

1 1952-S AMH KINR H2589.1

2 **SHB 1952 - H AMD 265 Adopted 3-20-91**

3 By Representatives R. King, Cole, Vance, Prentice, Jones,
4 Rasmussen, Holland, Leonard and Heavey

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6 Strike everything after the enacting clause and insert the
7 following:

8 "Sec. 1. RCW 51.16.210 and 1989 c 385 s 1 are each amended to read
9 as follows:

10 (1) APPLICABILITY. The department shall assess premiums, under the
11 provisions of this section, for certain horse racing employments
12 licensed in accordance with chapter 67.16 RCW. This premium assessment
13 shall be for the purpose of providing industrial insurance coverage for
14 employees ~~((of trainers))~~ licensed under chapter 67.16 RCW, including
15 but not limited to exercise riders, pony riders, ~~((and))~~ grooms,
16 jockeys, and apprentice jockeys, and including all on or off track
17 employment. For the purposes of RCW 51.16.210, 67.16.300, 51.16.140,
18 51.32.073, and 67.16.020 a hotwalker shall be considered a groom.
19 ~~((The department may adopt rules under chapter 34.05 RCW to carry out
20 the purposes of this section, including rules providing for alternative
21 reporting periods and payment due dates for coverage under this
22 section. The department rules shall ensure that no licensee licensed
23 prior to May 13, 1989, shall pay more than the assessment fixed at the
24 basic manual rate.))~~

25 (2) EMPLOYER STATUS. For the purposes of this section, trainers
26 shall be considered the exclusive employer of grooms, pony riders, and
27 exercise riders. Persons or racing associations licensed to hold race
28 meets under chapter 67.16 RCW, and race horse owners and trainers

1 licensed under chapter 67.16 RCW shall be considered the special
2 employers of jockeys and apprentice jockeys.

3 (3) TRAINER AND GROOM ASSESSMENT. The department shall compute
4 industrial insurance premium rates on a per license basis(~~(, which~~
5 ~~premiums shall be assessed)) to fund the claims liability for all
6 covered horse racing employments except for jockeys and apprentice
7 jockeys, which shall be computed as provided in subsection (5) of this
8 section. The premium requirement needed to cover employments subject
9 to this subsection shall be funded by assessments calculated by the
10 department and paid at the time of each issuance or renewal of the
11 license for owners, trainers, and grooms ((in amounts established by
12 department rule for coverage under this section. Premium assessments
13 shall be determined in accordance with the requirements of this title,
14 except that assessments shall not be experience rated and shall be
15 fixed at the basic manual rate. However, rates may vary according to
16 differences in working conditions at major tracks and fair tracks.~~

17 ~~(3) For the purposes of paying premiums and assessments under this~~
18 ~~section and making reports under this title, individuals licensed as~~
19 ~~trainers by the Washington horse racing commission shall be considered~~
20 ~~employers)). The premium assessment for a groom's license shall be~~
21 ~~paid by the trainer responsible for signing the groom's license~~
22 ~~application and shall be payable at the time of license issuance or~~
23 ~~renewal.~~

24 (4) OWNER'S FEE. The fee to be assessed on owner licenses as
25 required by subsection (3) of this section shall be considered a fee
26 and not premiums and shall not exceed one hundred fifty dollars
27 annually. However, those owners having less than a full ownership in
28 a horse or horses shall pay a percentage of the required license fee
29 that is equal to the total percentage of the ownership that the owner
30 has in the horse or horses. In no event shall an owner having an

1 ownership percentage in more than one horse pay more than a one hundred
2 fifty-dollar license fee. This assessment shall be used to fund the
3 claims liabilities of covered horse racing employments other than
4 jockeys and apprentice jockeys as required under subsection (5) of this
5 section. The assessment on each owner's license shall not imply that
6 an owner is an employer, but shall be required as part of the privilege
7 of holding an owner's license.

8 (5) JOCKEYS AND APPRENTICE JOCKEYS PREMIUMS. For the purposes of
9 this subsection, the premium obligation for the coverage of jockeys and
10 apprentice jockeys licensed under chapter 67.16 RCW shall be paid by
11 owners and trainers, as follows:

12 (a) The premium assessment on owners is separate from the fee
13 charged to owners under subsection (4) of this section and shall also
14 be paid on a per license basis at the time of license issuance or
15 renewal.

