

CHAPTER 18

[Engrossed Substitute Senate Bill No. 4216]

UNEMPLOYMENT COMPENSATION—BENEFITS AND CLAIMS—
COVERAGE

AN ACT Relating to unemployment compensation; amending section 11, chapter 35, Laws of 1945 and RCW 50.04.100; amending section 59, chapter 35, Laws of 1945 as last amended by section 149, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 50.12.200; amending section 73, chapter 35, Laws of 1945 as last amended by section 4, chapter 35, Laws of 1981 and RCW 50.20.050; amending section 74, chapter 35, Laws of 1945 as last amended by section 5, chapter 33, Laws of 1977 ex. sess. and RCW 50.20.060; amending section 2, chapter 1, Laws of 1971 as last amended by section 7, chapter 35, Laws of 1981 and RCW 50.22.010; amending section 4, chapter 1, Laws of 1971 as amended by section 9, chapter 35, Laws of 1981 and RCW 50.22.030; amending section 6, chapter 1, Laws of 1971 and RCW 50.22.050; amending section 7, chapter 1, Laws of 1971 and RCW 50.22.060; amending section 101, chapter 35, Laws of 1945 as last amended by section 11, chapter 190, Laws of 1979 ex. sess. and RCW 50.24.130; amending section 124, chapter 35, Laws of 1945 and RCW 50.32.080; amending and reenacting section 183, chapter 35, Laws of 1945 as amended by section 7, chapter ... (ESSB 4418), Laws of 1982 and RCW 50.40.020; reenacting section 3, chapter ... (ESSB 4418), Laws of 1982 and RCW 50.40....; amending and reenacting section 9, chapter 164, Laws of 1971 ex. sess. as last amended by section 21, chapter ... (ESSB 4418), Laws of 1982 and RCW 74.20A.090; adding new sections to chapter 50.04 RCW; adding a new section to chapter 50.20 RCW; adding new sections to chapter 50.22 RCW; adding a new section to chapter 50.32 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

Section 1. Section 59, chapter 35, Laws of 1945 as last amended by section 149, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 50.12.200 are each amended to read as follows:

The commissioner shall appoint a state advisory council composed of not more than nine (~~(members)~~) men and women, of which three shall be representatives of employers, three shall be representatives of employees, and three shall be representatives of the general public (~~((who are not entitled to benefits under this title))~~). Such council shall aid the commissioner in formulating policies and discussing problems related to the administration of this title and of assuring impartiality and freedom from political influence in the solution of such problems. The council shall serve without compensation. The commissioner may also appoint committees, and industrial or other special councils, to perform appropriate services. Advisory council members shall be reimbursed for travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 2. Section 2, chapter 1, Laws of 1971 as last amended by section 7, chapter 35, Laws of 1981 and RCW 50.22.010 are each amended to read as follows:

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

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

(a) Begins with the third week after (~~((whichever of the following weeks occurs first:~~

~~(i) A week for which there is a national "on" indicator; or
 (ii) A week for which there is a state "on" indicator; and))~~ a week for which there is an "on" indicator; and

(b) Ends with the third week after the first week for which there is ~~((both a national "off" indicator and a state))~~ an "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of ~~((a state))~~ an "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

~~((2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the twelve weeks immediately preceding it, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period):~~

~~(3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period):~~

~~(4))~~ (2) There is ((a "state 'on' indicator")) an "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) ~~((either:~~

~~(a)) equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded ((four percent; or~~

~~(b) Equaled or exceeded)) five percent.~~

~~((5))~~ (3) There is ((a "state 'off' indicator")) an "off" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) was either:

~~(a) Less than ((four)) five percent; or~~

~~(b) ((Four)) Five percent or more ((but less than five percent)) and the rate of insured unemployment was less than one hundred twenty percent of the average of the rates for the corresponding thirteen week period ending in each of the two preceding calendar years.~~

