

FINAL BILL REPORT

SHB 2409

C 277 L 20
Synopsis as Enacted

Brief Description: Concerning industrial insurance employer penalties, duties, and the licensing of third-party administrators.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Kilduff, Pollet, Sells, Gregerson, Valdez and Ormsby).

House Committee on Labor & Workplace Standards
House Committee on Appropriations
Senate Committee on Labor & Commerce

Background:

Employer Insurance Obligations.

Under workers' compensation laws, employers must either insure through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Self-insurance is a program in which the employer, the self-insurer, provides any and all appropriate benefits to the injured worker.

Self-insurers manage some aspects of injured worker claims, including closing certain types of claims. Self-insurers must maintain records of all payments of compensation and provide to the Director of the Department all information the self-insurer has relating to a disputed claim. Self-insurers may contract with a third-party administrator (TPA) to administer claims.

All employers are required to keep, report, and make available certain records related to workers' compensation. Physicians and certain nurses are required to file a report to the Department within five days of treatment.

Penalties.

Employers are subject to penalties for violations of various workers' compensation requirements. Penalties include those assessed against a self-insurer that unreasonably delays or fails to pay benefits, or any employer that:

- fails to pay premiums;
- misrepresents the amount of payroll or employee hours;
- fails to keep, file, or provide adequate records and reports; or

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- fails to comply with a Department rule.

Penalty amounts include the following:

- the greater of \$500 or 25 percent of the amount due, for a self-insurer who unreasonably delays or refuses to pay benefits;
- the greater of \$500 or double the amount of premiums incurred, for failure to pay premiums;
- a maximum of \$500 for failure to comply with a Department rule; and
- a maximum of \$250 for various recordkeeping and reporting violations.

Certain knowing or intentional violations, such as misrepresentation of payroll or hours, are subject to additional penalties.

Physicians and certain nurses are subject to a maximum penalty of \$250 for failure to file a required treatment report.

Summary:

Self-Insured Employers.

Self-insured employers' options for claims administration are specified. The Department must license TPAs, establish certification for all claims administrators, and issue related rules.

Penalties.

Employer penalties are increased to be a maximum of:

- the greater of \$1,000 or 25 percent of the amount due, for a self-insurer who unreasonably delays or refuses to pay benefits;
- the greater of \$1,000 or double the amount of premiums incurred, for failure to pay premiums;
- \$1,000 for failure to comply with a statutory provision or Department rule; and
- \$500 for various recordkeeping and reporting violations, including a physician's or licensed advanced registered nurse practitioner's failure to file a required treatment report.

The assessment of penalties for a self-insurer's failure-to-pay is specified to be per act and requires the Department to weigh certain factors. The Department may waive first-time or de minimus violations of recordkeeping and reporting provisions.

All penalties must be adjusted every three years based on changes in the Consumer Price Index.

Votes on Final Passage:

House	52	44	
Senate	39	9	(Senate amended)
House	57	39	(House concurred)

Effective: September 1, 2020

July 1, 2021 (Section 8)