

SENATE BILL REPORT

SHB 1579

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, FEBRUARY 25, 1994

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

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

HOUSE COMMITTEE ON COMMERCE & LABOR

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Fraser, McAuliffe, Pelz, Sutherland, Vognild and Wojahn.

Minority Report: Do not pass as amended.

Signed by Senators Amondson, Newhouse and Sellar.

Staff: Dave Cheal (786-7576)

Hearing Dates: February 17, 1994; February 25, 1994

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:

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 act, 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.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

Two items on the list of prohibited practices are removed: (1) unreasonably making workers resort to additional legal proceedings; and (2) arbitrarily and unreasonably refusing employment due to nondisabling conditions.

Department of Labor and Industries personnel are immune from claims under the bill.

The statute of limitation's extension in cases where claimants file late because they were coerced or induced is limited to one additional year, or a total of two years from the date of injury. The provision extending the statute of limitation in occupational disease claims is deleted.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

No meaningful remedy for or deterrent against coercing employees to give up their rights exists.

TESTIMONY AGAINST:

Several provisions of the bill are very broad and subject to abuse. The provisions which extend the statute of limitation have the effect of eliminating the statute of limitation altogether.

TESTIFIED: Dick Ducharme, Building Industry Assn. of WA (con); Clif Finch, AWB (con); Robby Stern, WA State Labor Council (pro)