and to permit access by the commissioner to all records necessary to verify the plan before approval and after approval to evaluate the application of the plan.

In addition to subsections (1) through (10) of this section, the commissioner shall take into account any other factors which may be pertinent.

NEW SECTION. Sec. 4. The commissioner shall approve or reject a shared work compensation plan in writing within fifteen days of its receipt. The reasons for the rejection shall be final and nonappealable, but the rejection shall not prevent an employer from submitting another plan for approval not earlier than fifteen days after the date of a previous written rejection.

NEW SECTION. Sec. 5. If an approved plan or any representation for implementation of the plan is intentionally and substantially misleading or false, any individual who participated in any such misrepresentation shall be subject to criminal prosecution as well as personal liability for any amount of benefits deemed by the commissioner to have been improperly paid from the fund as a result thereof. This provision for personal liability is in addition to any remedy against individual claimants for collection of overpayment of benefits if such claimants participated in or were otherwise at fault in the overpayment.

NEW SECTION. Sec. 6. A shared work compensation plan shall be effective on the date specified in the plan or on the first day of the second calendar week after the date of the commissioner's approval, whichever is later. The plan shall expire at the end of the twelfth full calendar month

after its effective date, or on the date specified in the plan if that date is earlier, unless the plan is revoked before that date by the commissioner. If a plan is revoked by the commissioner, it shall terminate on the date specified in the commissioner's order of revocation.

NEW SECTION. Sec. 7. The commissioner may revoke approval of a shared work compensation plan for good cause. The revocation order shall be in writing and shall specify the date the revocation is effective and the reasons for the revocation. Good cause for revocation shall include failure to comply with the assurances given in the plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the plan, and violation of the criteria on which approval of the plan was based.

Such action may be initiated at any time by the commissioner on his or her own motion, on the motion of any of the affected unit employees, or on the motion of the appropriate collective bargaining agents. The commissioner shall review each plan at least once within the twelve month period the plan is in effect to assure that it continues to meet the requirements of this chapter.

NEW SECTION. Sec. 8. An approved shared work compensation plan in effect may be modified with the approval of the commissioner. If the hours of work are increased or decreased beyond the level in the original plan, or any other condition is changed, the employer shall promptly notify the commissioner. If the changes meet the requirements for approval of a plan, the commissioner shall approve the modifications. This approval shall not change the expiration date of the original plan. If the modifications do not meet the requirements for approval, the commissioner shall revoke the plan as specified in section 6 of this act.

NEW SECTION. Sec. 9. An individual is eligible to receive shared work benefits with respect to any week only if, in addition to meeting the conditions of eligibility for other benefits under this title, the commissioner finds that:

(1) The individual was employed during that week as a member of an affected unit under an approved shared work compensation plan which was in effect for that week;

(2) The individual was able to work and was available for additional hours of work and for full-time work with the shared work employer; and

(3) Notwithstanding any other provision of this chapter, an individual is deemed to have been unemployed in any week for which remuneration is payable to him or her as an employee in an affected unit for less than his or her normal weekly hours of work as specified under the approved shared work compensation plan in effect for that week.

NEW SECTION. Sec. 10. (!) The shared work weekly benefit amount shall be the product of the regular weekly unemployment compensation

benefit amount multiplied by the percentage of reduction in the individual's usual weekly hours of work;

(2) No individual is eligible in any benefit year for more than the maximum entitlement established for benefits under this title, including benefits under this chapter, nor may an individual be paid shared work benefits for more than a total of twenty-six weeks in any twelve-month period under a shared work compensation plan;

(3) The shared work benefits paid an individual shall be deducted from the total benefit amount established for that individual's benefit year;

(4) Claims for shared work benefits shall be filed in the same manner as claims for other benefits under this title or as prescribed by the commissioner by rule;

(5) Provisions otherwise applicable to unemployment compensation claimants under this title apply to shared work claimants to the extent that they are not inconsistent with this chapter;

