HOUSE BILL REPORT

SHB 1579

As Passed House
February 7, 1994

Title: An act relating to prohibited practices in industrial insurance.

Brief Description: Providing civil penalties for prohibited practices in industrial insurance.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representative G. Cole).

Brief History:
Reported by House Committee on:
Commerce & Labor, March 3, 1993, DPS;
Passed House, February 7, 1994, 94-0.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer; and Veloria.

Staff: Chris Cordes (786-7117).

Background: Various penalties have been established under the Industrial Insurance Act for violation of the act or rules adopted under the act. Employers are subject to a penalty of up to $250 for failing to report the injury or illness of an employee if the employee has received medical treatment or is disabled from work and if the employer has notice or knowledge of the injury or illness. Physicians who fail to file a report required by the Department of Labor and Industries are subject to a penalty of up to $250. Any person who violates a rule adopted by the department under the Industrial Insurance Act is subject to a penalty of up to $500.

Self-insured employers may be subject to decertification or corrective action if the employer: (1) intentionally or repeatedly induces employees to fail to report injuries, induces the employee to treat the injury as an off-the-job injury, persuades the employee to accept less than the

benefits due, or unreasonably makes it necessary for the employee to resort to proceedings to obtain compensation; (2) habitually fails to comply with department rules; or (3) habitually engages in arbitrarily or unreasonably refusing employment to applicants because of nondisabling bodily conditions.

To be timely, a claim for an industrial injury must be filed within one year of the injury. For occupational diseases, the time limit is two years from the date that the worker receives notice from a physician of the existence of the disease.

Summary of Bill: It is unlawful for an employer, employer's representative, or any person to:

(1) induce or coerce an employee not to report an industrial accident;
(2) induce or coerce an employee to treat an industrial accident as an off-the-job injury;
(3) unreasonably make it necessary for the employee to resort to proceedings against the employer to obtain industrial insurance compensation;
(4) engage in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of non-disabling bodily conditions; or
(5) induce or coerce the employee's attending physician with regard to releasing the employee for return to work.

An employer, employer representative, or person who violates these provisions is subject to a civil penalty of $1,000 for each offense. The department will collect the penalty for the benefit of the worker.

If the failure to file a claim within the statutory time limit resulted from an act prohibited by the bill, the time limitation for filing a claim will begin running on the date on which a final determination is made that a prohibited act occurred that caused the delay.

Fiscal Note: Requested February 22, 1993.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill is intended to prevent coercion of employees with respect to their rights under the industrial insurance system. The court decision that makes it possible to get records and make contact with the worker's doctor without notice is detrimental to workers. This is a substantial departure from the law in personal injury cases.

Although there are procedures for decertifying self-insured employers who violate the industrial insurance law, the process is rarely used.

Testimony Against: Several provisions of the bill are very broad and raise questions about the interpretation of the language. The court's decision concerning contact with the worker's physician recognized a long-standing rule that there is no physician-patient privilege in the industrial insurance system with respect to the occupational injury or disease. If contact is prohibited with the worker's doctor or the vocational counselor, it may delay processing of the claim and increase disputes. It would inhibit working with these providers as part of the claims management team.

Witnesses: (In favor): Bill Hochberg, Washington State Trial Lawyers Association; and Bob Dilger, Washington Building and Construction Trades Council. (Opposed): Wayne Williams, Washington Self-Insurers Association; Janet Morris, Department of Labor and Industries; and Peg Sturdevant.