

Chapter 51.04 RCW
GENERAL PROVISIONS

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RCW 51.04.010 Declaration of police power—Jurisdiction of courts abolished. The common law system governing the remedy of workers against employers for injuries received in employment is inconsistent with modern industrial conditions. In practice it proves

to be economically unwise and unfair. Its administration has produced the result that little of the cost of the employer has reached the worker and that little only at large expense to the public. The remedy of the worker has been uncertain, slow and inadequate. Injuries in such works, formerly occasional, have become frequent and inevitable. The welfare of the state depends upon its industries, and even more upon the welfare of its wage worker. The state of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workers, injured in their work, and their families and dependents is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this title; and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished, except as in this title provided. [1977 ex.s. c 350 § 1; 1972 ex.s. c 43 § 1; 1961 c 23 § 51.04.010. Prior: 1911 c 74 § 1; RRS § 7673.]

RCW 51.04.020 Powers and duties. The director shall:

- (1) Establish and adopt rules governing the administration of this title;
- (2) Ascertain and establish the amounts to be paid into and out of the accident fund;
- (3) Regulate the proof of accident and extent thereof, the proof of death and the proof of relationship and the extent of dependency;
- (4) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;
- (5) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;
- (6) Investigate the cause of all serious injuries and report to the governor from time to time any violations or laxity in performance of protective statutes or regulations coming under the observation of the department;
- (7) Compile statistics which will afford reliable information upon which to base operations of all divisions under the department;
- (8) Make an annual report to the governor of the workings of the department;
- (9) Be empowered to enter into agreements with the appropriate agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and injuries are received in the other state, and insofar as permitted by the Constitution and laws of the United States, to enter into similar agreements with the provinces of Canada; and
- (10) Designate a medical director who is licensed under chapter 18.57 or 18.71 RCW. [2000 c 5 § 14; 1994 c 164 § 24; 1977 c 75 § 77; 1963 c 29 § 1; 1961 c 23 § 51.04.020. Prior: 1957 c 70 § 3; prior: (i) 1921 c 182 § 9; 1911 c 74 § 24; RRS § 7703. (ii) 1947 c 247 § 1, part; 1911 c 74 § 4, part; Rem. Supp. 1947 § 7676f, part.]

Intent—Purpose—2000 c 5: See RCW 48.43.500.

~~Application—Short title—Captions not law—Construction—Severability—Application to contracts—Effective dates—2000 c 5:~~ See notes following RCW 48.43.500.

Severability—1963 c 29: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1963 c 29 § 2.]

Assignment of wage claims: RCW 49.48.040.

Electricians, installations: Chapters 19.28, 19.29 RCW.

Farm labor contractors: Chapter 19.30 RCW.

Health and safety, underground workers: Chapter 49.24 RCW.

Minimum wage act: Chapter 49.46 RCW.

Seasonal labor disputes: Chapter 49.40 RCW.

Washington Industrial Safety and Health Act: Chapter 49.17 RCW.

RCW 51.04.024 Establishment of investigation unit—Receipt and use of criminal history information. (1) There is established an investigation unit within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared to be unlawful under this title. The director will employ supervisory and investigative personnel for the program, who must be qualified by training and experience.

(2) The director and the investigation unit are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation, abuse, fraud, or suitability for involvement of persons under Title 51 RCW. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. [2008 c 74 § 2.]

Finding—2008 c 74: "The legislature finds it necessary to provide the authority to allow specific units within the agencies affected by this act to access criminal history information for certified criminal justice purposes. For the agencies indicated in sections 2 through 7 of this act, the accessing of this information is for investigative purposes so that the agencies are able to efficiently address areas of potential fraud and abuse and to maintain the safety of investigative staff. For the agency responsible for administering and enforcing section 8 of this act, accessing this information is necessary for any purpose associated with employment by the commission or peace officer certification." [2008 c 74 § 1.]

RCW 51.04.030 Medical aid—Rules—Maximum fees—Records and bill payment. (1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapter 18.71A RCW, acting under a supervising physician, including chiropractic care, and

including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physicians' assistants as defined in chapter 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it. [2020 c 80 § 38; 2011 c 290 § 1; 2004 c 65 § 1; 1998 c 230 § 1; 1997 c 325 § 2; 1994 c 164 § 25. Prior: 1993 c 515 § 1; 1993 c 159 § 1; 1989 c 189 § 1; 1986 c 200 § 8; 1980 c 14 § 1; prior: 1977 ex.s. c 350 § 2; 1977 ex.s. c 239 § 1; 1971 ex.s. c 289 § 74; 1961 c 23 § 51.04.030; prior: (i) 1917 c 28 § 6; RRS § 7715. (ii) 1919 c 129 § 3; 1917 c 29 § 7; RRS § 7716. (iii) 1923 c 136 § 10; RRS § 7719.]