16 (b) The premium assessment for trainers shall be paid on a per
17 start basis and collected from the trainers by the racing association
18 operating the track that is holding the licensed event. The
19 association shall remit all such premiums collected from the trainers
20 collected on a per start basis as provided under department rules.

21 (6) BASE RATED PREMIUMS. The premiums established by the
22 department to cover employments subject to this section shall not be
23 experience rated.

24 (7) RULE MAKING AUTHORITY. The department may adopt rules under
25 chapter 34.05 RCW to carry out the purposes of this section, including
26 rules providing for alternative premium bases, reporting periods, and
27 payment due dates for coverage under this section. Premium assessments
28 ((under this section)) or fees which are collected on a per license
29 basis shall be collected by the Washington horse racing commission and

1 deposited in the industrial insurance trust funds as provided under
2 department rules.

3 (8) EXCLUSIVE REMEDY. Owners and trainers who come under the
4 jurisdiction of the Washington horse racing commission are considered
5 to be special employers of jockeys and apprentice jockeys and the
6 exclusive remedy provisions of RCW 51.04.010 apply for jockeys and
7 apprentice jockeys."

8 "Sec. 2. RCW 67.16.300 and 1989 c 385 s 2 are each amended to read
9 as follows:

10 In addition to the license fees authorized by this chapter, the
11 commission shall collect the industrial insurance premium assessments
12 required under RCW 51.16.210 from trainers, grooms, and owners. The
13 industrial insurance premium assessments required under RCW 51.16.210
14 shall be retroactive to January 1, (~~1989~~) 1991, and shall be
15 collected from all licensees whose licenses were issued after that
16 date. The commission shall deposit the industrial insurance premium
17 assessments in the industrial insurance trust fund as required by rules
18 adopted by the department of labor and industries."

19 "Sec. 3. RCW 51.12.020 and 1987 c 316 s 2 are each amended to read
20 as follows:

21 The following are the only employments which shall not be included
22 within the mandatory coverage of this title:

23 (1) Any person employed as a domestic servant in a private home by
24 an employer who has less than two employees regularly employed forty or
25 more hours a week in such employment.

26 (2) Any person employed to do gardening, maintenance, repair,
27 remodeling, or similar work in or about the private home of the
28 employer.

1 (3) A person whose employment is not in the course of the trade,
2 business, or profession of his or her employer and is not in or about
3 the private home of the employer.

4 (4) Any person performing services in return for aid or sustenance
5 only, received from any religious or charitable organization.

6 (5) Sole proprietors or partners: PROVIDED, That after July 26,
7 1981, sole proprietors or partners who for the first time register
8 under chapter 18.27 RCW or become licensed for the first time under
9 chapter 19.28 RCW shall be included under the mandatory coverage
10 provisions of this title subject to the provisions of RCW 51.32.030.
11 These persons may elect to withdraw from coverage under RCW 51.12.115.

12 (6) Any child under eighteen years of age employed by his parent or
13 parents in agricultural activities on the family farm.

14 (7) (~~Jockeys while participating in or preparing horses for race~~
15 ~~meets licensed by the Washington horse racing commission pursuant to~~
16 ~~chapter 67.16 RCW.~~

17 ~~(8))~~ Any officer of a corporation elected and empowered in
18 accordance with the articles of incorporation or bylaws of a
19 corporation who at all times during the period involved is also a
20 director and shareholder of the corporation. However, any corporation
21 may elect to cover such officers who are in fact employees of the
22 corporation in the manner provided by RCW 51.12.110.

23 ~~((9))~~ (8) Services rendered by a musician or entertainer under a
24 contract with a purchaser of the services, for a specific engagement or
25 engagements when such musician or entertainer performs no other duties
26 for the purchaser and is not regularly and continuously employed by the
27 purchaser. A purchaser does not include the leader of a group or
28 recognized entity who employs other than on a casual basis musicians or
29 entertainers."