(6) (a) If an individual works in the same week for an employer other than the shared work employer and his or her combined hours of work for both employers are equal to or greater than the usual weekly hours of work with the shared work employer, the individual shall not be entitled to benefits under this chapter or title;

(b) If an individual works in the same week for both the shared work employer and another employer and his or her combined hours of work for both employers are less than his or her usual weekly hours of work, the benefit amount payable for that week shall be the weekly unemployment compensation benefit amount reduced by the same percentage that the combined hours are of the usual weekly hours of work. A week for which benefits are paid under this subsection shall count as a week of shared work benefits;

(7) An individual who does not work during a week for the shared work employer, and is otherwise eligible, shall be paid his or her full weekly unemployment compensation benefit amount. Such a week shall not be counted as a week for which shared work benefits were received;

(8) An individual who does not work for the shared work employer during a week but works for another employer, and is otherwise eligible, shall be paid benefits for that week under the partial unemployment compensation provisions of this title. Such a week shall not be counted as a week for which shared work benefits were received.

NEW SECTION. Sec. 11. Shared work benefits shall be charged to employers' experience rating accounts in the same manner as other benefits under this title are charged. Employers liable for payments in lieu of contributions shall have shared work benefits attributed to their accounts in the same manner as other benefits under this title are attributed.

NEW SECTION. Sec. 12. An individual who has received all of the shared work benefits, or all of the combined unemployment compensation

and shared work benefits, available in a benefit year shall be considered an exhaustee for purposes of the extended benefits program under chapter 50.22 RCW, and, if otherwise eligible under that chapter, shall be eligible to receive extended benefits.

NEW SECTION. Sec. 13. Unless inconsistent with or otherwise provided by this section, this title and rules adopted under this title apply to shared work benefits. To the extent permitted by federal law, those rules may make such distinctions and requirements as may be necessary with respect to unemployed individuals to carry out the purposes of this chapter, including rules defining usual hours, days, work week, wages, and the duration of plans adopted under this chapter. To the extent that any portion of this chapter may be inconsistent with the requirements of federal law relating to the payment of unemployment insurance benefits, the conflicting provisions or interpretations of this chapter shall be deemed inoperative, but only to the extent of the conflict. If the commissioner determines that such a conflict exists, a statement to that effect shall be filed with the governor's office for transmission to both houses of the legislature.

NEW SECTION. Sec. 14. The department shall adopt such rules as are necessary to carry out the purposes of this act. The department shall make a report to the legislature by January 1, 1984 which describes the implementation of this act.

NEW SECTION. Sec. 15. Sections 1 through 14 of this act shall constitute a new chapter in Title 50 RCW.

NEW SECTION. Sec. 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect with the weeks beginning after July 31, 1983.

Passed the Senate April 22, 1983.

Passed the House April 15, 1983.

Approved by the Governor May 16, 1983.

Filed in Office of Secretary of State May 16, 1983.

CHAPTER 208

[Engrossed Substitute Senate Bill No. 3088]

COSMETOLOGY—REVISIONS

AN ACT Relating to cosmetology; amending section 1, chapter 25, Laws of 1974 ex. sess. as last amended by section 1, chapter 225, Laws of 1982 and RCW 18.18.010; amending section 1, chapter 168, Laws of 1953 as amended by section 11, chapter 225, Laws of 1982 and RCW 18.18.102; amending section 7, chapter 180, Laws of 1951 as last amended by section 16, chapter 225, Laws of 1982 and RCW 18.18.140; amending section 11, chapter 52, Laws of 1957 as last amended by section 23, chapter 225, Laws of 1982 and RCW 18.18.260; adding a new section to chapter 18.18 RCW; repealing section 36, chapter 99, Laws of 1979 and RCW 43.131.219; repealing section 78, chapter 99, Laws of 1979 and RCW 43.131.220; repealing section 1, chapter 25, Laws of 1974 ex.