
SENATE BILL 5842

State of Washington

59th Legislature

2005 Regular Session

By Senators Doumit, Kohl-Welles, Rasmussen, Keiser, Kline, Prentice, McAuliffe, Spanel, Franklin and Jacobsen

Read first time 02/09/2005. Referred to Committee on Labor, Commerce, Research & Development.

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;
5 adding a new section to chapter 51.08 RCW; and 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 (1) With respect to any enrollment fees and other payments made on
10 or after the effective date of this section by the group's members to
11 the sponsoring entity solely to participate in the group, a sponsoring
12 entity must return to the group's members any portion of the enrollment
13 fees and other payments not used to administer the group's program or
14 retained as reserves to meet any assessments made by the department.

15 (2) Any portion of the enrollment fees and other payments not
16 returned to the group's members must be used to administer the group's
17 program or retained as reserves to meet any assessments made by the
18 department. Funds used to administer the group's program may be used

1 only to pay for expenses directly related to substantially improving
2 worker safety, accident prevention, and worker outcomes as specified in
3 section 5 of this act, and not for any other purposes.

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

6 (1) With respect to incentive payments made on or after the
7 effective date of this section by the department to a sponsoring entity
8 to recognize substantial improvements in worker safety, accident
9 prevention, and worker outcomes, a sponsoring entity must return to the
10 group's members any portion of the incentive payments not used to
11 administer the group's program or retained as reserves to meet any
12 assessments made by the department.

13 (2) Any portion of the incentive payments not returned to the
14 group's members must be used to administer the group's program or
15 retained as reserves to meet any assessments made by the department.
16 Funds used to administer the group's program may be used only to pay
17 for expenses directly related to substantially improving worker safety,
18 accident prevention, and worker outcomes as specified in section 5 of
19 this act, and not for any other purposes.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.18 RCW
21 to read as follows:

22 (1) With respect to interest earned on or after the effective date
23 of this section on reserves maintained by the sponsoring entity to meet
24 any assessments made by the department, a sponsoring entity must return
25 to the group's members any portion of the interest not used to
26 administer the group's program or retained as reserves to meet any
27 assessments made by the department.

28 (2) Any portion of the interest not returned to the group's members
29 must be used to administer the group's program or retained as reserves
30 to meet any assessments made by the department. Funds used to
31 administer the group's program may be used only to pay for expenses
32 directly related to substantially improving worker safety, accident
33 prevention, and worker outcomes as specified in section 5 of this act,
34 and not for any other purposes.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.18 RCW
2 to read as follows:

3 If a retrospective rating group is disqualified or does not
4 reenroll in the program, the sponsoring entity must return to the
5 group's members any portion of reserves maintained by the sponsoring
6 entity that are not used to administer the group's program as specified
7 in section 5 of this act or fully pay the group's final obligations.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 51.18 RCW
9 to read as follows:

10 For purposes of this chapter, expenses directly related to
11 substantially improving worker safety, accident prevention, and worker
12 outcomes may include:

- 13 (1) Safety education and safety education activities;
- 14 (2) Risk management activities;
- 15 (3) Claims monitoring activities;
- 16 (4) Return-to-work program-related assistance;
- 17 (5) Legal expenses related to the group's program; and
- 18 (6) Investment-related expenses for reserves retained to meet any
19 assessments made by the department.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 51.18 RCW
21 to read as follows:

22 (1) Each sponsoring entity shall report annually to the department
23 in a form specified by the department on:

- 24 (a) Funds used to administer the group's programs and retained as
25 reserves to meet any assessments made by the department; and
- 26 (b) Expenses directly related to substantially improving worker
27 safety, accident prevention, and worker outcomes.

28 (2) The department shall periodically inspect and review records of
29 sponsoring entities to assure that the purposes of this act are
30 fulfilled.

31 **Sec. 7.** RCW 51.16.035 and 1999 c 7 s 8 are each amended to read as
32 follows:

33 (1) The department shall classify all occupations or industries in
34 accordance with their degree of hazard and fix therefor basic rates of
35 premium which shall be the lowest necessary to maintain actuarial

1 solvency of the accident and medical aid funds in accordance with
2 recognized insurance principles. The department shall formulate and
3 adopt rules and regulations governing the method of premium calculation
4 and collection and providing for a rating system consistent with
5 recognized principles of workers' compensation insurance which shall be
6 designed to stimulate and encourage accident prevention and to
7 facilitate collection. The department may annually, or at such other
8 times as it deems necessary to maintain solvency of the funds, readjust
9 rates in accordance with the rating system to become effective on such
10 dates as the department may designate.

11 (2) In providing a retrospective rating plan under RCW 51.18.010,
12 the department may consider each individual retrospective rating group
13 as a single employing entity for purposes of (~~dividends or premium~~
14 ~~discounts~~) incentive payments to recognize substantial improvements in
15 worker safety, accident prevention, and worker outcomes.

