

UNEMPLOYMENT COMPENSATION LAW
BEFORE 2ESB 6097, AS AMENDED BY 2ESB 6097 (2003), AND AS AMENDED BY EHB 2255 (2005)

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
PREAMBLE			
Construction	The Employment Security Act is liberally construed to reduce involuntary unemployment to the minimum.	Silent.	Until 6/30/07, the Act is liberally construed to reduce involuntary unemployment to the minimum.
DEFINITIONS			
"Wages"	<p>"Wages" means remuneration paid by an employer to an individual.</p> <p>"Remuneration" includes "the cash value of all compensation paid in any medium other than cash."</p>	<p>"Wages" means remuneration paid by an employer to an individual.</p> <p>"Remuneration" includes "the cash value of all compensation paid in any medium other than cash" but, for contribution purposes, does not include income attributable to the exercise of stock options for contribution purposes.</p>	Silent.
COVERED EMPLOYMENT			
Service By Nonresident Aliens	Covered employment excludes certain nonresident aliens who are temporarily in the United States to work.	<p>Covered employment excludes work by:</p> <ul style="list-style-type: none"> • Certain nonresident aliens who are temporarily in the United States; and • Nonresident immigrants in the H-2A (agricultural guest worker) and H-2B (other guest worker) programs. 	Silent.

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
BENEFITS - ELIGIBILITY			
Benefit Applications	Claims must be filed in accordance with rules prescribed by the Commissioner.	VETOED BY THE GOVERNOR <i>The Employment Security Department must require claimants filing claims telephonically or electronically to provide additional proof of identity.</i>	Silent.
Continuing Eligibility/ Customary Trade Practices	Claimants must be physically able to work, available for work, and actively seeking "suitable work." Claimants must search for work per customary trade practices and through other methods when directed by the commissioner.	Claimants must be physically able to work, available for work, and actively seeking "suitable work." Claimants must search for work per customary trade practices and through other methods when directed by the commissioner. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the agreement or rules.	Silent.

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
Continuing Eligibility/ Part-Time Workers	"Suitable work" is employment in an occupation in keeping with the individual's prior work experience, education, or training (unless such work is not available in the general area). In most circumstances, "suitable work" is full-time.	"Suitable work" is employment in an occupation in keeping with the individual's prior work experience, education, or training (unless such work is not available in the general area). In most circumstances, "suitable work" is full-time. Suitable work for part-time workers is work for <u>17 or fewer</u> hours per week. A part-time worker is someone who earns wages in at least 40 weeks of the base year and does not earn wages in more than <u>17 hours</u> per week in <u>any weeks</u> of the base year.	Silent.

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
Job Search Monitoring	<p>The Employment Security Department must monitor the job search efforts of persons who have received five or more weeks of benefits.</p>	<p>The Employment Security Department must monitor the job search efforts of persons who have received five or more weeks of benefits.</p> <p>The Department must contract with employment security agencies in other states to ensure that out-of-state claimants in those states are actively engaged in searching for work in accordance with Washington job search requirements.</p> <p>The Department may use certain electronic means to ensure that individuals are subject to job search monitoring, regardless of whether they reside in Washington or elsewhere.</p> <p>A claimant who fails to actively search for work loses benefits for weeks in which he or she was not in compliance, and is required to repay such benefits.</p>	<p>Silent.</p>

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
BENEFITS - DISQUALIFICATION			
Voluntary Quits	<p>A claimant is disqualified from receiving benefits for voluntarily quitting work without good cause.</p> <p>The following voluntary quits do not disqualify a claimant from receiving benefits:</p> <ul style="list-style-type: none"> • Leaving to accept other work • Illness or disability, if claimant takes precautions to preserve employment status • Leaving work to relocate for spouse's employer-initiated mandatory transfer • Domestic violence • Other work related factors determined by the Commissioner, such as risk to health or safety, ability to perform the work, certain changes in travel time, substantial involuntary deterioration of the work factor 	<p>A claimant is disqualified from receiving benefits for voluntarily quitting work without good cause.</p> <p>The following voluntary quits do not disqualify a claimant from receiving benefits:</p> <ul style="list-style-type: none"> • Leaving to accept other work • Illness or disability, if claimant is not entitled to reinstatement • Leaving work to relocate for spouse's mandatory military transfer • Domestic violence • Reduction of 25% or more in compensation or hours • Change in worksite causes increased distance or difficulty of travel • Deterioration of worksite safety • Illegal activities in the worksite • Change in usual work that violates individual's religious convictions or sincere beliefs 	Silent.

