

1 **SHB 1451** - H AMDS 248 ADOPTED 3/15/95

2 By Representative Mastin

3 On page 13, line 4, after "it," insert "requires claimants to
4 submit to an unreasonable number of medical examinations as a
5 condition of receiving benefits under this title, unreasonably
6 interferes with the claimants' choice of health services providers
7 to treat the injuries covered by this title,"

8
9 On page 13, after line 33, insert the following:

10 "NEW SECTION. **Sec. 22.** (1) It is unlawful for a self-
11 insurance group representative, or employer member of the group or
12 the employer's representative, or any person to:

13 (a) Induce or coerce an employee not to report an industrial
14 accident;

15 (b) Induce or coerce an employee to treat an industrial
16 accident as an off-the-job injury; or

17 (c) Unreasonably attempt to influence an employee's attending
18 physician with regard to releasing the employee for return to work.

19 (2) A claimant or beneficiary of the claimant who is injured
20 or damaged because of a violation of this section or a violation of
21 a rule adopted by the director under this section may bring a civil
22 action in superior court to enjoin further violations, and to
23 recover the actual damages sustained by him or her, or both,
24 together with the cost of suit, including a reasonable attorneys'
25 fee to be set by the court.

26 (3) The prohibited practices set forth in this section apply
27 to employers who are members of self-insurance groups, to
28 administrative organizations maintained by self-insurance groups to
29 manage their industrial insurance matters, and to self-insurance
30 groups."

1 On page 14, after line 24, insert the following:

2 "Sec. 25. RCW 51.28.050 and 1984 c 159 s 1 are each amended
3 to read as follows:

4 No application shall be valid or claim thereunder enforceable
5 unless filed within one year after the day upon which the injury
6 occurred or the rights of dependents or beneficiaries accrued,
7 except as provided in RCW 51.28.055. If the failure to file the
8 application or take action to enforce a claim under this section
9 results from an act prohibited by section 22 of this act, then the
10 time period for filing under this section shall commence from the
11 date of the prohibited act.

12
13 **Sec. 26.** RCW 51.28.055 and 1984 c 159 s 2 are each amended to
14 read as follows:

15 Claims for occupational disease or infection to be valid and
16 compensable must be filed within two years following the date the
17 worker had written notice from a physician: (1) Of the existence
18 of his or her occupational disease, and (2) that a claim for
19 disability benefits may be filed. The notice shall also contain a
20 statement that the worker has two years from the date of the notice
21 to file a claim. The physician shall file the notice with the
22 department. The department shall send a copy to the worker and to
23 the self-insurer if the worker's employer is self-insured.
24 However, a claim is valid if it is filed within two years from the
25 date of death of the worker suffering from an occupational disease.

26 If the failure to file the application or take action to
27 enforce a claim under this section results from an act prohibited
28 by section 22 of this act, then the time period for filing under
29 this section shall commenced from the date of the prohibited act."

30
31 Renumber the sections consecutively, correct internal references
32 accordingly, and correct the title.

EFFECT: The provisions authorizing the formation of self-insurance groups for industrial insurance are amended to add unlawful practices by the group representative, or employer or employer's representative, or any person. The prohibited practices include:

(1) inducing an employee not to report an industrial accident or to treat the accident as an off-the-job injury.

(2) unreasonably attempting to influence the employee's attending physician regarding return to work.

A claimant who is injured because of a prohibited act may bring a civil action to enjoin further violations and to recover actual damages and litigation costs.

If an application for an industrial injury or occupational disease fails to be filed within the statutory timelines because of a prohibited act, the time limit begins on the date of the prohibited act.

Revocation of a self-insurance group's certificate may occur if the group requires claimants to submit to an unreasonable number of medical examinations or unreasonably interferes with claimants' choice of health services provider.