
SENATE BILL 5698

State of Washington

56th Legislature

1999 Regular Session

By Senators Fairley and Kline

Read first time 02/03/1999. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to joint and several liability for purposes of
2 unemployment compensation and workers' compensation; amending RCW
3 51.16.060; adding a new section to chapter 50.24 RCW; adding a new
4 section to chapter 51.16 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature finds
7 that temporary, leased, and contract employees are entitled to the
8 state's basic safety net of job protections. Third parties benefit
9 from the labors of such employees, and should be held accountable when
10 temporary services agencies, employee leasing companies, and other
11 contract employers are unable to meet their employment-related
12 obligations. It is the intent of the legislature that third parties
13 that benefit from the labors of temporary, leased, and contract
14 employees should be subject to joint and several liability for unpaid
15 unemployment insurance contributions and workers' compensation
16 premiums.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.24 RCW
18 to read as follows:

1 UNEMPLOYMENT COMPENSATION. (1) A temporary services agency, an
2 employee leasing agency, or any other entity that is responsible, under
3 contract or in fact, for the payment of wages to individuals in
4 remuneration for personal services performed for, or for the benefit
5 of, a third party is liable for contributions due under this title to
6 insure individuals performing personal services for the third party.

7 (2) If a temporary services agency, an employee leasing agency, or
8 any other entity fails to pay contributions due under this title to
9 insure individuals performing one hundred fifty hours or more per
10 quarter of personal services for a third party, the third party is
11 jointly and severally liable for such contributions, interest, and
12 penalties. The commissioner has all of the remedies of collection
13 against the third party under the provisions of this title.

14 (3) The temporary services agency, the employee leasing agency, or
15 the other entity must keep separate records and submit separate
16 quarterly reports for each third party for which one or more
17 individuals perform one hundred fifty hours or more per quarter of
18 personal services.

19 (4) The definitions in this subsection apply throughout this
20 section unless the context clearly requires otherwise.

21 (a) "Employee leasing agency" means an individual or entity that,
22 for a fee, places the employees of a client onto its payroll and leases
23 the employees back to the client.

24 (b) "Temporary services agency" means an individual or entity that
25 is engaged in the business of furnishing individuals to perform
26 services on a part-time or temporary basis for a third party.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.16 RCW
28 to read as follows:

29 WORKERS' COMPENSATION. (1) A temporary services agency, an
30 employee leasing agency, or any other entity that is responsible, under
31 contract or in fact, for the payment of wages to individuals in
32 remuneration for personal services performed for, or for the benefit
33 of, a third party is liable for premiums due under this title to insure
34 individuals performing personal services for the third party.

35 (2) If a temporary services agency, an employee leasing agency, or
36 any other entity fails to pay premiums due under this title to insure
37 individuals performing one hundred fifty hours or more per quarter of
38 personal services for a third party, the third party is jointly and

1 severally liable for such premiums, interest, and penalties. The
2 department shall have all of the remedies of collection against the
3 third party under the provisions of this title.

4 (3) The temporary services agency, the employee leasing agency, or
5 the other entity must keep separate records and submit separate
6 quarterly reports for each third party for which one or more
7 individuals perform one hundred fifty hours or more per quarter of
8 personal services.

9 (4) The benefits and remedies conferred by this title upon
10 individuals performing one hundred fifty hours or more per quarter of
11 personal services is to the exclusion of any other remedy, proceeding,
12 or compensation for personal injuries or sickness, caused by the
13 temporary services agency, the employee leasing agency, the other
14 entity, or the third party except as otherwise provided in this title.
15 All civil actions and civil causes of actions by such individuals
16 against the temporary services agency, the employee leasing agency, the
17 other entity, or the third party for personal injuries or sickness are
18 abolished, except as otherwise provided in this title.

19 (5)(a) Every temporary services agency, employee leasing agency, or
20 other entity shall secure the payment of its obligations under this
21 title by: (i) Insuring and keeping insured the payment of such
22 benefits with the state fund; or (ii) qualifying as a self-insurer
23 under this title. No temporary services agency, employee leasing
24 agency, or other entity shall secure the payment of its obligations
25 under this title by or through a third party.

26 (b) Every third party shall secure the payment of compensation
27 under this title by: (i) Insuring and keeping insured the payment of
28 such benefits with the state fund; or (ii) qualifying as a self-insurer
29 under this title. No third party shall secure the payment of its
30 obligations under this title by or through a temporary services agency,
31 employee leasing agency, or other entity.

32 (6) The definitions in this subsection apply throughout this
33 section unless the context clearly requires otherwise.

34 (a) "Employee leasing agency" means an individual or entity that,
35 for a fee, places the employees of a client onto its payroll and leases
36 the employees back to the client.

37 (b) "Temporary services agency" means an individual or entity that
38 is engaged in the business of furnishing individuals to perform
39 services on a part-time or temporary basis for a third party.

1 **Sec. 4.** RCW 51.16.060 and 1985 c 315 s 1 are each amended to read
2 as follows:

3 Every employer not qualifying as a self-insurer, shall insure with
4 the state and shall, on or before the last day of January, April, July
5 and October of each year thereafter, furnish the department with a true
6 and accurate payroll for the period in which workers were employed by
7 it during the preceding calendar quarter, the total amount paid to such
8 workers during such preceding calendar quarter, and a segregation of
9 employment in the different classes established pursuant to this title,
10 and shall pay its premium thereon to the appropriate fund. Premiums
11 for a calendar quarter, whether reported or not, shall become due and
12 delinquent on the day immediately following the last day of the month
13 following the calendar quarter. The sufficiency of such statement
14 shall be subject to the approval of the director: PROVIDED, That the
15 director may in his or her discretion and for the effective
16 administration of this title require an employer in individual
17 instances to furnish a supplementary report containing the name of each
18 individual worker, his or her hours worked, his or her rate of pay and
19 the class or classes in which such work was performed: PROVIDED
20 FURTHER, That in the event an employer shall furnish the department
21 with four consecutive quarterly reports wherein each such quarterly
22 report indicates that no premium is due the department may close the
23 account: PROVIDED FURTHER, That the department may promulgate rules
24 and regulations in accordance with chapter 34.05 RCW to establish other
25 reporting periods and payment due dates in lieu of reports and payments
26 following each calendar quarter, and may also establish terms and
27 conditions for payment of premiums and assessments based on estimated
28 payrolls, with such payments being subject to approval as to
29 sufficiency of the estimated payroll by the department, and also
30 subject to appropriate periodic adjustments made by the department
31 based on actual payroll(~~(: AND PROVIDED FURTHER, That a temporary help~~
32 ~~company which provides workers on a temporary basis to its customers~~
33 ~~shall be considered the employer for purposes of reporting and paying~~
34 ~~premiums and assessments under this title according to the appropriate~~
35 ~~rate classifications as determined by the department: PROVIDED, That~~
36 ~~the employer shall be liable for paying premiums and assessments,~~
37 ~~should the temporary help company fail to pay the premiums and~~
38 ~~assessments under this title)).~~

1 NEW SECTION. **Sec. 5.** CAPTIONS. Captions used in this act are not
2 any part of the law.

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