

CERTIFICATION OF ENROLLMENT

SENATE BILL 5196

59th Legislature
2005 Regular Session

Passed by the Senate April 18, 2005
YEAS 37 NAYS 0

President of the Senate

Passed by the House April 14, 2005
YEAS 95 NAYS 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5196** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5196

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senators Fairley, Benton, Keiser, Benson, Franklin and Berkey; by request of Insurance Commissioner

Read first time 01/17/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to insurable interests and employer-owned life
2 insurance; amending RCW 48.18.010, 48.18.030, and 48.18.060; adding new
3 sections to chapter 48.18 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there is a long-
6 standing principle that corporations have an insurable interest in the
7 lives of key personnel. Nationally, some corporations have begun to
8 insure the lives of personnel that have not met the insurable interest
9 standard of Washington. Entry-level workers have been insured by their
10 corporate employer for the benefit of the corporate employer. The
11 legislature intends to clarify this subject and preclude corporations
12 from insuring the lives of employees when the employees are not key
13 personnel and the corporations have no insurable interest in the lives
14 of those employees.

15 **Sec. 2.** RCW 48.18.010 and 1947 c 79 s .18.01 are each amended to
16 read as follows:

17 (~~The applicable provisions of this chapter shall apply to~~
18 ~~insurances other than ocean marine and foreign trade insurances. This~~

1 ~~chapter shall not apply to life or disability insurance policies not~~
2 ~~issued for delivery in this state nor delivered in this state.))~~ This
3 chapter applies to insurances other than ocean marine and foreign trade
4 insurances.

5 **Sec. 3.** RCW 48.18.030 and 1992 c 51 s 1 are each amended to read
6 as follows:

7 (1) Any individual of competent legal capacity may (~~procure or~~
8 ~~effect an insurance contract upon~~) insure his or her own life or body
9 for the benefit of any person. (~~But no~~) A person (~~shall procure or~~
10 ~~cause to be procured any insurance contract upon~~) may not insure the
11 life or body of another individual unless the benefits under (~~such~~)
12 the contract are payable to the individual insured or (~~his~~) the
13 individual's personal representative(~~s~~), or to a person having, at
14 the time when (~~such~~) the contract was made, an insurable interest in
15 the individual insured.

16 (2) If the beneficiary, assignee or other payee under any contract
17 made in violation of this section receives from the insurer any
18 benefits (~~thereunder~~) accruing upon the death, (~~disablement~~)
19 disability, or injury of the individual insured, the individual insured
20 or (~~his~~) the individual's executor or administrator(~~, as the case~~
21 ~~may be,~~) may maintain an action to recover (~~such~~) any benefits from
22 the person (~~so~~) receiving them.

23 (3)(a) "Insurable interest" as used in this section and in RCW
24 48.18.060 includes only the following interests (~~as follows~~):

25 (~~(a)~~) (i) In the case of individuals related closely by blood or
26 by law, a substantial interest engendered by love and affection; and

27 (~~(b)~~) (ii) In the case of other persons, a lawful and substantial
28 economic interest in having the life, health, or bodily safety of the
29 individual insured continue, as distinguished from an interest
30 (~~which~~) that would arise only by, or would be enhanced in value by,
31 the death, (~~disablement~~) disability, or injury of the individual
32 insured.

33 (~~(c)~~) (b) An individual (~~heretofore or hereafter~~) who is party
34 to a contract or option for the purchase or sale of an interest in a
35 business partnership or firm, or of shares of stock of a close
36 corporation or of an interest in (~~such~~) those shares, has an
37 insurable interest in the life of each individual party to (~~such~~) the

1 contract and for the purposes of (~~such~~) that contract only, in
2 addition to any insurable interest (~~which~~) that may otherwise exist
3 as to the life of such individual.

4 (~~(d)~~) (c) A guardian, trustee, or other fiduciary has an
5 insurable interest in the life of any person for whose benefit the
6 fiduciary holds property, and in the life of any other individual in
7 whose life (~~such~~) the person has an insurable interest.

8 (~~(e)~~) (d) Subject to rules adopted under subsection (4) of this
9 section, upon joint application with a nonprofit organization for, or
10 transfer to a nonprofit organization of, an insurance policy on the
11 life of a person naming the organization as owner and beneficiary, a
12 nonprofit organization's interest in the life of a person if:

13 (i) The nonprofit organization was established exclusively for
14 religious, charitable, scientific, literary, or educational purposes,
15 or to promote amateur athletic competition, to conduct testing for
16 public safety, or to prevent cruelty to children or animals; and

17 (ii) The nonprofit organization:

18 (A) Has existed for a minimum of five years; or

19 (B) Has been issued a certificate of exemption to conduct a
20 charitable gift annuity business under RCW 48.38.010, or is authorized
21 to conduct a charitable gift annuity business under RCW 28B.10.485; or

22 (C) Has been organized, and at all times has been operated,
23 exclusively for benefit of, to perform the functions of, or to carry
24 out the purposes of one or more nonprofit organizations described in
25 (~~(e)~~) (d)(ii)(A) or (B) of this subsection and is operated,
26 supervised, or controlled by or in connection with one or more (~~such~~)
27 of those nonprofit organizations; and

28 (iii) For a joint application, the person is not an employee,
29 officer, or director of the organization who receives significant
30 compensation from the organization and who became affiliated with the
31 organization in that capacity less than one year before the joint
32 application.