~~((6))~~ (4) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

~~((7))~~ (5) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

~~((8))~~ (6) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

~~((9))~~ (7) "Eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(8) An "additional benefit period" means a period within an extended benefit period which:

(a) Begins with the third week after a week for which:

(i) The governor determines that adverse economic conditions and high unemployment among the state's workers necessitate payment of additional benefits; and

(ii) The commissioner determines that, for the fifty-two consecutive weeks ending with such week, the rate of insured unemployment as calculated under (d) of this subsection equals or exceeds six and one-half percent: PROVIDED, That six percent shall apply if the fifty-two week rate of insured unemployment has been less than four and one-half percent at any time within the preceding one hundred four weeks.

(b) Ends with the third week after a week for which the commissioner determines that, for the fifty-two consecutive weeks ending with such week, the rate of insured unemployment as calculated under (d) of this subsection is less than six and one-half percent: PROVIDED, That six percent shall apply if the additional benefit period began because of the proviso in (a)(ii) of this subsection, the fifty-two week rate of insured unemployment has not exceeded six and one-half percent during the additional benefit period, and the additional benefit period has been in effect for fewer than thirty-six weeks.

(c) No additional benefit period may last for a period of less than thirteen weeks, and no additional benefit period may begin before the fourteenth week after the close of a prior additional benefit period.

(d) "Rate of insured unemployment," for the purposes of (a) and (b) of this subsection, means the percentage derived by dividing the average

weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent fifty-two consecutive-week period as determined by the commissioner on the basis of his reports to the United States Secretary of Labor by the average monthly employment covered under this title for the first four of the most recent six completed calendar quarters ending before the end of such fifty-two week period. The division shall be carried to the fourth decimal place with any remaining fraction disregarded.

(e) If a federally funded program of benefits is established which provides for benefits beyond thirty-nine weeks, any additional benefit period in effect shall terminate on the last day of the week preceding the effective week of the federal program. No additional benefit period may begin while such a federal program is in effect.

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

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

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

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

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

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within

the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

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

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d) (i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

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

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

Sec. 3. Section 7, chapter 1, Laws of 1971 and RCW 50.22.060 are each amended to read as follows:

(1) Whenever an extended benefit period is to become effective in this state (or in all states) as a result of ~~((a state or national))~~ an "on" indicator, or an extended benefit period is to be terminated in this state as a result of ~~((state and national))~~ an "off" indicator ~~((s or solely as a result of a state "off" indicator prior to January 1, 1972))~~, the commissioner shall make an appropriate public announcement.

(2) Computations required by the provisions of RCW 50.22.010 ~~((6))~~ (4) shall be made by the commissioner, in accordance with regulations prescribed by the United States secretary of labor.

Sec. 4. Section 4, chapter 1, Laws of 1971 as amended by section 9, chapter 35, Laws of 1981 and RCW 50.22.030 are each amended to read as follows:

(1) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds with respect to such week that:

(a) The individual is an "exhaustee" as defined in RCW 50.22.010(~~((13); and~~);

(b) He or she has satisfied the requirements of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) He or she has earned wages in the applicable base year of at least forty times his or her weekly benefit amount.

(2) An individual filing an interstate claim in any state under the interstate benefit payment plan shall not be eligible to receive extended benefits for any week beyond the first two weeks claimed for which extended benefits are payable unless an extended benefit period embracing such week is also in effect in the agent state.

Sec. 5. Section 6, chapter 1, Laws of 1971 and RCW 50.22.050 are each amended to read as follows:

(1) The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

~~((1))~~ (a) Fifty percent of the total amount of regular benefits which were payable to him under this title in his applicable benefit year;

~~((2))~~ (b) Thirteen times his weekly benefit amount which was payable to him under this title for a week of total unemployment in the applicable benefit year; or

~~((3))~~ (c) Thirty-nine times his weekly benefit amount which was payable to him under this title for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to him under this title with respect to the benefit year.

