
SUBSTITUTE HOUSE BILL 1875

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Fromhold, Conway, Campbell, Wood, McCoy, Hunt, Simpson, Ormsby, Williams, Kenney, Chase, Moeller, Hasegawa and Cody)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to substantially improving worker safety, accident
2 prevention, and worker outcomes through the department of labor and
3 industries' retrospective rating program; amending RCW 51.16.035,
4 51.18.020, and 51.18.040; adding new sections to chapter 51.18 RCW; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.18 RCW
8 to read as follows:

9 The legislature reaffirms that the purposes of the department of
10 labor and industries' retrospective rating program are to substantially
11 improve worker safety, accident prevention, and worker outcomes. The
12 legislature finds that certain aspects of the program are inconsistent
13 with these purposes and, therefore, do not create the incentives
14 necessary to ensure that workers are not significantly less likely to
15 be injured.

16 The legislature finds that retrospective rating groups granted the
17 privilege of participating in the retrospective rating program must
18 agree to terms and conditions of program participation that are
19 reasonably related to achieving these purposes. These terms and

1 conditions shall include, but not be limited to, requiring that refunds
2 be distributed to employers, and ensuring that employers in the
3 retrospective rating groups are substantially similar considering their
4 risk classifications.

5 The legislature declares that immediate changes are necessary to
6 ensure that retrospective rating groups focus on safety, and
7 consequently, to preserve the health and safety of Washington workers.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.18 RCW
9 to read as follows:

10 (1) With respect to refunds made by the department to a sponsor of
11 a retrospective rating group on or after the effective date of this
12 section:

13 (a) The sponsoring entity must distribute the full amount of the
14 refund to the members of the retrospective rating group within one
15 hundred eighty days of the final adjustment for the corresponding
16 coverage period except as provided in (c) and (d) of this subsection.

17 (b) The sponsoring entity must distribute the refund to the members
18 by sending checks imprinted with the sponsoring entity's name directly
19 to the member's last known address by certified mail, return receipt
20 requested.

21 (c) A sponsoring entity may elect not to distribute any part of a
22 refund to a member who is in arrears for enrollment fees or other
23 payments required to participate in the retrospective rating group, so
24 long as any part not distributed to the member in arrears is
25 distributed to members not in arrears within one hundred eighty days of
26 the final adjustment for the corresponding coverage period.

27 (d) A sponsoring entity may use any part of a refund to pay the
28 department any part or all of any penalties owed for any active
29 coverage period.

30 (2) The department shall periodically inspect and review records of
31 sponsoring entities to assure compliance with the requirements of this
32 section.

33 (3) If a sponsoring entity violates the requirements of this
34 section, the department may disqualify the sponsoring entity from
35 further participation in the retrospective rating program.

1 **Sec. 3.** RCW 51.16.035 and 1999 c 7 s 8 are each amended to read as
2 follows:

3 (1) The department shall classify all occupations or industries in
4 accordance with their degree of hazard and fix therefor basic rates of
5 premium which shall be the lowest necessary to maintain actuarial
6 solvency of the accident and medical aid funds in accordance with
7 recognized insurance principles. The department shall formulate and
8 adopt rules and regulations governing the method of premium calculation
9 and collection and providing for a rating system consistent with
10 recognized principles of workers' compensation insurance which shall be
11 designed to stimulate and encourage accident prevention and to
12 facilitate collection. The department may annually, or at such other
13 times as it deems necessary to maintain solvency of the funds, readjust
14 rates in accordance with the rating system to become effective on such
15 dates as the department may designate.

16 (2) In providing a retrospective rating plan under RCW 51.18.010,
17 the department may consider each individual retrospective rating group
18 as a single employing entity for purposes of (~~dividends or premium~~
19 ~~discounts~~) refunds.

20 **Sec. 4.** RCW 51.18.020 and 1999 c 7 s 3 are each amended to read as
21 follows:

22 Prior to allowing (~~initial entrance into~~) enrollment or
23 reenrollment in the state's retrospective rating plan, the department
24 shall review each (~~proposed~~) retrospective rating group applying to
25 enroll or reenroll in the plan to ensure that the following criteria
26 are met:

27 (1) The entity sponsoring the retrospective rating group must have
28 been in existence for at least four years;

29 (2) The entity must be exempt from federal income tax;

30 (3) The entity sponsoring the retrospective rating group must exist
31 primarily for a purpose other than that of obtaining or offering
32 insurance coverage or insurance related services, including sponsoring
33 a retrospective rating group;

34 (~~(3)~~) (4) The entity sponsoring the retrospective rating group
35 must have a written workplace safety and accident prevention plan in
36 place for the proposed retrospective rating group and must propose

- 1 methods by which the retrospective rating group will cooperate with
2 department claims management activities;
- 3 ~~((4))~~ (5) All employers in the retrospective rating group must be
4 members of the sponsoring entity;
- 5 ~~((5))~~ (6) All employers in the retrospective rating group must
6 have an industrial insurance account in good standing with the
7 department;
- 8 ~~((6))~~ (7) Fifty percent of the original employers in the
9 retrospective rating group must have been members of the sponsoring
10 entity for one year prior to the group's entrance into the
11 retrospective rating plan;
- 12 ~~((7))~~ (8) The retrospective rating group must be composed of
13 employers who are substantially similar considering the services or
14 activities performed by the employees of those employers;
- 15 ~~((8))~~ (9) The initial premium level for the retrospective rating
16 group must be at least one million five hundred thousand dollars and
17 shall be based on the standard premium of the proposed group members'
18 most current previous coverage period; and
- 19 ~~((9))~~ (10) The formation and operation of the retrospective
20 rating group must seek to substantially improve workplace safety and
21 accident prevention for the employers in the group.