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Report to legislature—2004 c 65: "By December 1, 2006, the department of labor and industries shall report to the senate committee on commerce and trade and the house committee on commerce and labor, or successor committees, on the implementation of this act, including but not limited to the effects of this act on injured worker outcomes, claim costs, and disputed claims." [2004 c 65 § 17.]

Effective date—2004 c 65: "This act takes effect July 1, 2004." [2004 c 65 § 18.]

Severability—2004 c 65: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2004 c 65 § 20.]

RCW 51.04.040 Subpoena power of director—Enforcement by superior court—Application for court approval prior to issuance—No notice required. (1) The director and his or her authorized assistants have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department, any billing submitted to the department, or the assessment or collection of premiums. The superior court has the power to enforce any such subpoena by proper proceedings.

(2) (a) The director and his or her authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must (i) state that an order is sought pursuant to this subsection; (ii) adequately specify the records, documents, or testimony; and (iii) declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(c) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. [2010 c 22 § 2; 1987 c 316 § 1; 1986 c 200 § 9; 1977 ex.s. c 323 § 1; 1961 c 23 § 51.04.040. Prior: 1915 c 188 § 7; RRS § 7699.]

Findings—Intent—2010 c 22: "(1) The legislature finds that underground economy activity in this state results in lost revenue to

the state and is unfair to law-abiding businesses. The legislature further finds that agencies that collect taxes and overpayments on behalf of the state have authority under current law to issue subpoenas and that the issuance of subpoenas is a highly useful tool in the investigation of underground activity of businesses and the unreported employees who work for them. The legislature further finds that in the case of *State v. Miles*, the Washington supreme court held that Article 1, section 7 of the state Constitution requires judicial review of a subpoena under some circumstances.

(2) The legislature therefore intends to provide a process for the department of revenue, the department of labor and industries, and the employment security department to apply for court approval of an agency investigative subpoena which is authorized under current law in cases where the agency seeks such approval, or where court approval is required by Article 1, section 7. The legislature does not intend to require court approval except where otherwise required by law or Article 1, section 7. The legislature does not intend to create any new authority to subpoena records or create any new rights for any person." [2010 c 22 § 1.]

Severability—1977 ex.s. c 323: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 323 § 29.]

Effective date—1977 ex.s. c 323: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 ex.s. c 323 § 30.]

RCW 51.04.050 Physician or licensed advanced registered nurse practitioner's testimony not privileged. (Effective until July 1, 2025.) In all hearings, actions or proceedings before the department or the board of industrial insurance appeals, or before any court on appeal from the board, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to patient. [2004 c 65 § 2; 1961 c 23 § 51.04.050. Prior: 1915 c 188 § 4; RRS § 7687.]

Report to legislature—Effective date—Severability—2004 c 65:
See notes following RCW 51.04.030.

Nurse-patient privilege subject to RCW 51.04.050: RCW 5.62.030.

RCW 51.04.050 Health services provider's testimony not privileged. (Effective July 1, 2025.) In all hearings, actions or proceedings before the department or the board of industrial insurance appeals, or before any court on appeal from the board, any health services provider having theretofore examined or treated the claimant

may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the health services provider to patient. [2023 c 171 § 1; 2004 c 65 § 2; 1961 c 23 § 51.04.050. Prior: 1915 c 188 § 4; RRS § 7687.]

Effective date—Retroactive application—2023 c 171: "This act takes effect July 1, 2025, and applies retroactively." [2023 c 171 § 13.]

Report to legislature—Effective date—Severability—2004 c 65: See notes following RCW 51.04.030.

RCW 51.04.060 No evasion of benefits or burdens. No employer or worker shall exempt himself or herself from the burden or waive the benefits of this title by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void. [1977 ex.s. c 350 § 3; 1961 c 23 § 51.04.060. Prior: 1911 c 74 § 11; RRS § 7685.]