1 **"Sec. 4.** RCW 51.08.178 and 1988 c 161 s 12 are each amended to
2 read as follows:

3 (1) For the purposes of this title, the monthly wages the worker
4 was receiving from all employment at the time of injury shall be the
5 basis upon which compensation is computed unless otherwise provided
6 specifically in the statute concerned. In cases where the worker's
7 wages are not fixed by the month, they shall be determined by
8 multiplying the daily wage the worker was receiving at the time of the
9 injury:

10 (a) By five, if the worker was normally employed one day a week;

11 (b) By nine, if the worker was normally employed two days a week;

12 (c) By thirteen, if the worker was normally employed three days a
13 week;

14 (d) By eighteen, if the worker was normally employed four days a
15 week;

16 (e) By twenty-two, if the worker was normally employed five days a
17 week;

18 (f) By twenty-six, if the worker was normally employed six days a
19 week;

20 (g) By thirty, if the worker was normally employed seven days a
21 week.

22 The term "wages" shall include the reasonable value of board,
23 housing, fuel, or other consideration of like nature received from the
24 employer as part of the contract of hire, but shall not include
25 overtime pay except in cases under subsection (2) of this section.
26 However, tips shall also be considered wages only to the extent such
27 tips are reported to the employer for federal income tax purposes. The
28 daily wage shall be the hourly wage multiplied by the number of hours
29 the worker is normally employed. The number of hours the worker is
30 normally employed shall be determined by the department in a fair and

1 reasonable manner, which may include averaging the number of hours
2 worked per day.

3 (2) In cases where (a) the worker's employment is exclusively
4 seasonal in nature or (b) the worker's current employment or his or her
5 relation to his or her employment is essentially part-time or
6 intermittent, the monthly wage shall be determined by dividing by
7 twelve the total wages earned, including overtime, from all employment
8 in any twelve successive calendar months preceding the injury which
9 fairly represent the claimant's employment pattern.

10 (3) If, within the twelve months immediately preceding the injury,
11 the worker has received from the employer at the time of injury a bonus
12 as part of the contract of hire, the average monthly value of such
13 bonus shall be included in determining the worker's monthly wages.

14 (4) The average monthly wage of a jockey or apprentice jockey is
15 based upon all earnings, including earnings from outside the state.
16 The department shall adopt the rules necessary for gathering and
17 computing the wage information required for compliance with this
18 subsection.

19 (5) In cases where a wage has not been fixed or cannot be
20 reasonably and fairly determined, the monthly wage shall be computed on
21 the basis of the usual wage paid other employees engaged in like or
22 similar occupations where the wages are fixed."

23 "Sec. 5. RCW 51.16.140 and 1989 c 385 s 3 are each amended to read
24 as follows:

25 (1) Every employer who is not a self-insurer shall deduct from the
26 pay of each of his or her workers one-half of the amount he or she is
27 required to pay, for medical benefits within each risk classification.
28 Such amount shall be periodically determined by the director and
29 reported by him or her to all employers under this title: PROVIDED,

1 That the state governmental unit shall pay the entire amount into the
2 medical aid fund for volunteers, as defined in RCW 51.12.035, and the
3 state apprenticeship council shall pay the entire amount into the
4 medical aid fund for registered apprentices or trainees, for the
5 purposes of RCW 51.12.130. The deduction under this section is not
6 authorized for premiums assessed under RCW 51.16.210, except as
7 specifically authorized in RCW 51.16.210(5)(b).

8 (2) It shall be unlawful for the employer, unless specifically
9 authorized by this title, to deduct or obtain any part of the premium
10 or other costs required to be by him or her paid from the wages or
11 earnings of any of his or her workers, and the making of or attempt to
12 make any such deduction shall be a gross misdemeanor."

13 "NEW SECTION. Sec. 6. This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and shall take
16 effect immediately."

17 **SHB 1952** - H AMD
18 By Representative R. King

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20 On page 1, line 2 of the title, after "jockeys;" strike the
21 remainder of the title and insert "amending RCW 51.16.210, 67.16.300,
22 51.12.020, 51.08.178, and 51.16.140; and declaring an emergency."