
HOUSE BILL 1784

State of Washington

54th Legislature

1995 Regular Session

By Representatives Lisk and Romero

Read first time 02/08/95. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to refining industrial insurance actions; and
2 amending RCW 51.12.120, 51.16.200, 51.48.120, 51.48.150, and 51.52.060.

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

4 **Sec. 1.** RCW 51.12.120 and 1977 ex.s. c 350 s 23 are each amended
5 to read as follows:

6 (1) If a worker, while working outside the territorial limits of
7 this state, suffers an injury on account of which he or she, or his or
8 her beneficiaries, would have been entitled to compensation under this
9 title had such injury occurred within this state, such worker, or his
10 or her beneficiaries, shall be entitled to compensation under this
11 title: PROVIDED, That if at the time of such injury:

12 (a) His or her employment is principally localized in this state;
13 or

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

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

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

3 (2) The payment or award of compensation or other recoveries,
4 including settlement proceeds, under the workers' compensation law of
5 another state, territory, province, or foreign nation to a worker or
6 his or her beneficiaries otherwise entitled on account of such injury
7 to compensation under this title shall not be a bar to a claim for
8 compensation under this title: PROVIDED, That claim under this title
9 is timely filed. If compensation is paid or awarded under this title,
10 the total amount of compensation or other recoveries, including
11 settlement proceeds, paid or awarded the worker or beneficiary under
12 such other workers' compensation law shall be credited against the
13 compensation due the worker or beneficiary under this title.

14 (3) If a worker or beneficiary is entitled to compensation under
15 this title by reason of an injury sustained in this state while in the
16 employ of an employer who is domiciled in another state and who has
17 neither opened an account with the department nor qualified as a self-
18 insurer under this title, such an employer or his or her insurance
19 carrier shall file with the director a certificate issued by the agency
20 which administers the workers' compensation law in the state of the
21 employer's domicile, certifying that such employer has secured the
22 payment of compensation under the workers' compensation law of such
23 other state and that with respect to said injury such worker or
24 beneficiary is entitled to the benefits provided under such law. In
25 such event:

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

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

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

1 (ii) If such employer's liability under the workers' compensation
2 law of such other state is insured, such employer's carrier, as to such
3 claimant only, shall be deemed to be subject to this title: PROVIDED,
4 That unless its contract with said employer requires it to pay an
5 amount equivalent to the compensation benefits provided by this title,
6 the insurer's liability for compensation shall not exceed its liability
7 under the workers' compensation law of such other state;

8 (d) If the total amount for which such employer's insurer is liable
9 under (c)(ii) above is less than the total of the compensation to which
10 such claimant is entitled under this title, the director may require
11 the employer to file security satisfactory to the director to secure
12 the payment of compensation under this title; ((and))

13 (e) If such employer has neither qualified as a self-insurer nor
14 secured insurance coverage under the workers' compensation law of
15 another state, such claimant shall be paid compensation by the
16 department; and

17 (f) Any such employer shall have the same rights and obligations as
18 other employers subject to this title and where he or she has not
19 provided coverage or sufficient coverage to secure the compensation
20 provided by this title to such claimant, the director may impose a
21 penalty payable to the department of a sum not to exceed fifty percent
22 of the cost to the department of any deficiency between the
23 compensation provided by this title and that afforded such claimant by
24 such employer or his or her insurance carrier if any.

25 (4) As used in this section:

26 (a) A person's employment is principally localized in this or
27 another state when (i) his or her employer has a place of business in
28 this or such other state and he or she regularly works at or from such
29 place of business, or (ii) if clause (i) foregoing is not applicable,
30 he or she is domiciled in and spends a substantial part of his or her
31 working time in the service of his or her employer in this or such
32 other state;

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

35 (5) A worker whose duties require him or her to travel regularly in
36 the service of his or her employer in this and one or more other states
37 may agree in writing with his or her employer that his or her
38 employment is principally localized in this or another state, and,
39 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.

