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**SUBSTITUTE SENATE BILL 5070**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Commerce & Labor (originally sponsored by Senators Nelson, Oke and Craswell).

Read first time February 27, 1991.

1 AN ACT Relating to industrial insurance compensation; amending RCW  
2 51.08.180 and 51.08.013; and declaring an emergency.

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

4 **Sec. 1.** RCW 51.08.180 and 1987 c 175 s 3 are each amended to read  
5 as follows:

6 (1) "Worker" means every person in this state who is engaged in the  
7 employment of an employer under this title, whether by way of manual  
8 labor or otherwise in the course of his or her employment; also every  
9 person in this state who is engaged in the employment of or who is  
10 working under an independent contract, the essence of which is his or  
11 her personal labor for an employer under this title, whether by way of  
12 manual labor or otherwise, in the course of his or her employment:  
13 PROVIDED, That a person is not a worker for the purpose of this title,  
14 with respect to his or her activities attendant to operating a truck

1 which he or she owns, and which is leased to a common or contract  
2 carrier.

3 (2) For the purposes of this title, any person, firm, or  
4 corporation currently engaging in a business which is registered under  
5 chapter 18.27 RCW or licensed under chapter 19.28 RCW is not a worker  
6 when:

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

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

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

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

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

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

22 (3) Any person, firm, or corporation registered under chapter 18.27  
23 RCW or licensed under chapter 19.28 RCW including those performing work  
24 for any contractor registered under chapter 18.27 RCW or licensed under  
25 chapter 19.28 RCW is a worker when the contractor supervises or  
26 controls the means by which the result is accomplished or the manner in  
27 which the work is performed.

28 (4) For the purposes of this title, any person participating as a  
29 driver or back-up driver in commuter ride sharing, as defined in RCW

1 46.74.010(1), is not a worker while driving a ride-sharing vehicle on  
2 behalf of the owner or lessee of the vehicle.

3 (5) For the purposes of this title, any person who appears as a  
4 witness in any criminal, civil, administrative, or other public  
5 proceeding, unless such appearance is otherwise within the course of  
6 his or her employment, is not a worker.

7 **Sec. 2.** RCW 51.08.013 and 1979 c 111 s 15 are each amended to read  
8 as follows:

9 "Acting in the course of employment" means the worker acting at his  
10 or her employer's direction or in the furtherance of his or her  
11 employer's business which shall include time spent going to and from  
12 work on the jobsite, as defined in RCW 51.32.015 and 51.36.040, insofar  
13 as such time is immediate to the actual time that the worker is engaged  
14 in the work process in areas controlled by his or her employer, except  
15 parking areas, and it is not necessary that at the time an injury is  
16 sustained by a worker he or she be doing the work on which his or her  
17 compensation is based or that the event be within the time limits on  
18 which industrial insurance or medical aid premiums or assessments are  
19 paid.

20 The term shall not include time spent going to or coming from the  
21 employer's place of business in commuter ride sharing, as defined in  
22 RCW 46.74.010(1), notwithstanding any participation by the employer in  
23 the ride-sharing arrangement. The term shall also not include time  
24 spent by a juror going to or coming from the location of his or her  
25 jury service, notwithstanding any reimbursement for mileage by the  
26 employer pursuant to RCW 43.03.060.

27 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately.

3 NEW SECTION. **Sec. 4.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.