RCW 51.04.062 Findings. The legislature finds that Washington state's workers' compensation system should be designed to focus on achieving the best outcomes for injured workers. Further, the legislature recognizes that controlling pension costs is key to a financially sound workers' compensation system for employers and workers. To these ends, the legislature recognizes that certain workers would benefit from an option that allows them to initiate claim resolution settlements in order to pursue work or retirement goals independent of the system, provided that sufficient protections for injured workers are included. [2021 c 89 § 2; 2011 1st sp.s. c 37 § 301.]

Effective date—2021 c 89: See note following RCW 42.56.230.

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

RCW 51.04.063 Injured worker options—Claim resolution settlement agreements. (1) Notwithstanding RCW 51.04.060 or any other provision of this title, an injured worker who is at least fifty years of age may choose from the following: (a) To continue to receive all benefits for which they are eligible under this title, (b) to participate in vocational training if eligible, or (c) to initiate and agree to a resolution of their claim with a claim resolution settlement.

(2) (a) As provided in this section, the parties to an allowed claim may initiate and agree to resolve a claim with a claim resolution settlement for all benefits other than medical. Parties as defined in (b) of this subsection may only initiate claim resolution settlements if at least one hundred eighty days have passed since the claim was received by the department or self-insurer and the order allowing the claim is final and binding. All requirements of this title regarding entitlement to and payment of benefits will apply

during this period. All claim resolution settlement agreements must be approved by the board of industrial insurance appeals.

(b) For purposes of this section, "parties" means:

(i) For a state fund claim, the worker, the employer, and the department. The employer will not be a party if the costs of the claim or claims are no longer included in the calculation of the employer's experience factor used to determine premiums, if they cannot be located, are no longer in business, or they fail to respond or decline to participate after timely notice of the claim resolution settlement process provided by the board and the department.

(ii) For a self-insured claim, the worker and the employer.

(c) The claim resolution settlement agreements shall:

(i) Bind the parties with regard to all aspects of a claim except medical benefits unless revoked by one of the parties as provided in subsection (6) of this section;

(ii) At the option of the parties, either be paid out in a single lump sum or be paid on a structured basis. If the parties opt to have the settlement paid based on a structured basis, the agreement shall provide a periodic payment schedule to the worker equal to at least twenty-five percent but not more than one hundred fifty percent of the average monthly wage in the state pursuant to RCW 51.08.018, except for the initial payment which may be up to six times the average monthly wage in the state pursuant to RCW 51.08.018;

(iii) Not set aside or reverse an allowance order;

(iv) Not subject any employer who is not a signatory to the agreement to any responsibility or burden under any claim; and

(v) Not subject any funds covered under this title to any responsibility or burden without prior approval from the director or designee.

(d) For state fund claims, the department shall negotiate the claim resolution settlement agreement with the worker or their representative and with the employer or employers and their representative or representatives.

(e) For self-insured claims, the self-insured employer shall negotiate the agreement with the worker or his or her representative. Workers of self-insured employers who are unrepresented may request that the office of the ombuds for self-insured injured workers provide assistance or be present during negotiations.

(f) Terms of the agreement may include the parties' agreement that the claim shall remain open for future necessary medical or surgical treatment related to the injury where there is a reasonable expectation such treatment is necessary. The parties may also agree that specific future treatment shall be provided without the application required in RCW 51.32.160.

(g) Any claim resolution settlement agreement entered into under this section must be in writing and signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the agreement.

(h) If a worker is not represented by an attorney at the time of signing a claim resolution settlement agreement, the parties must forward a copy of the signed agreement to the board with a request for a conference with an industrial appeals judge. The industrial appeals judge must schedule a conference with all parties within fourteen days for the purpose of (i) reviewing the terms of the proposed settlement agreement by the parties; and (ii) ensuring the worker has an understanding of the benefits generally available under this title and that a claim resolution settlement agreement may alter the benefits

payable on the claim or claims. The judge may schedule the initial conference for a later date with the consent of the parties.

(i) Before approving the agreement, the industrial appeals judge shall ensure the worker has an adequate understanding of the agreement and its consequences to the worker.

(j) The industrial appeals judge may approve a claim resolution settlement agreement only if the judge finds that the agreement is in the best interest of the worker. When determining whether the agreement is in the best interest of the worker, the industrial appeals judge shall consider the following factors, taken as a whole, with no individual factor being determinative:

(i) The nature and extent of the injuries and disabilities of the worker;

(ii) The age and life expectancy of the injured worker;

(iii) Other benefits the injured worker is receiving or is entitled to receive and the effect a claim resolution settlement agreement might have on those benefits; and

(iv) The marital or domestic partnership status of the injured worker.

