
SUBSTITUTE HOUSE BILL 1521

State of Washington

68th Legislature

2023 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Bronoske, Stonier, Wylie, Berry, and Pollet)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to industrial insurance self-insured employer and
2 third-party administrator penalties and duties; amending RCW
3 51.48.080 and 51.48.017; adding a new section to chapter 51.14 RCW;
4 creating a new section; prescribing penalties; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 51.48.080 and 2020 c 277 s 6 are each amended to
8 read as follows:

9 (1) Every person, firm, or corporation who violates or fails to
10 obey, observe, or comply with any statutory provision of this ((act))
11 title or rule of the department promulgated under authority of this
12 title, shall be subject to a penalty of not to exceed ((one thousand
13 dollars)) \$1,000.

14 (2) The department may, for a violation of section 3 of this act,
15 assess a penalty not to exceed three times the penalties provided in
16 subsection (1) of this section, including adjustments pursuant to RCW
17 51.48.095.

18 **Sec. 2.** RCW 51.48.017 and 2020 c 277 s 2 are each amended to
19 read as follows:

1 (1) Every time a self-insurer unreasonably delays or refuses to
2 pay benefits as they become due, the self-insurer shall pay a penalty
3 not to exceed the greater of (~~one thousand dollars~~) \$1,000 or
4 (~~twenty-five~~) 25 percent of: (a) The amount due or (b) each
5 underpayment made to the claimant. For purposes of this section, "the
6 amount due" means the total amount of payments due at the time of the
7 calculation of the penalty.

8 (2) In making the determination of the penalty amount, the
9 department shall weigh at least the following factors: The amount of
10 any payment delayed, employer communication of the basis for or
11 calculation of the payment, history or past practice of underpayments
12 by the employer, department orders directing the payment, and any
13 required adjustments to the amount of the payment.

14 (3) The director shall issue an order determining whether there
15 was an unreasonable delay or refusal to pay benefits and the penalty
16 amount owed within (~~thirty~~) 30 days upon the request of the
17 claimant. Such an order shall conform to the requirements of RCW
18 51.52.050.

19 (4) The penalty shall accrue for the benefit of the claimant and
20 shall be paid to the claimant with the benefits which may be assessed
21 under this title.

22 (5) The department may, for a violation of section 3 of this act,
23 assess a penalty not to exceed three times the penalties provided in
24 subsection (1) of this section, including adjustments pursuant to RCW
25 51.48.095.

26 (6) This section applies to all requests for penalties made after
27 September 1, 2020.

28 NEW SECTION. Sec. 3. A new section is added to chapter 51.14
29 RCW to read as follows:

30 (1) All self-insured employers and third-party administrators
31 have a duty of good faith and fair dealing to workers relating to all
32 aspects of this title.

33 (2) A self-insured employer or third-party administrator violates
34 its duty to the worker if it coerces a worker to accept less than the
35 compensation due under this title, or otherwise fails to act in good
36 faith and fair dealing regarding its obligations under this title.

37 (3) The department shall adopt by rule additional applications of
38 the duty of good faith and fair dealing as well as criteria for
39 determining appropriate penalties for violations. In adopting a rule

1 under this subsection, the department shall consider, among other
2 factors, recognized and approved claim processing practices within
3 the insurance industry, the department's own experience, and the
4 industrial insurance and insurance laws and rules of this state.

5 (4) The department shall investigate each alleged violation of
6 this section upon the filing of a written complaint or upon its own
7 motion. After receiving notice and a request for a response from the
8 department, the employer or the third-party administrator may file a
9 written response within ten working days. If the employer or third-
10 party administrator fails to file a timely response, the department
11 shall issue an order based on available information.

12 (5) The department shall issue an order determining whether a
13 violation of this section has occurred, in conformance with RCW
14 51.52.050, within 30 calendar days of receipt of a complete complaint
15 or its own motion. An order finding that a violation has occurred
16 must also order the employer to pay a penalty of one to 52 times the
17 average weekly wage at the time of the order, depending upon the
18 severity of the violation, which accrues for the benefit of the
19 worker.

20 NEW SECTION. **Sec. 4.** This act applies to all claims regardless
21 of the date of injury.

22 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2024.

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