16 **Sec. 8.** RCW 51.18.020 and 1999 c 7 s 3 are each amended to read as
17 follows:

18 Prior to allowing initial entrance into the state's retrospective
19 rating plan, the department shall review each proposed retrospective
20 rating group to ensure that the following criteria are met:

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

23 (2) The entity sponsoring the retrospective rating group must exist
24 primarily for a purpose other than that of obtaining or offering
25 insurance coverage or insurance related services;

26 (3) The entity sponsoring the retrospective rating group must have
27 a written workplace safety and accident prevention plan in place for
28 the proposed retrospective rating group and must propose methods by
29 which the retrospective rating group will cooperate with department
30 claims management activities;

31 (4) All employers in the retrospective rating group must be members
32 of the sponsoring entity;

33 (5) All employers in the retrospective rating group must have an
34 industrial insurance account in good standing with the department;

35 (6) Fifty percent of the original employers in the retrospective
36 rating group must have been members of the sponsoring entity for one
37 year prior to the group's entrance into the retrospective rating plan;

1 (7)(a) With respect to any coverage period beginning before the
2 effective date of this section, the retrospective rating group must be
3 composed of employers who are substantially similar considering the
4 services or activities performed by the employees of those employers;
5 and

6 (b) With respect to any coverage period beginning on or after the
7 effective date of this section, the retrospective rating group must be
8 composed of employers, a majority of whom are classified in the same
9 two-digit NAICS classification;

10 (8) The initial premium level for the retrospective rating group
11 must be at least one million five hundred thousand dollars and shall be
12 based on the standard premium of the proposed group members' most
13 current previous coverage period; and

14 (9) The formation and operation of the retrospective rating group
15 must seek to substantially improve workplace safety and accident
16 prevention for the employers in the group.

17 **Sec. 9.** RCW 51.18.040 and 1999 c 7 s 5 are each amended to read as
18 follows:

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

28 ~~(2) The following broad industry and business categories shall be~~
29 ~~used by the sponsoring entity and the department in establishing~~
30 ~~retrospective rating groups:~~

31 ~~(a) Agriculture and related services;~~

32 ~~(b) Automotive, truck and boat manufacturing, sales, repair, and~~
33 ~~related services;~~

34 ~~(c) Construction and related services;~~

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

36 ~~(e) Facilities or property management, maintenance, and related~~
37 ~~services;~~

1 ~~(f) Government, utilities, schools, health care, and related~~
2 ~~services;~~

3 ~~(g) Health care, pharmaceutical, laboratories, and related~~
4 ~~services;~~

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

6 ~~(i) Manufacturing, processing, mining, quarrying, and related~~
7 ~~services;~~

8 ~~(j) Retail stores, wholesale stores, professional services, and~~
9 ~~related services;~~

10 ~~(k) Temporary help and related services; and~~

11 ~~(l) Transportation, recycling, warehousing, facility maintenance,~~
12 ~~and related services.~~

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

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

25 ~~(5) In order to simplify administration and keep the administrative~~
26 ~~costs associated with devising a different classification system for a~~
27 ~~retrospective rating plan to a minimum, the state's retrospective~~
28 ~~rating plan shall follow the same classification procedure established~~
29 ~~by the department to assign workers' compensation insurance~~
30 ~~classifications to an employer.~~

31 ~~(6)) With respect to any coverage period beginning before the~~
32 ~~effective date of this section:~~

33 ~~(a) Employers who have been a member of an existing, approved~~
34 ~~retrospective rating group prior to July 25, 1999, may continue in that~~
35 ~~group even if they are not substantially similar to the industry or~~
36 ~~business category selected pursuant to ((subsection (1) of this~~
37 ~~section)) section 5(1), chapter 7, Laws of 1999.~~

1 (~~However,~~) (b) New employers proposed for addition to a
2 retrospective rating group on or after July 25, 1999, and before the
3 effective date of this section, must fall within the (~~selected~~)
4 industry or business category selected pursuant to section 5(1),
5 chapter 7, Laws of 1999.

6 (2) With respect to any coverage period beginning on or after the
7 effective date of this section:

8 (a) Except as provided in this subsection, employers who have been
9 a member of an existing, approved retrospective rating group prior to
10 the effective date of this section may continue in that group even if
11 they are not classified in the same two-digit NAICS classification as
12 a majority of the employers in that group. However, such employers may
13 not continue in that group if, during any enrollment period beginning
14 on or after the effective date of this section, they are classified in
15 the same two-digit NAICS classification as a majority of the employers
16 in a different group.

17 (b) New employers proposed for addition to a retrospective rating
18 group must be classified in the same two-digit NAICS classification as
19 a majority of the employers in the group. If new employers are not
20 classified in the same two-digit NAICS classification as a majority of
21 the employers in any group, the department may approve addition of new
22 employers to the retrospective rating group that is composed of the
23 most similar employers.

24 NEW SECTION. Sec. 10. A new section is added to chapter 51.08 RCW
25 to read as follows:

26 "NAICS" means the North American industry classification system.

27 NEW SECTION. Sec. 11. If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. Sec. 12. This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect

1 immediately.

--- END ---