12 **Sec. 2.** RCW 51.16.200 and 1986 c 9 s 6 are each amended to read as
13 follows:

14 Whenever any employer quits business, or sells out, exchanges, or
15 otherwise disposes of the employer's business or stock of goods, any
16 tax payable hereunder shall become immediately due and payable, and the
17 employer shall, within ten days thereafter, make a return and pay the
18 tax due; and any person who becomes a successor to such business shall
19 become liable for the full amount of the tax and withhold from the
20 purchase price a sum sufficient to pay any tax due from the employer
21 until such time as the employer shall produce a receipt from the
22 department showing payment in full of any tax due or a certificate that
23 no tax is due and, if such tax is not paid by the employer within ten
24 days from the date of such sale, exchange, or disposal, the successor
25 shall become liable for the payment of the full amount of tax, and the
26 payment thereof by such successor shall, to the extent thereof, be
27 deemed a payment upon the purchase price, and if such payment is
28 greater in amount than the purchase price the amount of the difference
29 shall become a debt due such successor from the employer.

30 No successor may be liable for any tax due from the person from
31 whom (~~that person~~) the successor has acquired a business or stock of
32 goods if (~~that person~~) the successor gives written notice to the
33 department of such acquisition and no assessment is issued by the
34 department within (~~sixty~~) one hundred eighty days of receipt of such
35 notice against the former operator of the business and a copy thereof
36 mailed to such successor.

1 **Sec. 3.** RCW 51.48.120 and 1986 c 9 s 10 are each amended to read
2 as follows:

3 If any employer should default in any payment due to the state fund
4 the director or the director's designee may issue a notice of
5 assessment certifying the amount due, which notice shall be served upon
6 the employer by mailing such notice to the employer by certified mail
7 to the employer's last known address(~~(, accompanied by an affidavit of~~
8 ~~service by mailing,)~~) or served in the manner prescribed for the
9 service of a summons in a civil action. Such notice shall contain the
10 information that an appeal must be filed with the board of industrial
11 insurance appeals and the director by mail or personally within thirty
12 days of the date of service of the notice of assessment in order to
13 appeal the assessment unless a written request for reconsideration is
14 filed with the department of labor and industries.

15 **Sec. 4.** RCW 51.48.150 and 1987 c 442 s 1119 are each amended to
16 read as follows:

17 The director or the director's designee is hereby authorized to
18 issue to any person, firm, corporation, municipal corporation,
19 political subdivision of the state, a public corporation, or any agency
20 of the state, a notice and order to withhold and deliver property of
21 any kind whatsoever when he or she has reason to believe that there is
22 in the possession of such person, firm, corporation, municipal
23 corporation, political subdivision of the state, public corporation, or
24 any agency of the state, property which is or shall become due, owing,
25 or belonging to any employer upon whom a notice of assessment has been
26 served by the department for payments due to the state fund. The
27 effect of a notice and order to withhold and deliver shall be
28 continuous from the date such notice and order to withhold and deliver
29 is first made until the liability out of which such notice and order to
30 withhold and deliver arose is satisfied or becomes unenforceable
31 because of lapse of time. The department shall release the notice and
32 order to withhold and deliver when the liability out of which the
33 notice and order to withhold and deliver arose is satisfied or becomes
34 unenforceable by reason of lapse of time and shall notify the person
35 against whom the notice and order to withhold and deliver was made that
36 such notice and order to withhold and deliver has been released.