(k) Within seven days after the conference, the industrial appeals judge shall issue an order allowing or rejecting the claim resolution settlement agreement. There is no appeal from the industrial appeals judge's decision.

(1) If the industrial appeals judge issues an order allowing the claim resolution settlement agreement, the order must be submitted to the board.

(3) Upon receiving the agreement, the board shall approve it within thirty working days of receipt unless it finds that:

(a) The parties have not entered into the agreement knowingly and willingly;

(b) The agreement does not meet the requirements of a claim resolution settlement agreement;

(c) The agreement is the result of a material misrepresentation of law or fact;

(d) The agreement is the result of harassment or coercion; or

(e) The agreement is unreasonable as a matter of law.

(4) If a worker is represented by an attorney at the time of signing a claim resolution settlement agreement, the parties shall submit the agreement directly to the board without the conference described in this section.

(5) If the board approves the agreement, it shall provide notice to all parties. The department shall place the agreement in the applicable claim file or files.

(6) A party may revoke consent to the claim resolution settlement agreement by providing written notice to the other parties and the board within thirty days after the date the agreement is approved by the board.

(7) To the extent the worker is entitled to any benefits while a claim resolution settlement agreement is being negotiated or during the revocation period of an agreement, the benefits must be paid pursuant to the requirements of this title until the agreement becomes final.

(8) A claim resolution settlement agreement that meets the conditions in this section and that has become final and binding as provided in this section is binding on all parties to the agreement as to its terms and the injuries and occupational diseases to which the

agreement applies. A claim resolution settlement agreement that has become final and binding is not subject to appeal.

(9) All payments made to a worker pursuant to a final claim resolution settlement agreement must be reported to the department as claims costs pursuant to this title. If a self-insured employer contracts with a third-party administrator for claim services and the payment of benefits under this title, the third-party administrator shall also disburse the claim resolution settlement payments pursuant to the agreement.

(10) Claims closed pursuant to a claim resolution settlement agreement can be reopened pursuant to RCW 51.32.160 for medical treatment only. Further temporary total, temporary partial, permanent partial, or permanent total benefits are not payable under the same claim or claims for which a claim resolution settlement agreement has been approved by the board and has become final.

(11) Parties aggrieved by the failure of any other party to comply with the terms of a claim resolution settlement agreement have one year from the date of failure to comply to petition to the board. If the board determines that a party has failed to comply with an agreement, it will order compliance and will impose a penalty payable to the aggrieved party of up to twenty-five percent of the monetary amount unpaid at the time the petition for noncompliance was filed. The board will also decide on any disputes as to attorneys' fees for services related to claim resolution settlement agreements.

(12) Parties and their representatives may not use settlement offers or the claim resolution settlement agreement process to harass or coerce any party. If the department determines that an employer has engaged in a pattern of harassment or coercion, the employer may be subject to penalty or corrective action, and may be removed from the retrospective rating program or be decertified from self-insurance under RCW 51.14.030.

(13) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals, other than final orders from the board of industrial insurance appeals, is private and exempt from disclosure under chapter 42.56 RCW. The board of industrial insurance appeals shall provide to the department copies of all final claim resolution settlement agreements.

(14) Information gathered during the claim resolution settlement agreement process, including but not limited to forms filled out by the parties and testimony during a claim resolution settlement conference before the board of industrial insurance appeals, is a statement made in the course of compromise negotiations and is inadmissible in any future litigation. [2021 c 89 § 3; 2014 c 142 § 2; 2013 c 23 § 104; 2011 1st sp.s. c 37 § 302.]

Effective date—2021 c 89: See note following RCW 42.56.230.

Rules—2011 1st sp.s. c 37 §§ 302 and 303: "The department of labor and industries and the board of industrial insurance appeals shall adopt rules as necessary to implement sections 302 and 303 of this act." [2011 1st sp.s. c 37 § 305.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

RCW 51.04.065 Claim resolution settlement agreements—

Availability of copies. The department must maintain copies of all claim resolution settlement agreements entered into between the parties and furnish copies of such agreements to any party actively negotiating a subsequent claim resolution settlement agreement with the worker on any allowed claim when requested. An employer may not consider a prior agreement when making a decision about hiring or the terms or conditions of employment. [2021 c 89 § 4; 2011 1st sp.s. c 37 § 303.]

Effective date—2021 c 89: See note following RCW 42.56.230.