33 (4) The commissioner may adopt rules governing joint applications
34 for, and transfers of, life insurance under subsection (3)(~~(e)~~) (d)
35 of this section. The rules may include:

36 (a) Standards for full and fair disclosure that set forth the
37 manner, content, and required disclosure for the sale of life insurance
38 issued under subsection (3)(~~(e)~~) (d) of this section; and

1 (b) For joint applications, a grace period of thirty days during
2 which the insured person may direct the nonprofit organization to
3 return the policy and the insurer to refund any premium paid to the
4 party that, directly or indirectly, paid the premium; and

5 (c) Standards for granting an exemption from the five-year
6 existence requirement of subsection (3)((~~e~~)) (d)(ii)(A) of this
7 section to a private foundation that files with the insurance
8 commissioner documents, stipulations, and information as the insurance
9 commissioner may require to carry out the purpose of subsection
10 (3)((~~e~~)) (d) of this section.

11 (5) Nothing in this section permits the personal representative of
12 the insured's estate to recover the proceeds of a policy on the life of
13 a deceased insured person that was applied for jointly by, or
14 transferred to, an organization covered by subsection (3)((~~e~~)) (d) of
15 this section, where the organization was named owner and beneficiary of
16 the policy.

17 This subsection applies to all life insurance policies applied for
18 by, or transferred to, an organization covered by subsection (3)((~~e~~))
19 (d) of this section, regardless of the time of application or transfer
20 and regardless of whether the organization would have been covered at
21 the time of application or transfer.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.18 RCW
23 to read as follows:

24 (1) "Employer-owned life insurance policy" as used in this section
25 and section 6 of this act means an insurance policy purchased by an
26 employer on the life of an employee, for the benefit of a person other
27 than the employee or the employee's personal representative.

28 (2) An employer-owned life insurance policy may not be made or take
29 effect unless at the time the contract is made the individual insured
30 consents to the contract in writing.

31 (3) An employer may not retaliate in any manner against an employee
32 for providing written notice that he or she does not want to be insured
33 under an employer-owned life insurance policy.

34 (4) No later than thirty days after the date on which an employer
35 purchases an employer-owned life insurance policy on the life of an
36 employee, the employer must provide to the employee a written notice
37 that contains the following information:

- 1 (a) A statement that the employer carries an employer-owned life
- 2 insurance policy on the life of the employee;
- 3 (b) The identity of the insurance carrier of the policy;
- 4 (c) The maximum face amount of the policy at issue; and
- 5 (d) The identity of the beneficiary of the policy.

6 **Sec. 5.** RCW 48.18.060 and 1947 c 79 s .18.06 are each amended to
7 read as follows:

8 ~~((No))~~ A life or disability insurance contract upon an
9 individual~~((, except a contract of group life insurance or of group or~~
10 ~~blanket disability insurance as defined in this code, shall))~~ may not
11 be made or ~~((effectuated))~~ take effect unless at the time ~~((of the~~
12 ~~making of))~~ the contract is made the individual insured ~~((, being of~~
13 ~~competent legal capacity to contract, in writing applies therefor or~~
14 ~~consents thereto,))~~ applies for or consents to the contract in writing,
15 except in the following cases:

16 (1) A spouse may ~~((effectuate such insurance upon))~~ insure the life
17 of the other spouse.

18 (2) Any person having an insurable interest in the life of a minor,
19 or any person upon whom a minor is dependent for support and
20 maintenance, may ~~((effectuate insurance upon))~~ insure the life of the
21 minor.

22 (3) A contract of group or blanket disability insurance may be
23 effectuated upon an individual.

24 (4) A contract of group life insurance may be effectuated upon an
25 individual, except as otherwise provided in section 4 of this act.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.18 RCW
27 to read as follows:

28 With respect to employer-owned life insurance policies, this act
29 shall apply only to policies issued and delivered after the effective
30 date of this act.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.18 RCW
32 to read as follows:

33 The commissioner shall adopt rules to implement RCW 48.18.010,
34 48.18.030, and 48.18.060 and sections 4 and 6 of this act.

1 NEW SECTION. **Sec. 8.** The insurance commissioner shall report to
2 the legislature on or before December 31, 2006, on steps taken to
3 implement this act and whether the protections afforded in this act are
4 adequate to protect consumers.

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