

SENATE BILL 5217

State of Washington

52nd Legislature

1991 Regular Session

By Senators Anderson, McMullen and A. Smith; by request of Department of Labor & Industries.

Read first time January 24, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance assessments; and amending
2 RCW 51.16.200 and 51.48.150.

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

4 **Sec. 1.** RCW 51.16.200 and 1986 c 9 s 6 are each amended to read as
5 follows:

6 Whenever any employer quits business, or sells out, exchanges, or
7 otherwise disposes of the employer's business or stock of goods, any
8 tax payable hereunder shall become immediately due and payable, and the
9 employer shall, within ten days thereafter, make a return and pay the
10 tax due; and any person who becomes a successor to such business shall
11 become liable for the full amount of the tax and withhold from the
12 purchase price a sum sufficient to pay any tax due from the employer
13 until such time as the employer shall produce a receipt from the
14 department showing payment in full of any tax due or a certificate that
15 no tax is due and, if such tax is not paid by the employer within ten

1 days from the date of such sale, exchange, or disposal, the successor
2 shall become liable for the payment of the full amount of tax, and the
3 payment thereof by such successor shall, to the extent thereof, be
4 deemed a payment upon the purchase price, and if such payment is
5 greater in amount than the purchase price the amount of the difference
6 shall become a debt due such successor from the employer.

7 No successor may be liable for any tax due from the person from
8 whom that person has acquired a business or stock of goods if that
9 person gives written notice to the department of such acquisition and
10 no assessment is issued by the department within (~~sixty~~) one hundred
11 eighty days of receipt of such notice against the former operator of
12 the business and a copy thereof mailed to such successor.

13 **Sec. 2.** RCW 51.48.150 and 1987 c 442 s 1119 are each amended to
14 read as follows:

15 The director or the director's designee is hereby authorized to
16 issue to any person, firm, corporation, municipal corporation,
17 political subdivision of the state, a public corporation, or any agency
18 of the state, a notice and order to withhold and deliver property of
19 any kind whatsoever when he or she has reason to believe that there is
20 in the possession of such person, firm, corporation, municipal
21 corporation, political subdivision of the state, public corporation, or
22 any agency of the state, property which is or shall become due, owing,
23 or belonging to any employer upon whom a notice of assessment has been
24 served by the department for payments due to the state fund. The
25 effect of a notice and order to withhold and deliver shall be
26 continuous from the date such notice and order to withhold and deliver
27 is first made until the liability out of which such notice and order to
28 withhold and deliver arose is satisfied or becomes unenforceable
29 because of lapse of time. The department shall release the notice and

1 order to withhold and deliver when the liability out of which the
2 notice and order to withhold and deliver arose is satisfied or becomes
3 unenforceable by reason of lapse of time and shall notify the person
4 against whom the notice and order to withhold and deliver was made that
5 such notice and order to withhold and deliver has been released.

6 The notice and order to withhold and deliver shall be served by
7 certified mail, accompanied by an affidavit of service by mailing, or
8 served by the sheriff of the county or by the sheriff's deputy, or by
9 any duly authorized representatives of the director. Any person, firm,
10 corporation, municipal corporation, political subdivision of the state,
11 public corporation or any agency of the state upon whom service has
12 been made is hereby required to answer the notice within twenty days
13 exclusive of the day of service, under oath and in writing, and shall
14 make true answers to the matters inquired of in the notice and order to
15 withhold and deliver. In the event there is in the possession of the
16 party named and served with a notice and order to withhold and deliver,
17 any property which may be subject to the claim of the department, such
18 property shall be delivered forthwith to the director or the director's
19 duly authorized representative upon service of the notice to withhold
20 and deliver which will be held in trust by the director for application
21 on the employer's indebtedness to the department, or for return without
22 interest, in accordance with a final determination of a petition for
23 review, or in the alternative such party shall furnish a good and
24 sufficient surety bond satisfactory to the director conditioned upon
25 final determination of liability. Should any party served and named in
26 the notice to withhold and deliver fail to make answer to such notice
27 and order to withhold and deliver, within the time prescribed herein,
28 it shall be lawful for the court, after the time to answer such order
29 has expired, to render judgment by default against the party named in
30 the notice to withhold and deliver for the full amount claimed by the

1 director in the notice to withhold and deliver together with costs. In
2 the event that a notice to withhold and deliver is served upon an
3 employer and the property found to be subject thereto is wages, then
4 the employer shall be entitled to assert in the answer to all
5 exemptions provided for by chapter 6.27 RCW to which the wage earner
6 may be entitled.