Rules—2011 1st sp.s. c 37 §§ 302 and 303: See note following RCW 51.04.063.

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

RCW 51.04.069 Claim resolution settlement agreements—Reports

and studies. On December 1, 2011, and annually thereafter through December 1, 2014, the department shall report annually to the appropriate committees of the legislature on the implementation of claim resolution settlement agreements. In calendar years 2015, 2019, and 2023, the department shall contract for an independent study of claim resolution settlement agreements approved by the board under this section. The study must be performed by a researcher with experience in workers' compensation issues. When selecting the independent researcher, the department shall consult with the workers' compensation advisory committee. The study must evaluate the quality and effectiveness of claim resolution settlement agreements of state fund and self-insured claims, provide information on the impact of these agreements to the state fund and to self-insured employers, and evaluate the outcomes of workers who have resolved their claims through the claim resolution settlement agreement process. The study must be submitted to the appropriate committees of the legislature. [2021 c 89 § 5; 2011 1st sp.s. c 37 § 306.]

Effective date—2021 c 89: See note following RCW 42.56.230.

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

RCW 51.04.070 Minor worker is sui juris—Guardianship expense.

A minor shall be deemed sui juris for the purpose of this title, and no other person shall have any cause of action or right to compensation for an injury to such minor worker, except as expressly provided in this title, but in the event of any disability payments becoming due under this title to a minor worker, under the age of eighteen, such disability payments shall be paid to his or her parent, guardian or other person having legal custody of his or her person until he or she reaches the age of eighteen. Upon the submission of written authorization by any such parent, guardian, or other person, any such disability payments may be paid directly to such injured worker under the age of eighteen years. If it is necessary to appoint

a legal guardian to receive such disability payments, there shall be paid from the accident fund or by the self-insurer, as the case may be, toward the expenses of such guardianship a sum not to exceed three hundred dollars. [1980 c 14 § 2. Prior: 1977 ex.s. c 350 § 4; 1977 ex.s. c 323 § 2; 1961 c 23 § 51.04.070; prior: 1959 c 308 § 1; 1957 c 70 § 4; prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part; RRS § 7680, part.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.04.080 Sending notices, orders, payments to claimants.

On all claims under this title, claimants' written notices, orders, or payments must be forwarded directly to the claimant until such time as there has been entered an order on the claim appealable to the board of industrial insurance appeals. Claimants' written notices, orders, or payments may be forwarded to the claimant in care of a representative before an order has been entered if the claimant sets forth in writing the name and address of the representative to whom the claimant desires this information to be forwarded. [2013 c 125 § 4; 2007 c 78 § 1; 1972 ex.s. c 43 § 2; 1961 c 23 § 51.04.080. Prior: 1959 c 308 § 2; 1957 c 70 § 5; prior: 1947 c 56 § 1, part; 1927 c 310 § 7, part; 1923 c 136 § 4, part; 1921 c 182 § 6, part; 1919 c 131 § 6, part; 1911 c 74 § 10, part; Rem. Supp. 1947 § 7684, part.]

RCW 51.04.082 Notices and orders—Mail, personal service, or electronic means. Any notice or order required by this title to be mailed to any employer may be served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state, but if the notice or order is mailed, it shall be addressed to the address of the employer as shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. If requested by the employer, any notice or order may be sent by secure electronic means except orders communicating the closure of a claim. Correspondence and notices sent electronically are considered received on the date sent by the department. Failure of the employer to receive such notice or order whether served or mailed shall not release the employer from any tax or any increases or penalties thereon. [2011 c 290 § 2; 1986 c 9 § 2.]

RCW 51.04.085 Transmission of amounts payable. The department may, at any time, on receipt of written authorization, transmit amounts payable to a claimant, beneficiary, or any supplier of goods or services to the account of such person in a bank or other financial institution regulated by state or federal authority. [1977 ex.s. c 323 § 26.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.04.090 Effect of adjudication of applicability. If any employer shall be adjudicated to be outside the lawful scope of this title, the title shall not apply to him or her or his or her worker, or if any worker shall be adjudicated to be outside the lawful scope of this title because of remoteness of his or her work from the hazard of his or her employer's work, any such adjudication shall not impair the validity of this title in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions for the creation of the accident fund, or the provisions of this title making the compensation to the worker provided in it exclusive of any other remedy on the part of the worker shall be held invalid the entire title shall be thereby invalidated. In other respects an adjudication of invalidity of any part of this title shall not affect the validity of the title as a whole or any other part thereof. [1977 ex.s. c 350 § 5; 1961 c 23 § 51.04.090. Prior: 1911 c 74 § 27; RRS § 7706.]

