

# HOUSE BILL REPORT

## HB 1376

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### As Reported By House Committee On:

Commerce & Labor

**Title:** An act relating to filing claims for occupational disease.

**Brief Description:** Amending the requirements for filing a claim for occupational disease.

**Sponsors:** Representatives Lisk, Chandler, Fuhrman, Goldsmith, Horn and Hargrove.

### Brief History:

#### Committee Activity:

Commerce & Labor: 1/30/95, 2/9/95 [DP].

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 6 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Fuhrman and Goldsmith.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

**Staff:** Chris Cordes (786-7117).

**Background:** For a claim to be valid under the industrial insurance law, the worker must file the claim within one year after a covered injury occurred or, for an occupational disease, within two years after the worker receives written notice from a physician of the existence of the disease and that a claim may be filed. The physician's notice must also state that the worker has two years to file a claim.

The physician must file the occupational disease notice with the Department of Labor and Industries. The department is responsible for forwarding the notice to the worker and the worker's employer, if the employer is self-insured.

**Summary of Bill:** The requirements under the industrial insurance law for determining the period for filing occupational disease claims are modified. The two-year time period for filing the claim begins when the worker has notice after

diagnosis by a physician of the existence of his or her occupational disease and the worker knew or should have known that a claim could be filed. The requirement is deleted that the worker must have written notice from a physician stating that the occupational disease exists and that a claim may be filed in two years from the date of notice. References to filing and distribution of the physician's notice are deleted.

A provision is added that an employer must prominently display at the workplace a notice stating that workers have two years to file occupational disease claims from the date of notice by a physician of an occupational disease.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 1995.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The current statute of limitations for filing an occupational disease claim is not a statute of limitations at all, because if any one of the elements is not met, the time line does not begin to run. Because of this, there is no certainty about when an employer's exposure to liability ends. There should be a hard line rule as there is for injury claims. This bill would create an incentive for proper notification. Attending physicians should be educated about the time line requirements so that appropriate notice is given and the time lines can be effective.

**Testimony Against:** Current law requires a written notice to the worker from his or her physician. By eliminating the written notice, this bill weakens the workers' safety net and makes the current bright line fuzzy. Statute of limitations issues should be balanced with workers' rights. Most workers won't know their rights unless told. A physician might note in a medical chart that the disease is an occupational one but fail to tell the patient. The posted notice will not be effective for informing workers of their rights. If there is a problem with current law, steps should be taken to enforce violations against the physician or the Department of Labor and Industries.

**Testified:** (In favor) David Ducharme, Washington Self-Insurers Association; and Clif Finch, Association of Washington Business. (Opposed) Jeff Johnson, Washington State Labor Council; and Joe Albo, Washington State Trial Lawyers Association.