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
Misconduct	<p>"Misconduct" is as an act or failure to act in willful disregard of the employer's interest where the effect is to harm the employer's business.</p> <p>If discharged for misconduct, the individual is disqualified for 7 weeks and until he or she earns 7 times his or her weekly benefit amount.</p> <p>If discharged for a felony or gross misdemeanor, the individual loses his or her wage credits from that employment.</p>	<p>"Misconduct" is willful or wanton disregard of the employer's or another employee's rights, deliberate violations or disregard of standards of behavior, carelessness or negligence that causes or would likely cause serious bodily harm to the employer or another employee, or carelessness or negligence that shows an intentional or substantial disregard of the employer's interest.</p> <p>"Gross misconduct" is a criminal act in connection with an individual's work, or conduct that demonstrates a flagrant and wanton disregard for the employer's or another employee's rights.</p> <p>An individual who is discharged for misconduct is disqualified for 10 weeks and until he or she earns 10 times his or her weekly benefit amount.</p> <p>An individual who is discharged for gross misconduct has his or her wage credits based on that employment or 680 hours of wage credits, whichever is greater, cancelled.</p>	Silent.

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
BENEFITS - AMOUNT & DURATION			
Maximum Weekly Benefit (Amount)	<p>The maximum weekly benefit amount (WBA) is 70% of the average weekly wage, except that:</p> <ul style="list-style-type: none"> From 7/1/2002 to 6/30/2004, the maximum WBA is frozen at \$496; and From 7/1/2004 to 6/30/2010, the growth rate in the maximum WBA is capped at 4%. 	<p>The maximum weekly benefit amount is \$496 or 63% of the state average weekly wage, whichever is greater.</p>	Silent.
Maximum Benefits Payable (Duration)	<p>The maximum benefit payable is the lesser of 30 times the weekly benefit amount, or 1/3 of the total gross wages in all four quarters of the base year.</p>	<p>The maximum benefit payable is the lesser of 26 times the weekly benefit amount, or 1/3 of the total gross wages in all four quarters of the base year.</p>	Silent.
Individual Weekly Benefit Amount	<p>An individual's weekly benefit amount is one twenty-fifth [4.0%] of the average of the individual's wages in the <u>two quarters</u> of the base year in which wages were highest.</p>	<p>In 2004, an individual's weekly benefit amount is 4.0% of the average of the individual's wages in the <u>three quarters</u> of the base year in which wages were highest.</p> <p>After 2004, an individual's weekly benefit amount is 1.0% of the average of the individual's wages in the <u>four quarters</u> of the base year in which wages were highest.</p>	<p>Until 6/30/07, an individual's weekly benefit amount is 3.85% of the average of the individual's wages in the <u>two quarters</u> of the base year in which wages were highest.</p>

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FINANCING			
Qualified Employers	<p>Contributions rates are based on:</p> <ul style="list-style-type: none"> The tax schedule in effect (AA through F depending on the balance in the trust fund); and An employer's placement, in order of benefit ratios, in an array with 20 rate classes, each having 5% of payroll. <p>The system is experience rated, but several factors result in some costs being socialized to all employers:</p> <ul style="list-style-type: none"> Some benefits are not charged to employer's experience rating accounts by statute. Some employers pay at contribution rates that are lower than their benefit ratios. Benefits cannot be charged to employers whose accounts are closed because of bankruptcy or other similar factors. 	<p>Contribution rates are determined by adding together the following rates, subject to a maximum rate:</p> <p><u>Array calculation factor</u></p> <ul style="list-style-type: none"> 40 rate classes (rates from 0% to 5.4%). Rate class depends on layoff experience. <p><u>Social cost factor</u></p> <ul style="list-style-type: none"> Calculate flat rate: difference between benefits paid and taxes paid, divided by total taxable payroll, adjusted for the months of benefits in the trust fund above 10 months, but no less than 0.6%. Pay graduated rate: pay from 78% to 120% of flat rate, depending on rate class. <p><u>Maximum rate (array + social cost rates)</u></p> <ul style="list-style-type: none"> 6.0% for certain seasonal industries (fishing, agriculture, and food processing/packing). 6.5% for all other industries. <p><u>Solvency surcharge</u></p> <ul style="list-style-type: none"> Up to an additional 0.2% if UI trust fund has fewer than 6 	<p>Contribution rates are determined in the same manner as under 2ESB 6097, except that</p> <ul style="list-style-type: none"> In FY 2006 and 2007, the social cost factor rate is zero for employers in agricultural crops, livestock, agricultural services, cold storage, and food and seafood processing. In CY 2007, the flat social cost factor is the lesser of the rate applicable with the new WBA calculations in effect or the rate that would have been applicable if the WBA had been calculated as 1 percent of annual wages. In CY 2007, the formula for determining the social cost factor is adjusted to account for any benefits that are not effectively charged because of these changes in FY 2006.