RCW 51.04.100 Statutes of limitation saved. If the provisions of this title relative to compensation for injuries to or death of workers become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death: PROVIDED, That such action be commenced within one year after such repeal or adjudication; but in any such action any sum paid out of the accident fund to the worker on account of injury, to whom the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have paid without delinquency into the accident fund the payment provided by this title, such sums shall be credited upon the recovery as payment thereon, otherwise the sum shall not be so credited but shall be deducted from the sum collected and be paid into the said fund from which they had been previously disbursed. [1977 ex.s. c 350 § 6; 1961 c 23 § 51.04.100. Prior: 1911 c 74 § 28; RRS § 7707.]

RCW 51.04.105 Continuation of medical aid contracts. The obligations of all medical aid contracts approved by the supervisor prior to the repeal of any section of this title pertaining to medical aid contracts shall continue until the expiration of such contracts notwithstanding any such repeal and all provisions of this title pertaining to the operation of medical aid contracts and the control and supervision of such contracts which were in effect at the time of such approval shall, notwithstanding any other provision of law, remain in full force and effect. [1977 ex.s. c 323 § 25.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.04.110 Workers' compensation advisory committee. The director shall appoint a workers' compensation advisory committee composed of ten members: Three representing subject workers, three

representing subject employers, one representing self-insurers, one representing workers of self-insurers, and two ex officio members, without a vote, one of whom shall be the chair of the board of industrial appeals and the other the representative of the department. The member representing the department shall be chair. This committee shall conduct a continuing study of any aspects of workers' compensation as the committee shall determine require their consideration and shall assist in the identification of priorities for safety and health investment projects as provided in chapter 49.17 RCW. The committee shall report its findings to the department or the board of industrial insurance appeals for such action as deemed appropriate. The members of the committee shall be appointed for a term of three years commencing on July 1, 1971 and the terms of the members representing the workers and employers shall be staggered so that the director shall designate one member from each such group initially appointed whose term shall expire on June 30, 1972 and one member from each such group whose term shall expire on June 30, 1973. The members shall serve without compensation, but shall be entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may hire such experts, if any, as it shall require to discharge its duties, and may utilize such personnel and facilities of the department and board of industrial insurance appeals as it shall need without charge. All expenses of this committee shall be paid by the department. [2011 1st sp.s. c 37 § 502; 2010 c 8 § 14001; 1982 c 109 § 2; 1980 c 14 § 3. Prior: 1977 ex.s. c 350 § 7; 1977 c 75 § 78; 1975-'76 2nd ex.s. c 34 § 150; 1975 ex.s. c 224 § 1; 1972 ex.s. c 43 § 37; 1971 ex.s. c 289 § 67.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Effective date—1975 1st ex.s. c 224: "This 1975 amendatory act shall take effect on July 1, 1975." [1975 1st ex.s. c 224 § 20.]

Managed care pilot projects: RCW 43.72.860.

RCW 51.04.120 Certificate of coverage required—Contents. Any employer other than a self-insurer subject to this title shall, under such rules as the department shall prescribe, apply for and obtain from the department a certificate of coverage. The certificate shall be personal and nontransferable and shall be valid as long as the employer continues in business and pays the taxes due the state. In case the employer maintains more than one place of business, a separate certificate of coverage for each place at which business is transacted shall be required. Each certificate shall be numbered and shall show the name, residence, and place and character of business of the employer and such other information as the department deems necessary and shall be posted conspicuously at the place of business for which it is issued. Where a place of business of the employer is changed, the employer must notify the department within thirty days of the new address and a new certificate shall be issued for the new place of business. No employer may engage in any business for which

taxes are due under this title without having a certificate of coverage in compliance with this section, except that the department, by general rule, may provide for the issuance of a certificate of coverage to employers with temporary places of business. [1986 c 9 § 1.]

Engaging in business without certificate of coverage—Unlawful actions—Penalties: RCW 51.48.103.

RCW 51.04.130 Industrial insurance coverage for Hanford workers—Special agreements. The department of labor and industries upon the request of the secretary of defense of the United States or the secretary of the United States department of energy, may in its discretion approve special insuring agreements providing industrial insurance coverage for workers engaged in the performance of work, either directly or indirectly, for the United States, regarding projects and contracts at the Hanford Nuclear Reservation. The agreements need not conform to the requirements specified in the industrial insurance law of this state if the department finds that the application of the plan will effectively aid the national interest. The department may also approve or direct changes or modifications of the agreements as it deems necessary.

