
HOUSE BILL 2372

State of Washington

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By Representatives Kremen, Winsley, Heavey, O'Brien, Zellinsky, Dellwo, Basich, R. Meyers, Roland, R. Johnson, Rayburn, G. Cole, Anderson, Pruitt, Spanel, Rasmussen, Peery, Braddock, Grant, Brekke, Franklin, G. Fisher and Orr

Read first time 01/15/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to out-of-state contractors; amending RCW
2 51.12.120; and adding a new section to chapter 51.12 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.12 RCW
5 to read as follows:

6 An employer registered as a contractor under chapter 18.27 RCW or
7 licensed under chapter 19.28 RCW not domiciled in this state shall open
8 an account with the department or qualify as a self-insurer in order to
9 provide coverage for all employees.

10 **Sec. 2.** RCW 51.12.120 and 1977 ex.s. c 350 s 23 are each amended
11 to read as follows:

12 (1) If a worker, while working outside the territorial limits of
13 this state, suffers an injury on account of which he or she, or his or

1 her beneficiaries, would have been entitled to compensation under this
2 title had such injury occurred within this state, such worker, or his
3 or her beneficiaries, shall be entitled to compensation under this
4 title: PROVIDED, That if at the time of such injury:

5 (a) His or her employment is principally localized in this state;
6 or

7 (b) He or she is working under a contract of hire made in this
8 state for employment not principally localized in any state; or

9 (c) He or she is working under a contract of hire made in this
10 state for employment principally localized in another state whose
11 workers' compensation law is not applicable to his or her employer; or

12 (d) He or she is working under a contract of hire made in this
13 state for employment outside the United States and Canada.

14 (2) The payment or award of compensation under the workers'
15 compensation law of another state, territory, province, or foreign
16 nation to a worker or his or her beneficiaries otherwise entitled on
17 account of such injury to compensation under this title shall not be a
18 bar to a claim for compensation under this title: PROVIDED, That claim
19 under this title is timely filed. If compensation is paid or awarded
20 under this title, the total amount of compensation paid or awarded the
21 worker or beneficiary under such other workers' compensation law shall
22 be credited against the compensation due the worker or beneficiary
23 under this title.

24 (3) Except as provided under section 1 of this act, if a worker or
25 beneficiary is entitled to compensation under this title by reason of
26 an injury sustained in this state while in the employ of an employer
27 who is domiciled in another state and who has neither opened an account
28 with the department nor qualified as a self-insurer under this title,
29 such an employer or his or her insurance carrier shall file with the
30 director a certificate issued by the agency which administers the

1 workers' compensation law in the state of the employer's domicile,
2 certifying that such employer has secured the payment of compensation
3 under the workers' compensation law of such other state and that with
4 respect to said injury such worker or beneficiary is entitled to the
5 benefits provided under such law. In such event:

6 (a) The filing of such certificate shall constitute appointment by
7 the employer or his or her insurance carrier of the director as its
8 agent for acceptance of the service of process in any proceeding
9 brought by any claimant to enforce rights under this title;

10 (b) The director shall send to such employer or his or her
11 insurance carrier, by registered or certified mail to the address shown
12 on such certificate, a true copy of any notice of claim or other
13 process served on the director by the claimant in any proceeding
14 brought to enforce rights under this title;

15 (c)(i) If such employer is a self-insurer under the workers'
16 compensation law of such other state, such employer shall, upon
17 submission of evidence or security, satisfactory to the director, of
18 his or her ability to meet his or her liability to such claimant under
19 this title, be deemed to be a qualified self-insurer under this title;

20 (ii) If such employer's liability under the workers' compensation
21 law of such other state is insured, such employer's carrier, as to such
22 claimant only, shall be deemed to be subject to this title: PROVIDED,
23 That unless its contract with said employer requires it to pay an
24 amount equivalent to the compensation benefits provided by this title,
25 the insurer's liability for compensation shall not exceed its liability
26 under the workers' compensation law of such other state;

27 (d) If the total amount for which such employer's insurer is liable
28 under (c)(ii) above is less than the total of the compensation to which
29 such claimant is entitled under this title, the director may require

1 the employer to file security satisfactory to the director to secure
2 the payment of compensation under this title; and

3 (e) If such employer has neither qualified as a self-insurer nor
4 secured insurance coverage under the workers' compensation law of
5 another state, such claimant shall be paid compensation by the
6 department;

7 (f) Any such employer shall have the same rights and obligations as
8 other employers subject to this title and where he or she has not
9 provided coverage or sufficient coverage to secure the compensation
10 provided by this title to such claimant, the director may impose a
11 penalty payable to the department of a sum not to exceed fifty percent
12 of the cost to the department of any deficiency between the
13 compensation provided by this title and that afforded such claimant by
14 such employer or his or her insurance carrier if any.

15 (4) As used in this section:

16 (a) A person's employment is principally localized in this or
17 another state when (i) his or her employer has a place of business in
18 this or such other state and he or she regularly works at or from such
19 place of business, or (ii) if clause (i) foregoing is not applicable,
20 he or she is domiciled in and spends a substantial part of his or her
21 working time in the service of his or her employer in this or such
22 other state;

23 (b) "Workers' compensation law" includes "occupational disease law"
24 for the purposes of this section.

25 (5) A worker whose duties require him or her to travel regularly in
26 the service of his or her employer in this and one or more other states
27 may agree in writing with his or her employer that his or her
28 employment is principally localized in this or another state, and,
29 unless such other state refuses jurisdiction, such agreement shall

1 govern as to any injury occurring after the effective date of the
2 agreement.

3 (6) The director shall be authorized to enter into agreements with
4 the appropriate agencies of other states and provinces of Canada which
5 administer their workers' compensation law with respect to conflicts of
6 jurisdiction and the assumption of jurisdiction in cases where the
7 contract of employment arises in one state or province and the injury
8 occurs in another, and when any such agreement has been executed and
9 promulgated as a regulation of the department under chapter 34.05 RCW,
10 it shall bind all employers and workers subject to this title and the
11 jurisdiction of this title shall be governed by this regulation.