

HOUSE BILL REPORT

SHB 1414

As Passed Legislature

Title: An act relating to the definition of "acting in the course of employment" for industrial insurance.

Brief Description: Defining "acting in the course of employment."

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Lisk, Chandler, Fuhrman, Goldsmith, Cole and Romero).

Brief History:

Committee Activity:

Commerce & Labor: 1/30/95, 3/1/95 [DPS].

Floor Activity:

Passed House: 3/8/95, 98-0.

Passed Legislature.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole; Fuhrman; Goldsmith and Horn.

Staff: Chris Cordes (786-7117).

Background: To be entitled to industrial insurance benefits, a worker must be injured while "acting in the course of employment." A worker is acting in the course of employment if he or she is acting at the employer's direction or in furtherance of the employer's business.

Generally, a worker is not considered to be in the course of employment while on a recreational excursion which is not incident to employment or in furtherance of the employer's interests. The Board of Industrial Insurance Appeals has held that workers playing on company softball or football teams are not in the course of employment if: (1) the employer provided no financial support to the team, other than league entry fees, (2) the employer exerted no control over the players, (3) players were not paid for their time, (4) games were played off company premises and during

nonwork hours, and (5) the company name was not used on team uniforms and no business was solicited through the team's participation in the league.

Summary of Bill: For the purposes of industrial insurance coverage, an employee is not "acting in the course of employment" while participating in a social activities, recreational or athletic activities, events, or competitions, and parties or picnics, whether or not the employer pays some or all of the costs of the activities or events, unless: (1) the participation is during work hours, not including paid leave; (2) the employee is paid monetary compensation by the employer to participate; or (3) the employee is ordered or directed by the employer to participate or reasonably believed that he or she was ordered or directed to participate.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Employers are not comfortable offering to help employees with recreational and social activities because of the gray area in the law. If employers are to be held liable for industrial insurance benefits during these activities, they will not be able to continue to support them.

Testimony Against: The bill is not clear in several respects. Many fire fighters work out during working hours as part of a regimen to keep in physical shape, while other employees participate in "off the clock" warm-ups before work. Workers can suffer injuries during these kind of activities. What is the industrial insurance liability in these cases? If the employer expects employees to take part in these activities, it is not clear whether that is an "order" or "direction" from the employer.

Testified: (In favor) Melanie Stewart, Washington Self-Insurers Association; and Clif Finch, Association of Washington Business. (Opposed) Robby Stern, Washington State Labor Council.