An agreement entered into under this section remains in full force and effect for as long as the department deems it necessary to accomplish the purposes of this section. [1997 c 109 § 1; 1951 c 144 § 1.]

Severability—1997 c 109: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 109 § 4.]

RCW 51.04.150 Education and outreach—Workers' compensation, premium responsibilities, and independent contractor issues. The department shall conduct education and outreach to employers on workers' compensation requirements and premium responsibilities, including independent contractor issues. The department shall work with new employers on an individual basis and also establish mass education campaigns. [2009 c 432 § 10.]

Report—2009 c 432: See RCW 18.27.800.

RCW 51.04.153 Fraud—Underground economy—Finding—Use of best practices. (1) The legislature finds that the department is successfully addressing employer fraud and the underground economy, helping ensure that employers who appropriately report and pay premiums can be competitive. Efforts focus on prevention, education, and enforcement by identifying industries for targeted audits, informing industry members and providing the opportunity for voluntary compliance, and ultimately identifying employers for audit based on proven criteria.

(2) To ensure the appropriate use of workers' compensation funds, the legislature directs the department of labor and industries to

continue applying these proven best practices to employer fraud and to apply the same best practices to address instances of worker and provider fraud, including but not limited to:

(a) Participating in a national information exchange with other workers' compensation insurers to avoid duplication of claims and benefits;

(b) Increasing public awareness of employer, worker, and provider fraud issues and how to report suspected fraud;

(c) Establishing criteria for the periodic review of total permanent disability pension recipients including their level of disability and physical activity to determine whether they can be gainfully employed; and

(d) Identifying provider billing patterns to target potentially abusive practices.

(3) The provisions of RCW 51.28.070 shall not be a barrier to the department's participation in a national information exchange as required in subsection (2)(a) of this section.

(4) The department's activities must include approaches to prevent, educate, and ensure compliance by providers, employers, and workers. The department shall provide a report to the governor and the appropriate legislative committees by December 1, 2012, that describes the agency's efforts and outcomes and makes recommendations for statutory changes to address barriers for successfully addressing provider, employer, and worker fraud. [2011 1st sp.s. c 37 § 701.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

RCW 51.04.160 Logger safety initiative—Task force—Report. (1)

The department shall include one or more representatives of logging industry workers on the logger safety task force. In addition, the department shall reach out to all employers in the logging industry, including those having one or more on the job fatalities in the last five years, and invite them to participate in the logger safety initiative. All participants must comply with the requirements of the logger safety initiative.

(2) By December 31, 2013, the department shall report back to the appropriate committees of the legislature on the development and implementation of the logger safety initiative. The report shall provide a status update on implementation of the initiative and participation in the safety program, including a description and summary of the worker training and supervision standards and the certification process for individual companies. The report shall also contain a description and summary of any industrial insurance rate reduction or other incentive for rate year 2014 that will be applied to employers participating in the initiative. The report may provide recommendations for legislative consideration to further the goals of the initiative. [2013 c 339 § 2.]

Findings—Intent—2013 c 339: "The legislature finds that many Washington workers involved in manual logging in the logging industry suffer industrial injuries with greater frequency and severity than workers in other industries. The legislature further finds that the incidence and severity of injury is particularly high among young workers during the early periods of employment in manual logging. The

legislature recognizes the importance of improving safety performance in the logging industry to reduce industrial injuries for workers and resulting workers' compensation premium rates for employers. The legislature acknowledges that industry participants, including private land owners, timber industry employers, the department of natural resources, and the department of labor and industries, have formed a logger safety task force to develop and implement a logger safety initiative. The goal of the initiative is to reduce the frequency and severity of injuries in the logging industry. The task force will create a program that will establish sector-wide standards for worker training and supervision; establish a certification process for individual company safety programs; and review the progress of logging operations through mandatory performance-based audits. The legislature further recognizes that as the safety culture in the logging industry evolves, the frequency and severity of injuries will decrease, which will drive down industrial insurance costs for logging industry employers. While the industrial insurance costs will decline over time as safety improves, the legislature acknowledges that an immediate reduction in industrial insurance rates for the 2014 rate year for participating logging employers provides an additional incentive for these employers to commit to the logger safety initiative. Therefore, the legislature intends to monitor development and implementation of the logger safety initiative." [2013 c 339 § 1.]

