

---

ENGROSSED SUBSTITUTE HOUSE BILL 1952

---

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Rasmussen, R. King, Cole, Ferguson, Leonard, Holland, G. Fisher, Winsley, Heavey, May, Phillips, R. Fisher, Fuhrman, Lisk and Sheldon).

Read first time March 6, 1991.

1 AN ACT Relating to industrial insurance coverage for jockeys and  
2 apprentice jockeys; amending RCW 51.16.210, 67.16.300, 51.12.020,  
3 51.08.178, and 51.16.140; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.16.210 and 1989 c 385 s 1 are each amended to read  
6 as follows:

7 (1) APPLICABILITY. The department shall assess premiums, under the  
8 provisions of this section, for certain horse racing employments  
9 licensed in accordance with chapter 67.16 RCW. This premium assessment  
10 shall be for the purpose of providing industrial insurance coverage for  
11 employees (~~of trainers~~) licensed under chapter 67.16 RCW, including  
12 but not limited to exercise riders, pony riders, (~~and~~) grooms,  
13 jockeys, and apprentice jockeys, and including all on or off track  
14 employment. For the purposes of RCW 51.16.210, 67.16.300, 51.16.140,  
15 51.32.073, and 67.16.020 a hotwalker shall be considered a groom.

1 (~~The department may adopt rules under chapter 34.05 RCW to carry out~~  
2 ~~the purposes of this section, including rules providing for alternative~~  
3 ~~reporting periods and payment due dates for coverage under this~~  
4 ~~section. The department rules shall ensure that no licensee licensed~~  
5 ~~prior to May 13, 1989, shall pay more than the assessment fixed at the~~  
6 ~~basic manual rate.))~~

7 (2) EMPLOYER STATUS. For the purposes of this section, trainers  
8 shall be considered the exclusive employer of grooms, pony riders, and  
9 exercise riders. Persons or racing associations licensed to hold race  
10 meets under chapter 67.16 RCW, and race horse owners and trainers  
11 licensed under chapter 67.16 RCW shall be considered the special  
12 employers of jockeys and apprentice jockeys.

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

27 (~~3) For the purposes of paying premiums and assessments under this~~  
28 ~~section and making reports under this title, individuals licensed as~~  
29 ~~trainers by the Washington horse racing commission shall be considered~~  
30 ~~employers)). The premium assessment for a groom's license shall be~~

1 paid by the trainer responsible for signing the groom's license  
2 application and shall be payable at the time of license issuance or  
3 renewal.

4 (4) OWNER'S FEE. The fee to be assessed on owner licenses as  
5 required by subsection (3) of this section shall be considered a fee  
6 and not premiums and shall not exceed one hundred fifty dollars  
7 annually. However, those owners having less than a full ownership in  
8 a horse or horses shall pay a percentage of the required license fee  
9 that is equal to the total percentage of the ownership that the owner  
10 has in the horse or horses. In no event shall an owner having an  
11 ownership percentage in more than one horse pay more than a one hundred  
12 fifty-dollar license fee. This assessment shall be used to fund the  
13 claims liabilities of covered horse racing employments other than  
14 jockeys and apprentice jockeys as required under subsection (5) of this  
15 section. The assessment on each owner's license shall not imply that  
16 an owner is an employer, but shall be required as part of the privilege  
17 of holding an owner's license.

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

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

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

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

4       (7) RULE MAKING AUTHORITY.   The department may adopt rules under  
5 chapter 34.05 RCW to carry out the purposes of this section, including  
6 rules providing for alternative premium bases, reporting periods, and  
7 payment due dates for coverage under this section. Premium assessments  
8 ((under this section)) or fees which are collected on a per license  
9 basis shall be collected by the Washington horse racing commission and  
10 deposited in the industrial insurance trust funds as provided under  
11 department rules.

12       (8) EXCLUSIVE REMEDY.   Owners and trainers who come under the  
13 jurisdiction of the Washington horse racing commission are considered  
14 to be special employers of jockeys and apprentice jockeys and the  
15 exclusive remedy provisions of RCW 51.04.010 apply for jockeys and  
16 apprentice jockeys.

