
SENATE BILL 5125

State of Washington

63rd Legislature

2013 Regular Session

By Senators Holmquist Newbry, Braun, King, Baumgartner, Rivers, Ericksen, Benton, Bailey, Becker, Schoesler, Honeyford, and Hewitt

Read first time 01/18/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to workers' compensation reform through
2 clarification of occupational disease claims; amending RCW 51.08.140,
3 51.32.180, and 51.28.055; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a fiscally sound
6 industrial insurance system that assures necessary and proper medical
7 care for persons injured at work is integral to the health and economic
8 well-being of workers and the economic welfare of the state. The
9 legislature further finds that reforms are needed to assure the best
10 worker outcomes, including return to work. Improvements are also
11 needed to assure the most efficient and fair system. The legislature
12 intends to make the workers' compensation system more cost-effective by
13 assuring that the workers' compensation system will only be responsible
14 for costs due to workplace injuries.

15 **Sec. 2.** RCW 51.08.140 and 1961 c 23 s 51.08.140 are each amended
16 to read as follows:

17 (1) "Occupational disease" means such disease or infection as
18 arises (~~naturally and proximately~~) out of and in the course of the

1 particular employment under ((the mandatory or elective adoption
2 provisions of)) this title in which the worker is exposed to such
3 disease or infection and which meets all of the following criteria:

4 (a) The disease or infection is proximately caused by the
5 distinctive conditions under which the work is performed and risk of
6 exposure inherent therein;

7 (b) The disease or infection arose as a natural incident of the
8 employment-related exposure;

9 (c) The worker would not have ordinarily been exposed to the
10 disease or infection outside of his or her employment; and

11 (d) The disease or infection is not an ordinary condition of life
12 to which the general public is exposed without regard to employment.

13 (2) For the purposes of this section, "proximate cause" means that
14 cause which, in a direct sequence, unbroken by any new, independent
15 cause, produces the disease or infection, and without which the disease
16 or infection would not have occurred.

17 **Sec. 3.** RCW 51.32.180 and 1988 c 161 s 5 are each amended to read
18 as follows:

19 Every worker who suffers disability from an occupational disease
20 arising out of and in the course of employment under the mandatory or
21 elective adoption provisions of this title, or his or her family and
22 dependents in case of death of the worker from such disease or
23 infection, shall receive the same compensation benefits and medical,
24 surgical and hospital care and treatment as would be paid and provided
25 for a worker injured or killed in employment under this title, except
26 as follows: ~~((a)-(1))~~ (1) This section and RCW 51.16.040 shall not
27 apply where the last exposure to the hazards of the disease or
28 infection occurred prior to January 1, 1937; and ~~((b)-(2))~~ (2) for
29 claims filed on or after July 1, 1988, the rate of compensation for
30 occupational diseases shall be established as of the date the disease
31 requires medical treatment or becomes totally or partially disabling,
32 whichever occurs first, and without regard to the date of the
33 contraction of the disease or the date of filing the claim.

34 **Sec. 4.** RCW 51.28.055 and 2004 c 65 s 7 are each amended to read
35 as follows:

36 ~~(1) ((Except as provided in subsection (2) of this section for~~

1 ~~claims filed for occupational hearing loss, claims for occupational~~
2 ~~disease or infection to be valid and compensable must be filed within~~
3 ~~two years following the date the worker had written notice from a~~
4 ~~physician or a licensed advanced registered nurse practitioner: (a) Of~~
5 ~~the existence of his or her occupational disease, and (b) that a claim~~
6 ~~for disability benefits may be filed. The notice shall also contain a~~
7 ~~statement that the worker has two years from the date of the notice to~~
8 ~~file a claim. The physician or licensed advanced registered nurse~~
9 ~~practitioner shall file the notice with the department. The department~~
10 ~~shall send a copy to the worker and to the self-insurer if the worker's~~
11 ~~employer is self-insured. However, a claim is valid if it is filed~~
12 ~~within two years from the date of death of the worker suffering from an~~
13 ~~occupational disease.)) To be valid and compensable, claims for~~
14 ~~occupational disease or infection must be filed within one year~~
15 ~~following the earliest of the following dates:~~

- 16 (a) The date the disease or infection was first diagnosed;
17 (b) The date the worker first received treatment for symptoms of
18 the disease or infection from any health services provider; or
19 (c) The date the worker was first partially or fully restricted
20 from work due to the disease or infection.

21 (2)(a) Except as provided in (b) of this subsection, to be valid
22 and compensable, claims for hearing loss due to occupational noise
23 exposure must be filed within two years of the date of the worker's
24 last injurious exposure to occupational noise in employment covered
25 under this title (~~or within one year of September 10, 2003, whichever~~
26 ~~is later~~)).

27 (b) A claim for hearing loss due to occupational noise exposure
28 that is not timely filed under (a) of this subsection can only be
29 allowed for medical aid benefits under chapter 51.36 RCW. A claim for
30 hearing loss due to occupational noise exposure that is not timely
31 filed under subsection (1) of this section is not valid, and is not
32 allowed for any benefits under this title.

33 (3) The department may adopt rules to implement this section.

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