(2) Notwithstanding any other provision of this chapter, if the benefit year of any eligible individual ends within an extended benefit period, the extended benefits which the individual would otherwise be entitled to receive with respect to weeks of unemployment beginning after the end of the benefit year and within the extended benefit period shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amount as a trade readjustment allowance within that benefit year, multiplied by the individual's weekly extended benefit amount.

Sec. 6. Section 73, chapter 35, Laws of 1945 as last amended by section 4, chapter 35, Laws of 1981 and RCW 50.20.050 are each amended to read as follows:

(1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter until he or she has obtained bona fide work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks.

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

- (a) The duration of the work;
- (b) The extent of direction and control by the employer over the work; and
- (c) The level of skill required for the work in light of the individual's training and experience.

(2) An individual shall not be considered to have left work voluntarily without good cause when:

(a) He or she has left work to accept a bona fide offer of bona fide work as described in subsection (1) of this section; or

(b) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system.

(3) In determining under this section whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

(4) Subsections (1) and (3) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to

leave employment. Such an individual shall not be eligible for unemployment insurance benefits until he or she has requalified, either by obtaining bona fide work and earning wages of not less than the suspended weekly benefit amount in each of five calendar weeks or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department.

NEW SECTION. Sec. 7. There is added to chapter 50.20 RCW a new section to read as follows:

(1) Notwithstanding any other provision of this chapter, an otherwise eligible individual shall not be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the Trade Act of 1974, P.L. 93-618, nor may that individual be denied benefits for any such week by reason of leaving work which is not suitable employment to enter such training, or for failure to meet any requirement of federal or state law for any such week which relates to the individual's availability for work, active search for work, or refusal to accept work.

(2) For the purposes of this section, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as described for the purposes of the Trade Act of 1974, P.L. 93-618), if the wages for such work are not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974, P.L. 93-618.

Sec. 8. Section 124, chapter 35, Laws of 1945 and RCW 50.32.080 are each amended to read as follows:

After having acquired jurisdiction for review, the commissioner shall review the proceedings in question. Prior to rendering his decision, the commissioner may order the taking of additional evidence by an appeal tribunal to be made a part of the record in the case. Upon the basis of evidence submitted to the appeal tribunal and such additional evidence as the commissioner may order to be taken, the commissioner shall render his decision in writing affirming, modifying, or setting aside the decision of the appeal tribunal (~~and~~). Alternatively, the commissioner may order further proceedings to be held before the appeal tribunal, upon completion of which the appeal tribunal shall issue a decision in writing affirming, modifying, or setting aside its previous decision. The new decision may be appealed under RCW 50.32.070. The commissioner shall mail his decision to the interested parties at their last known addresses.

NEW SECTION. Sec. 9. There is added to chapter 50.32 RCW a new section to read as follows:

The commissioner may designate certain commissioner's decisions as precedents. The commissioner's decisions designated as precedents shall be published and made available to the public by the department.

Sec. 10. Section 183, chapter 35, Laws of 1945 as amended by section 7, chapter ... (ESSB 4418), Laws of 1982 and RCW 50.40.020 are each amended and reenacted to read as follows:

Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this title shall be void. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts, except as provided in ~~((section 3 of this 1982 act))~~ RCW 50.40... (section 3, chapter ... (ESSB 4418), Laws of 1982). Benefits received by any individual, so long as they are not commingled with other funds of the recipient, shall be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Sec. 11. Section 3, chapter ... (ESSB 4418), Laws of 1982 and RCW 50.40... are each reenacted to read as follows:

(1) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under subsection (7) of this section. If the individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the state or local child support enforcement agency enforcing those obligations that the individual has been determined to be eligible for unemployment compensation.

(2) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations as defined under subsection (7) of this section:

(a) The amount specified by the individual to the commissioner to be deducted and withheld under this subsection, if neither (b) nor (c) of this subsection is applicable;

(b) The amount (if any) determined pursuant to an agreement submitted to the commissioner under section 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency, unless (c) of this subsection is applicable; or

(c) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the Social Security Act, properly served upon the commissioner.

