
HOUSE BILL 2731

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Haler and Gregerson

Read first time 01/29/14. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to auditing employers for compliance with
2 industrial insurance provisions; amending RCW 51.16.070 and 51.48.040;
3 and adding a new section to chapter 51.16 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.16 RCW
6 to read as follows:

7 (1) The department's authority to audit any employer for the
8 purposes of determining premiums due, appropriate classifications of
9 employees, or any other purpose provided under RCW 51.48.040, is
10 subject to the following restrictions:

11 (a) The department may not conduct a visual inspection of the
12 employer's worksite unless explicitly authorized in writing by the
13 employer in advance;

14 (b) At least sixty days before an audit, the department must notify
15 the employer in writing that the department intends to conduct an audit
16 and explain the scope of the audit. The notification must include a
17 statement of the employer's rights and obligations and notify the
18 employer that before the department may conduct a visual inspection of
19 the worksite the employer must provide written consent; and

1 (c) Upon completion of the audit, the department must notify the
2 employer in writing of any corrective action the employer may take to
3 come into compliance with any recordkeeping or retention requirements.
4 The department must provide a reasonable time for the employer to
5 implement any corrective action. The department may not impose any
6 fine or penalty on the employer until the time period has expired and
7 the employer has not implemented the corrective action.

8 (2) This section does not restrict the department's inspection
9 authority under RCW 49.17.070.

10 **Sec. 2.** RCW 51.16.070 and 2008 c 120 s 5 are each amended to read
11 as follows:

12 (1)(a) Every employer shall keep at his or her place of business a
13 record of his or her employment from which the information needed by
14 the department may be obtained and such record shall at all times be
15 open to the inspection of the director, supervisor of industrial
16 insurance, or the traveling auditors, agents, or assistants of the
17 department, as provided in RCW 51.48.040 and section 1 of this act.

18 (b) An employer who contracts with another person or entity for
19 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a
20 record of the unified business identifier account number for and the
21 compensation paid to the person or entity performing the work. Failure
22 to obtain or maintain the record is subject to RCW 39.06.010 and to a
23 penalty under RCW 51.48.030.

24 (2) Information obtained from employing unit records under the
25 provisions of this title shall be deemed confidential and shall not be
26 open to public inspection (other than to public employees in the
27 performance of their official duties), but any interested party shall
28 be supplied with information from such records to the extent necessary
29 for the proper presentation of the case in question: PROVIDED, That
30 any employing unit may authorize inspection of its records by written
31 consent.

32 **Sec. 3.** RCW 51.48.040 and 2003 c 53 s 282 are each amended to read
33 as follows:

34 (1) Subject to section 1 of this act, the books, records and
35 payrolls of the employer pertinent to the administration of this title
36 shall always be open to inspection by the department or its traveling

1 auditor, agent or assistant, for the purpose of ascertaining the
2 correctness of the payroll, the persons employed, and such other
3 information as may be necessary for the department and its management
4 under this title.

5 (2) Subject to section 1 of this act, refusal on the part of the
6 employer to submit his or her books, records and payrolls for such
7 inspection to the department, or any assistant presenting written
8 authority from the director, shall subject the offending employer to a
9 penalty determined by the director but not to exceed two hundred fifty
10 dollars for each offense and the individual who personally gives such
11 refusal is guilty of a misdemeanor.

12 (3) Any employer who fails to allow adequate inspection in
13 accordance with the requirements ((of)) under this section and section
14 1 of this act is subject to having its certificate of coverage revoked
15 by order of the department and is forever barred from questioning in
16 any proceeding in front of the board of industrial insurance appeals or
17 any court, the correctness of any assessment by the department based on
18 any period for which such records have not been produced for
19 inspection.

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