
SENATE BILL 5788

State of Washington 52nd Legislature 1991 Regular Session

By Senators Cantu, Owen, Metcalf, Barr and Craswell.

Read first time February 20, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to employer liability; amending RCW 51.16.120;
2 adding a new section to chapter 50.20 RCW; and adding a new section to
3 chapter 50.32 RCW.

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

5 **Sec. 1.** RCW 51.16.120 and 1984 c 63 s 1 are each amended to read
6 as follows:

7 (1) Whenever a worker has a previous bodily disability from any
8 previous injury or disease, whether known or unknown to the employer,
9 and shall suffer a further disability from injury or occupational
10 disease in employment covered by this title and become totally and
11 permanently disabled from the combined effects thereof or die when
12 death was substantially accelerated by the combined effects thereof,
13 then the experience record of an employer insured with the state fund
14 at the time of said further injury or disease shall be charged and a
15 self-insured employer shall pay directly into the reserve fund only the

1 accident cost which would have resulted solely from said further injury
2 or disease, had there been no preexisting disability, and which
3 accident cost shall be based upon an evaluation of the disability by
4 medical experts. The medical evaluation to separate out the previous
5 disability and the subsequent injury or injuries shall occur within
6 thirty days, to be conducted by a medical expert or experts as the
7 department appoints. The attending physician shall not evaluate, nor
8 act as part of a medical panel which evaluates, the worker to determine
9 how each employer's experience rating is adjusted for purposes of this
10 section. The purpose of this medical evaluation is to prevent the
11 erosion of a subsequent employer's contributory responsibility into a
12 total responsibility of the worker's condition due to the lack of an
13 adequate medical baseline being established for experience rating
14 computation purposes. The difference between the charge thus assessed
15 to such employer at the time of said further injury or disease and the
16 total cost of the pension reserve shall be assessed against the second
17 injury fund. The department shall pass upon the application of this
18 section in all cases where benefits are paid for total permanent
19 disability or death and issue an order thereon appealable by the
20 employer. Pending outcome of such appeal the transfer or payment shall
21 be made as required by such order.

22 (2) The department shall, in cases of claims of workers sustaining
23 injuries or occupational diseases in the employ of state fund
24 employers, recompute the experience record of such employers when the
25 claims of workers injured in their employ have been found to qualify
26 for payments from the second injury fund after the regular time for
27 computation of such experience records and the department may make
28 appropriate adjustments in such cases including cash refunds or credits
29 to such employers.

1 (3) To encourage employment of injured workers who are not
2 reemployed by the employer at the time of injury, the department may
3 adopt rules providing for the reduction or elimination of premiums or
4 assessments from subsequent employers of such workers and may also
5 adopt rules for the reduction or elimination of charges against such
6 employers in the event of further injury to such workers in their
7 employ.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.20 RCW
9 to read as follows:

10 Employers who discharge workers for:

11 (1) Criminal actions;

12 (2) Knowingly violating company rules; or

13 (3) Leaving his or her employment without good cause but claiming
14 that he or she was fired when applying for unemployment benefits;
15 are eligible for an expedited preliminary review as specified in
16 section 3 of this act.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.32 RCW
18 to read as follows:

19 (1) An employer may petition for an expedited preliminary review
20 for a determination whether a worker is ineligible for benefits due to
21 the reasons set forth in section 2 of this act.

22 (2) This expedited procedure shall be filed by the employer prior
23 to or in conjunction with the initial determination by the employment
24 security department. Benefit appeal from the expedited preliminary
25 review shall follow the procedure set forth in this chapter.