(3) Any amount deducted and withheld under subsection (2) of this section shall be paid by the commissioner to the appropriate state or local child support enforcement agency.

(4) Any amount deducted and withheld under subsection (2) of this section shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by that individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(5) For the purposes of this section, "unemployment compensation" means any compensation payable under this chapter including amounts payable by the commissioner under an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(7) "Child support obligations" as used in this section means only those obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the secretary of health and human services under part D of Title IV of the Social Security Act.

(8) "State or local child support enforcement agency" as used in this section means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection (7) of this section.

Sec. 12. Section 9, chapter 164, Laws of 1971 ex. sess. as last amended by section 21, chapter ... (ESSB 4418), Laws of 1982 and RCW 74.20A-.090 are each amended and reenacted to read as follows:

Whenever a support lien or order to withhold and deliver is served upon any person, firm, corporation, association, political subdivision, or department of the state asserting a support debt against earnings and there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state, any such earnings, RCW 7.33.280 shall not apply, but fifty percent of the disposable earnings shall be exempt and may be disbursed to the debtor whether such earnings are paid, or to be paid weekly, monthly, or at other intervals and whether there be due the debtor earnings for one week or for a longer period. The lien or order to withhold and deliver shall continue to operate and require said person, firm, corporation, association, political subdivision, or department of the state to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until the entire amount of the support debt stated in the lien or order to withhold and deliver has been withheld. As used in this chapter, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making such payments exempt from garnishment, attachment, or other process to satisfy

support obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.... (section 3, chapter ... (ESSB 4418), Laws of 1982) or Title 74 RCW. Earnings shall specifically include all gain derived from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets. The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld.

NEW SECTION. Sec. 13. There is added to chapter 50.04 RCW a new section to read as follows:

The term "employment" shall not include services rendered by any person, firm, or corporation currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW when:

(1) Contracting to perform work for any contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) There is no other person, firm or corporation doing the same work at the same time on the same project except two or more persons, firms or corporations may contract and do the same work at the same time on the same project if each person, firm or corporation has employees;

(3) The person, firm, or corporation has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(4) The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(5) The work which the person, firm, or corporation has contracted to perform is:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW.

Sec. 14. Section 11, chapter 35, Laws of 1945 and RCW 50.04.100 are each amended to read as follows:

"Employment", subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Except as provided by *section 12[13] of this 1982 act, personal services performed for an employing unit by one or more contractors or subcontractors acting individually or as a partnership, which do not meet the provisions of RCW 50.04.140, shall be considered employment of the employing unit: PROVIDED, HOWEVER, That such contractor or sub-

contractor shall be an employer under the provisions of this title in respect to personal services performed by individuals for such contractor or subcontractor.

Sec. 15. Section 101, chapter 35, Laws of 1945 as last amended by section 11, chapter 190, Laws of 1979 ex. sess. and RCW 50.24.130 are each amended to read as follows:

No employing unit which contracts with or has under it any contractor or subcontractor who is an employer under the provisions of this title shall make any payment or advance to, or secure any credit for, such contractor or subcontractor or on account of any contract or contracts to which said employing unit is a party unless such contractor or subcontractor has paid contributions, due or to become due for wages paid or to be paid by such contractor or subcontractor for personal services performed pursuant to such contract or subcontract, or has furnished a good and sufficient bond acceptable to the commissioner for payment of contributions, interest, and penalties. Failure to comply with the provisions of this section shall render said employing unit directly liable for such contributions, interest, and penalties and the commissioner shall have all of the remedies of collection against said employing unit under the provisions of this title as though the services in question were performed directly for said employing unit.

For the purposes of this section, a contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW shall not be responsible for any contributions for the work of any subcontractor if:

(1) The subcontractor is currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) There is no other person, firm or corporation doing the same work at the same time on the same project except two or more persons, firms or corporations may contract and do the same work at the same time on the same project if each person, firm or corporation has employees;

(3) The subcontractor has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(4) The subcontractor maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(5) The subcontractor has contracted to perform:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW.

