
HOUSE BILL 2168

State of Washington

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By Representatives Alvarado, Bronoske, Berry, Reed, Nance, Fosse, and Pollet

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1 AN ACT Relating to the duties of industrial insurance self-
2 insured employers and third-party administrators; amending RCW
3 51.14.080 and 51.14.180; creating a new section; and providing an
4 effective date.

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

6 **Sec. 1.** RCW 51.14.080 and 2023 c 293 s 4 are each amended to
7 read as follows:

8 (1) Certification of a self-insurer shall be withdrawn by the
9 director upon one or more of the following grounds:

10 (a) The employer no longer meets the requirements of a self-
11 insurer; or

12 (b) The self-insurer's deposit is insufficient; or

13 (c) The self-insurer intentionally or repeatedly induces
14 employees to fail to report injuries, induces claimants to treat
15 injuries in the course of employment as off-the-job injuries,
16 persuades claimants to accept less than the compensation due, or
17 unreasonably makes it necessary for claimants to resort to
18 proceedings against the employer to obtain compensation; or

19 (d) The self-insurer habitually fails to comply with rules and
20 regulations of the director regarding reports or other requirements
21 necessary to carry out the purposes of this title; or

1 (e) The self-insurer habitually engages in a practice of
2 arbitrarily or unreasonably refusing employment to applicants for
3 employment or discharging employees because of nondisabling bodily
4 conditions; or

5 (f) The self-insurer fails to pay an insolvency assessment under
6 the procedures established pursuant to RCW 51.14.077; or

7 (g) ~~((i) For a self-insured municipal employer, the)~~ The self-
8 insurer has been found to have violated the ~~((self-insurer's))~~ duty
9 of good faith and fair dealing under RCW 51.14.180 three times within
10 a three-year period.

11 ~~((ii))~~ (i) For purposes of determining whether there have been
12 three violations within a three-year period, the director must use
13 the date of the department's order. Any subsequent order of the
14 department, board of industrial insurance appeals, or courts
15 affirming a violation occurred relates back to the date of the
16 department's order.

17 ~~((iii))~~ (ii) Errors or delays that are inadvertent or minor are
18 not considered violations of good faith and fair dealing for purposes
19 of this subsection (1)(g).

20 (2) The director may delay withdrawing the certification of the
21 self-insured ~~((municipal))~~ employer while the employer has an
22 enforceable contract with a licensed third-party administrator that
23 may not be legally terminated. However, the self-insured
24 ~~((municipal))~~ employer may not renew or extend the contract.

25 ~~((3) For the purposes of this section, "municipal" has the same
26 meaning as defined in RCW 51.14.180.)~~

27 **Sec. 2.** RCW 51.14.180 and 2023 c 293 s 3 are each amended to
28 read as follows:

29 (1) All self-insured ~~((municipal employers and self-insured
30 private sector firefighter))~~ employers and ~~((their))~~ third-party
31 administrators have a duty of good faith and fair dealing to workers
32 relating to all aspects of this title. The duty of good faith
33 requires fair dealing and equal consideration for the worker's
34 interests.

35 (2) ~~((A self-insured municipal employer or self-insured private
36 sector firefighter))~~ An employer or ~~((their))~~ third-party
37 administrator violates its duty to the worker if it coerces a worker
38 to accept less than the compensation due under this title, or

1 otherwise fails to act in good faith and fair dealing regarding its
2 obligations under this title.

3 (3) The department shall adopt by rule additional applications of
4 the duty of good faith and fair dealing as well as criteria for
5 determining appropriate penalties for violations. In adopting a rule
6 under this subsection, the department shall consider, among other
7 factors, recognized and approved claim processing practices within
8 the insurance industry, the department's own experience, and the
9 industrial insurance and insurance laws and rules of this state.

10 (4) The department shall investigate each alleged violation of
11 this section upon the filing of a written complaint or upon its own
12 motion. After receiving notice and a request for a response from the
13 department, the ~~((municipal employer or private sector firefighter))~~
14 employer or ~~((their))~~ third-party administrator may file a written
15 response within 10 working days. If the ~~((municipal employer or~~
16 ~~private sector firefighter))~~ employer or ~~((their))~~ third-party
17 administrator fails to file a timely response, the department shall
18 issue an order based on available information.

19 (5) The department shall issue an order determining whether a
20 violation of this section has occurred, in conformance with RCW
21 51.52.050, within 30 calendar days of receipt of a complete complaint
22 or its own motion. An order finding that a violation has occurred
23 must also order the ~~((municipal employer or private sector~~
24 ~~firefighter))~~ employer to pay a penalty of one to 52 times the
25 average weekly wage at the time of the order, depending upon the
26 severity of the violation, which accrues for the benefit of the
27 worker.

28 ~~((6) The definitions in this subsection apply throughout this~~
29 ~~section unless the context clearly requires otherwise.~~

30 ~~(a) "Municipal" means any counties, cities, towns, port~~
31 ~~districts, water-sewer districts, school districts, metropolitan park~~
32 ~~districts, fire districts, public hospital districts, regional fire~~
33 ~~protection service authorities, education service districts, or such~~
34 ~~other units of local government.~~

35 ~~(b) "Private sector firefighter employer" means any private~~
36 ~~sector employer who employs over 50 firefighters, including~~
37 ~~supervisors, on a full-time, fully compensated basis as a firefighter~~
38 ~~of the employer's fire department, only with respect to their~~
39 ~~firefighters.)~~

1 NEW SECTION. **Sec. 3.** This act applies to all claims regardless
2 of the date of injury.

3 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2024.

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