22 **Sec. 5.** RCW 51.18.040 and 1999 c 7 s 5 are each amended to read as
23 follows:

24 (1) In order to ensure that all retrospective rating groups are
25 made up of employers who are substantially similar, ~~((considering the
26 services or activities performed by the employees of those employers,))~~
27 the sponsoring entity of a retrospective rating group shall select a
28 single, broad industry or business category for each retrospective
29 rating group. ~~((Once an industry or business category is selected, the
30 department shall allow all risk classifications reasonably related to
31 that business or industry category into that retrospective rating
32 group.))~~

33 (2) The following broad industry and business categories shall be
34 used by the sponsoring entity and the department in establishing
35 retrospective rating groups:

36 (a) Agriculture and related services;

1 (b) Automotive, truck and boat manufacturing, sales, repair, and
2 related services;

3 (c) Construction and related services;

4 (d) Distillation, chemical production, food, and related services;

5 (e) Facilities or property management, maintenance, and related
6 services;

7 (f) Government, utilities, schools, health care, and related
8 services;

9 (g) Health care, pharmaceutical, laboratories, and related
10 services;

11 (h) Logging, wood products manufacturing, and related services;

12 (i) Manufacturing, processing, mining, quarrying, and related
13 services;

14 (j) Retail stores, wholesale stores, professional services, and
15 related services;

16 (k) Temporary help and related services; and

17 (l) Transportation, recycling, warehousing, facility maintenance,
18 and related services.

19 (3) The industry and business categories in subsection (2) of this
20 section are not exclusive. In response to significant changes in
21 marketplace demographics or the discovery of unique business or
22 industry categories, the department may, by rule, include additional
23 broad industry or business category selections. The department may, by
24 rule, remove an industry covered within an industry or business
25 category in the event that the business or industry is no longer found
26 within this state.

27 ~~(4) ((Given the broad nature of the industry and business
28 categories in subsection (2) of this section, the risk classification
29 or classifications assigned to an individual employer may appropriately
30 fall into multiple business or industry categories.~~

31 ~~(5) In order to simplify administration and keep the administrative
32 costs associated with devising a different classification system for a
33 retrospective rating plan to a minimum, the state's retrospective
34 rating plan shall follow the same classification procedure established
35 by the department to assign workers' compensation insurance
36 classifications to an employer.~~

37 ~~(6))~~ (a) With respect to any coverage period, employers who have
38 been a member of an existing, approved retrospective rating group prior

1 to July 25, 1999, may continue in that group even if they are not
2 substantially similar to the industry or business category selected
3 pursuant to (~~subsection (1) of this~~) section 5(1), chapter 7, Laws of
4 1999.

5 (~~However, new~~) (b)(i) With respect to any coverage period
6 beginning before January 1, 2007, employers who were proposed for
7 addition to a retrospective rating group on or after July 25, 1999, and
8 before the effective date of this section, and who have been a member
9 of a retrospective rating group prior to the effective date of this
10 section, must fall within the (~~selected~~) industry or business
11 category selected pursuant to section 5(1), chapter 7, Laws of 1999.

12 (ii) With respect to any coverage period beginning on or after
13 January 1, 2007, an employer who was proposed for addition to a
14 retrospective rating group on or after July 25, 1999, and before the
15 effective date of this section, and who has been a member of a
16 retrospective rating group before the effective date of this section,
17 must report more than fifty percent of its hours in one or more risk
18 classifications in the retrospective rating group's business or
19 industry category. If the employer reports more than fifty percent of
20 its hours in risk classifications not in any group's business or
21 industry category, the department shall approve the employer's
22 participation in the retrospective rating group composed of the most
23 similar employers.

24 (c) With respect to any coverage period beginning on or after the
25 effective date of this section, employers who are proposed for addition
26 to a retrospective rating group on or after the effective date of this
27 section must report more than fifty percent of its hours in one or more
28 risk classifications in the retrospective rating group's business or
29 industry category. If the employer reports more than fifty percent of
30 its hours in risk classifications not in any group's business or
31 industry category, the department shall approve the employer's
32 participation in the retrospective rating group composed of the most
33 similar employers.

34 NEW SECTION. Sec. 6. A new section is added to chapter 51.18 RCW
35 to read as follows:

36 The director may adopt rules to carry out the purposes of this
37 chapter.

1 NEW SECTION. **Sec. 7.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

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