17       **Sec. 2.** RCW 67.16.300 and 1989 c 385 s 2 are each amended to read  
18 as follows:

19       In addition to the license fees authorized by this chapter, the  
20 commission shall collect the industrial insurance premium assessments  
21 required under RCW 51.16.210 from trainers, grooms, and owners. The  
22 industrial insurance premium assessments required under RCW 51.16.210  
23 shall be retroactive to January 1, ~~((1989))~~ 1991, and shall be  
24 collected from all licensees whose licenses were issued after that  
25 date. The commission shall deposit the industrial insurance premium  
26 assessments in the industrial insurance trust fund as required by rules  
27 adopted by the department of labor and industries.

1       **Sec. 3.** RCW 51.12.020 and 1987 c 316 s 2 are each amended to read  
2 as follows:

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

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

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

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

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

16       (5) Sole proprietors or partners: PROVIDED, That after July 26,  
17 1981, sole proprietors or partners who for the first time register  
18 under chapter 18.27 RCW or become licensed for the first time under  
19 chapter 19.28 RCW shall be included under the mandatory coverage  
20 provisions of this title subject to the provisions of RCW 51.32.030.  
21 These persons may elect to withdraw from coverage under RCW 51.12.115.

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

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

27       (8)) Any officer of a corporation elected and empowered in  
28 accordance with the articles of incorporation or bylaws of a  
29 corporation who at all times during the period involved is also a  
30 director and shareholder of the corporation. However, any corporation

1 may elect to cover such officers who are in fact employees of the  
2 corporation in the manner provided by RCW 51.12.110.

3       (~~(9)~~) (8) Services rendered by a musician or entertainer under a  
4 contract with a purchaser of the services, for a specific engagement or  
5 engagements when such musician or entertainer performs no other duties  
6 for the purchaser and is not regularly and continuously employed by the  
7 purchaser. A purchaser does not include the leader of a group or  
8 recognized entity who employs other than on a casual basis musicians or  
9 entertainers.

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

12       (1) For the purposes of this title, the monthly wages the worker  
13 was receiving from all employment at the time of injury shall be the  
14 basis upon which compensation is computed unless otherwise provided  
15 specifically in the statute concerned. In cases where the worker's  
16 wages are not fixed by the month, they shall be determined by  
17 multiplying the daily wage the worker was receiving at the time of the  
18 injury:

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

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

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

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

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

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

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

3 The term "wages" shall include the reasonable value of board,  
4 housing, fuel, or other consideration of like nature received from the  
5 employer as part of the contract of hire, but shall not include  
6 overtime pay except in cases under subsection (2) of this section.  
7 However, tips shall also be considered wages only to the extent such  
8 tips are reported to the employer for federal income tax purposes. The  
9 daily wage shall be the hourly wage multiplied by the number of hours  
10 the worker is normally employed. The number of hours the worker is  
11 normally employed shall be determined by the department in a fair and  
12 reasonable manner, which may include averaging the number of hours  
13 worked per day.

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

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

25 (4) The average monthly wage of a jockey or apprentice jockey is  
26 based upon all earnings, including earnings from outside the state.  
27 The department shall adopt the rules necessary for gathering and  
28 computing the wage information required for compliance with this  
29 subsection.

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

5       **Sec. 5.** RCW 51.16.140 and 1989 c 385 s 3 are each amended to read  
6 as follows:

7       (1) Every employer who is not a self-insurer shall deduct from the  
8 pay of each of his or her workers one-half of the amount he or she is  
9 required to pay, for medical benefits within each risk classification.  
10 Such amount shall be periodically determined by the director and  
11 reported by him or her to all employers under this title: PROVIDED,  
12 That the state governmental unit shall pay the entire amount into the  
13 medical aid fund for volunteers, as defined in RCW 51.12.035, and the  
14 state apprenticeship council shall pay the entire amount into the  
15 medical aid fund for registered apprentices or trainees, for the  
16 purposes of RCW 51.12.130. The deduction under this section is not  
17 authorized for premiums assessed under RCW 51.16.210, except as  
18 specifically authorized in RCW 51.16.210(5)(b).

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

24       NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and shall take  
27 effect immediately.