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Nonqualified Employers	<p>Employers with less than two years experience or who are delinquent in paying contributions are not qualified to be in the array.</p> <ul style="list-style-type: none"> For new employers, the contribution rate is the industry average rate, but not less than 1%. For delinquent employers, the contribution rate is 5.6%. 	<p>The contribution rate of an employer not qualified to be in the array is the sum of two separate factors:</p> <ul style="list-style-type: none"> For new employers, the array calculation factor is the average industry rate plus 15%, but not more than 5.4% (the rate in rate class 40). The graduated social cost rate is the average industry rate plus 15%, but not more than the rate assigned to rate class 40. For delinquent employers, the array calculation factor rate is 5.6% (two-tenths higher than the rate in rate class 40) and the graduated social cost rate is the same rate as the rate assigned to rate class 40. 	Silent.
Successor Employers	<p>Until qualifying in its own right, a successor employer pays contributions at the lower rate of the rate of the predecessor employer's rate class or the new employer rate.</p>	<p>A successor employer who has substantial continuity of ownership and management of the predecessor's business is not permitted to use the new employer rate. Instead, such a successor employer must pay at the rate assigned to the predecessor employer, and will have the experience of the predecessor employer transferred to the successor as part of its array calculation factor rate beginning in January following the transfer.</p>	Silent.

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
Taxable Wage Base	<p>The taxable wage base is capped at 80% of the average annual wage.</p> <p>"Wages" are determined by averaging wage data from the three years prior to the calculation.</p>	<p>The taxable wage base is capped at 80% of the average annual wage.</p> <p>"Wages" are determined based on wage data from the previous year.</p>	Silent.
Experience Rating and Noncharging	<p>Benefits paid to claimants must be charged pro rata to the experience rating accounts of all base year employers, unless there is a statutory exemption.</p> <p>Certain benefits are not charged, including benefits paid to claimants found to be marginally attached to the labor force.</p>	<p>Benefits paid to claimants who separated from employment for the following reasons may be charged to the experience rating account of only the separating employer:</p> <ul style="list-style-type: none"> • Leave to accept other work • Reduction of 25% or more in compensation or hours • Change in work site that causes increased distance or difficulty of travel • Deterioration of work site safety • Illegal activities in the worksite • Change in usual work that violates the individual's religious convictions or sincere beliefs. <p>Benefits paid to claimants who are marginally attached to the labor force are charged.</p>	Silent.

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Penalties	<p>An employer who fails to file a timely and complete quarterly unemployment tax report is subject to a minimum penalty of \$10 per violation.</p> <p>Penalties equal to a percent of the amount that is delinquent for the first, second, and third month of delinquency may be assessed.</p>	<p>Penalties for certain employer delinquencies and/or misrepresentations are as follows:</p> <ul style="list-style-type: none"> • If quarterly tax reports are not timely or complete, the penalty is \$250 or 10% of the contributions, whichever is less. • If there is a knowing misrepresentation of payroll, the penalty is 10 times the amount of the difference in contributions that were paid and that should have been paid, and audit costs. • If the delinquency is due to an intent to evade the successorship provisions, the penalty is the assignment of the maximum tax rate for 5 quarters. 	<p>Silent.</p>

	BEFORE 2ESB 6097	AS AMENDED BY 2ESB 6097	AS AMENDED BY EHB 2255
ADMINISTRATION			
Uses of Funds	The unemployment trust fund may not be used for purposes other than paying benefits and repaying federal loans.	Various funds in the unemployment insurance system must be used solely for unemployment insurance purposes.	Silent.
Reports/Studies/Task Forces	Not applicable.	<p>The Department must conduct the studies specified below, and report to the Legislature its findings and recommendations by December 1, 2003:</p> <ul style="list-style-type: none"> • In consultation with a business-labor advisory committee, identify programs funded with special administrative contributions. • Conduct a review of employer turnover in the unemployment compensation system. • Conduct a study of the potential for year to year volatility in the rate classes to which employers are assigned. 	<p>The Department must report to the Legislature in 2006 and 2007 on the impact of the changes on the unemployment trust fund.</p> <p>The Joint Legislative Task Force on Unemployment Insurance Benefit Equity is established. The Task Force must review the system, including whether the benefit structure is equitable, whether the structure fairly accounts for changes in workforce, industry, and claimant work patterns, whether the tax structure equitably distributes taxes, and whether the trust fund is adequate in the long-term, with a report by January 1, 2006.</p>

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Reed Act	Not applicable.	Reed Act funds (\$11.5 million) are appropriated to implement 2ESB 6097.	Reed Act funds are requisitioned in FY 2006 and 2007 to pay an amount of benefits equal to the amount of benefits not effectively charged because: (1) the social cost factor rate is reduced to zero for certain industries; and/or (2) the applicable social cost factor rate is the rate under the prior law calculation.

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