

# SENATE BILL REPORT

## SSB 5402

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As Passed Senate, March 13, 1995

**Title:** An act relating to industrial insurance penalties.

**Brief Description:** Revising provisions related to industrial insurance penalties.

**Sponsors:** Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz and Franklin; by request of Department of Labor & Industries).

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 1/24/95, 2/14/95 [DPS].  
Passed Senate, 3/13/95, 47-1.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** That Substitute Senate Bill No. 5402 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Deccio, Franklin, Fraser, Hale, Palmer and Wojahn.

**Staff:** Jack Brummel (786-7428)

**Background:** When a successor business notifies the Department of Labor and Industries of its acquisition of a business, the department has 60 days to issue an assessment against the business owner that has quit the business. The Department of Revenue and the Employment Security Department statutes pertaining to successorship allow those departments 180 days to issue their assessments.

It is a crime for employers to knowingly misrepresent their payroll in reports to the Department of Labor and Industries. Because of current collection practices, the statutory reference to misrepresentation of payroll is outdated.

The department believes that certain statutory notice provisions could be streamlined.

**Summary of Bill:** The department is given 180 days to issue an assessment against a former employer and mail a copy of the assessment to the successor. The statutory language pertaining to misrepresentation of payroll is modified to proscribe misrepresentation of employee hours.

The requirement that the service of a Notice of Assessment by certified mail be accompanied by an affidavit of service by mailing is eliminated. Service of a Notice and Order to Withhold and Deliver by certified mail with return receipt requested is authorized.

The department is directed to annually compile a report on workers' compensation fraud and submit it to the Legislature.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** The fraud report provisions of the bill would give important data to the department and the Legislature. Since the state uses hourly wages in its calculations, the misrepresentation of payroll language needs to be changed.

**Testimony Against:** The change to the misrepresentation language is overly broad and needs greater specificity.

**Testified:** Mark Brown, Dept. of Labor and Industries (pro); Charles Bush, WA Self Insurers Assn. (con); Clif Finch, AWB (con); Gary Smith, WA Assoc. of Independent Businesses (con).

**House Amendment(s):** Industrial insurance benefits are denied to a beneficiary if the beneficiary: (1) deliberately intended the injury or death giving rise to the benefits; (2) engaged or intended to engage in felonious conduct causing the injury or death giving rise to the benefits; or (3) is incarcerated.