

**RCW 38.52.300 Right of action against third party.** If the injury to an emergency worker is due to the negligence or wrong of another not on emergency duty, the injured worker, or if death results from the injury, the surviving spouse, children, parents or dependents, as the case may be, shall elect whether to take under this chapter or seek a remedy against such other, such election to be in advance of any suit under this chapter; and if the surviving spouse takes under this chapter, the cause of action against such other shall be assigned to the department; if the other choice is made, the compensation under this chapter shall be only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated for such case under authority of this chapter: PROVIDED, That the department shall prosecute all claims assigned to it and do any and all things necessary to recover on behalf of the state any and all amounts which an employer or insurance carrier might recover under the provisions of the law. [1986 c 266 s 35; 1984 c 38 s 31; 1973 1st ex.s. c 154 s 59; 1953 c 223 s 14.]

**Severability—1986 c 266:** See note following RCW 38.52.005.

**Severability—1973 1st ex.s. c 154:** See note following RCW 2.12.030.