RCW 51.04.165 Information about scholarship opportunities—

Costs. The department may provide information about scholarship opportunities offered by nonprofit organizations and available to children and spouses of workers who suffered an injury in the course of employment resulting in death or permanent total disability. The department may, in its sole discretion, provide information about one or more scholarship opportunities. The cost of printing and inserting materials, any additional mailing costs, and any other related costs must be borne by the scholarship organization. [2013 c 134 § 2.]

RCW 51.04.170 Firefighter safety—Department must establish best practices. (1) The department must establish best practices to improve safety and health outcomes for firefighters, including best practices:

(a) For a proactive health and safety risk management system consisting of a joint employer and employee governance structure to oversee a continuous process of identification, evaluation, monitoring and controlling, and reporting safety and health hazards in the workplace;

(b) To reduce firefighter risk of exposure to carcinogens; and

(c) To prevent or reduce the risk of injuries and illness with particular focus on causes of compensable workers' compensation claims.

(2) Employers of firefighters who implement the best practices provided in subsection (1) of this section may be eligible for a premium discount as determined by the department according to criteria established by the department.

(3) The department must consult with firefighters and employers of firefighters in establishing the best practices and criteria for a premium discount under this section.

(4) The department may update the best practices established under this section as appropriate.

(5) For the purposes of this section, "firefighter" has the same meaning as in RCW 41.26.030(17) (a) through (c). [2019 c 76 § 1.]

RCW 51.04.175 Firefighter safety—Funding authorized for equipment that may be necessary to follow best practices—Eligibility for funding. (1) The director is authorized to provide funding of up to two percent of the premiums paid in the prior year from the risk classes for firefighters as defined in RCW 41.26.030(17) (a) through (c) for the purposes of providing funding to employers of firefighters who have limited resources to purchase additional equipment and other gear that may be needed to follow best practices under RCW 51.04.170. The department may require matching funds from employers. An appropriation is not required for expenditures. Only employers who pay premiums to the state fund as defined in RCW 51.08.175 are eligible for funding under this section.

(2) The department may adopt rules if necessary to implement this section. [2019 c 76 § 2.]

RCW 51.04.180 State of emergency—Safety grant program expenditures—Procedures. (1) In the event of a state of emergency as defined in RCW 43.06.010(12), the director is authorized to expend up to two percent per year of the net premiums earned in the accident fund in the prior fiscal year for the purpose of a safety grant program so long as the assets of the accident fund and pension reserve fund were at least 10 percent in excess of their funded liabilities in the fiscal quarter immediately preceding the state of emergency proclamation.

(2) The safety grant program shall provide one-time grants to employers to purchase equipment, gear, or make capital improvements so long as the purchase is not covered by another grant, government program, or insurance contract. The department may require matching funds from employers. Employers must apply for grants using an application developed by the department.

(3) Employers shall apply the safety grants to purchases of equipment, gear, or capital costs to meet any new safety and health requirements related to the emergency that are required before they are permitted to continue or resume business operations.

(4) An appropriation is not required for expenditures under this section.

(5) Only employers who pay premiums to the state fund as defined in RCW 51.08.175, are not self-insured as defined in RCW 51.08.173, and have 25 or fewer full-time equivalent employees are eligible for funding under this section.

(6) All funds expended from the accident fund for grants under this section must be reimbursed to the accident fund from the state general fund in the omnibus appropriations act adopted for the biennium following the expenditures.

(7) Rules that are adopted to implement this section must be done in consultation with stakeholders. Rules must include but are not limited to:

(a) Guidance for grant awards based on the type, scope, and time frame of a specific declared emergency; and

(b) Criteria for prioritizing grants for eligible recipients.
[2021 c 253 § 5.]

Rule-making authority—Worker safety and health—2021 c 253: See note following RCW 49.17.130.

RCW 51.04.190 Transportation network companies. (1) The application of this chapter to a transportation network company, as defined in RCW 49.46.300, shall not be indicative of, or considered a factor in determining, the existence of an employer-employee relationship between the transportation network company and driver for purposes of any other rights, benefits, or obligations under other state and local employment laws.

(2) A transportation network company's compliance with this chapter satisfies any obligation under any county, city, town, or other municipal corporation ordinance requiring compensation or benefits for workplace injuries or occupational disease. [2022 c 281 § 13.]

Effective dates—2022 c 281 §§ 8-13, 17, and 28: See note following RCW 51.12.020.