Sec. 16. Section 74, chapter 35, Laws of 1945 as last amended by section 5, chapter 33, Laws of 1977 ex. sess. and RCW 50.20.060 are each amended to read as follows:

(1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter until he or she has obtained work and earned wages of not less than the suspended weekly benefit amount in each of five calendar weeks. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

(2) An individual who has been discharged because of a felony or a gross misdemeanor of which he or she has been convicted, or has admitted committing to a competent authority, and which is connected with his or her work shall be disqualified from receiving any benefits for which base year credits are earned in any employment prior to the discharge. Such disqualification begins with the first day of the calendar week in which he or she has been discharged, and all benefits paid during the period the individual was disqualified shall be recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other provision of this title.

NEW SECTION. Sec. 17. There is added to chapter 50.22 RCW a new section to read as follows:

(1) Additional benefits are payable to eligible persons who are "exhaustees" with respect to extended benefits. The term "exhaustee" is deemed to have the same meaning with respect to extended benefits as with respect to regular benefits.

(2) Additional benefit amounts shall be calculated pursuant to RCW 50.22.050(1) and (2).

(3) Eligibility for additional benefits shall be determined and benefits shall be paid under the same terms and conditions as for extended benefits.

NEW SECTION. Sec. 18. There is added to chapter 50.22 RCW a new section to read as follows:

(1) Notwithstanding RCW 50.22.010(8)(a), an additional benefit period is established for weeks of unemployment which begin on or after the third Sunday following the effective date of this section: PROVIDED, That this additional benefit period will be suspended during any week in which an extended benefit period is not in effect.

(2) Additional benefits are payable to otherwise eligible persons who have exhausted extended benefits on their most recent claim after July 1, 1980.

(3) The department of employment security shall develop proposals for a permanent program of additional benefits. The proposals shall address alternatives in trigger mechanisms, benefit levels, eligibility requirements, and unemployment insurance financing.

NEW SECTION. Sec. 19. There is added to chapter 50.22 RCW a new section to read as follows:

Benefits under *sections 16[17] and 17[18] of this act are not payable for weeks of unemployment beginning after February 26, 1983, unless extended by law.

NEW SECTION. Sec. 20. There is added to chapter 50.04 RCW a new section to read as follows:

The term "employment" does not include services performed in a barber shop licensed under chapter 18.15 RCW or a hairdressing or cosmetology shop licensed under chapter 18.18 RCW if:

- (1) The use of the shop facilities by the individual performing the services is contingent upon compensation to the shop owner; and
- (2) The individual performing the services receives no compensation or other consideration from the owner for the services performed.

NEW SECTION. Sec. 21. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 22. 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.

NEW SECTION. Sec. 23. *Sections 2, 9[10], 10[11], 11[12], 16[17], and 17[18] of this act are 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 immediately. Section 4 of this act shall take effect on September 26, 1982.

Passed the Senate April 11, 1982.

Passed the House April 1, 1982.

Approved by the Governor April 2, 1982.

Filed in Office of Secretary of State April 2, 1982.

*Reviser's note: The bracketed references in this chapter correct erroneous internal references which occurred during the engrossing process after a new section was added by amendment.

CHAPTER 19

[Engrossed Substitute Senate Bill No. 4285]

SOCIAL AND HEALTH SERVICES—LIMITED CASUALTY PROGRAM DEDUCTIBLE—NURSING HOME BILLING—MEDICAL CARE SERVICES

AN ACT Relating to social and health services; amending section 22, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 6, chapter 10, Laws of 1981 2nd ex. sess. and RCW 74.09.700; amending section 1, chapter 2, Laws of 1981 1st ex. sess. as amended by section 8, chapter 11, Laws of 1981 2nd ex. sess. and RCW 74.09.610; amending section