37 The notice and order to withhold and deliver shall be served by the
38 sheriff of the county or by the sheriff's deputy, by certified mail,

1 return receipt requested, or by any duly authorized representatives of
2 the director. Any person, firm, corporation, municipal corporation,
3 political subdivision of the state, public corporation or any agency of
4 the state upon whom service has been made is hereby required to answer
5 the notice within twenty days exclusive of the day of service, under
6 oath and in writing, and shall make true answers to the matters
7 inquired of in the notice and order to withhold and deliver. In the
8 event there is in the possession of the party named and served with a
9 notice and order to withhold and deliver, any property which may be
10 subject to the claim of the department, such property shall be
11 delivered forthwith to the director or the director's duly authorized
12 representative upon service of the notice to withhold and deliver which
13 will be held in trust by the director for application on the employer's
14 indebtedness to the department, or for return without interest, in
15 accordance with a final determination of a petition for review, or in
16 the alternative such party shall furnish a good and sufficient surety
17 bond satisfactory to the director conditioned upon final determination
18 of liability. Should any party served and named in the notice to
19 withhold and deliver fail to make answer to such notice and order to
20 withhold and deliver, within the time prescribed herein, it shall be
21 lawful for the court, after the time to answer such order has expired,
22 to render judgment by default against the party named in the notice to
23 withhold and deliver for the full amount claimed by the director in the
24 notice to withhold and deliver together with costs. In the event that
25 a notice to withhold and deliver is served upon an employer and the
26 property found to be subject thereto is wages, then the employer shall
27 be entitled to assert in the answer to all exemptions provided for by
28 chapter 6.27 RCW to which the wage earner may be entitled.

29 **Sec. 5.** RCW 51.52.060 and 1986 c 200 s 11 are each amended to read
30 as follows:

31 Except as otherwise specifically provided in this section, any
32 worker, beneficiary, employer, health services provider, or other
33 person aggrieved by an order, decision, or award of the department
34 must, before he or she appeals to the courts, file with the board and
35 the director, by mail or personally, within sixty days from the day on
36 which such copy of such order, decision, or award was communicated to
37 such person, a notice of appeal to the board: PROVIDED, That a health
38 services provider or other person aggrieved by a department order or

1 decision making demand, whether with or without penalty, solely for
2 repayment of sums paid to a provider of medical, dental, vocational, or
3 other health services rendered to an industrially injured worker must,
4 before he or she appeals to the courts, file with the board and the
5 director, by mail or personally, within twenty days from the day on
6 which such copy of such order or decision was communicated to the
7 health services provider upon whom the department order or decision was
8 served, a notice of appeal to the board. Within ten days of the date
9 on which an appeal has been granted by the board, the board shall
10 notify the other interested parties thereto of the receipt thereof and
11 shall forward a copy of said notice of appeal to such other interested
12 parties. Within twenty days of the receipt of such notice of the
13 board, the worker or the employer may file with the board a cross-
14 appeal from the order of the department from which the original appeal
15 was taken: PROVIDED, That nothing contained in this section shall be
16 deemed to change, alter or modify the practice or procedure of the
17 department for the payment of awards pending appeal: AND PROVIDED,
18 That failure to file notice of appeal with both the board and the
19 department shall not be ground for denying the appeal if the notice of
20 appeal is filed with either the board or the department: AND PROVIDED,
21 That, if within the time limited for filing a notice of appeal to the
22 board from an order, decision, or award of the department, the
23 department shall direct the submission of further evidence or the
24 investigation of any further fact, the time for filing such notice of
25 appeal shall not commence to run until such person shall have been
26 advised in writing of the final decision of the department in the
27 matter: PROVIDED, FURTHER, That in the event the department shall
28 direct the submission of further evidence or the investigation of any
29 further fact, as above provided, the department shall render a final
30 order, decision, or award within ninety days from the date such further
31 submission of evidence or investigation of further fact is ordered
32 which time period may be extended by the department for good cause
33 stated in writing to all interested parties for an additional ninety
34 days: PROVIDED, FURTHER, That the department, either within the time
35 limited for appeal, or within thirty days after receiving a notice of
36 appeal, may modify, reverse or change any order, decision, or award, or
37 may hold any such order, decision, or award in abeyance for a period of
38 ninety days which time period may be extended by the department for
39 good cause stated in writing to all interested parties for an

1 additional ninety days pending further investigation in light of the
2 allegations of the notice of appeal, and the board shall thereupon deny
3 the appeal, without prejudice to the appellant's right to appeal from
4 any subsequent determinative order issued by the department.

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