

HOUSE BILL ANALYSIS

HB 2312

Brief Description: Prescribing workers' compensation obligations of employers not domiciled in Washington.

Sponsors: Doumit, Pennington, Hatfield, Kenney and Clements

Hearing: January 28, 1998

BACKGROUND:

COVERAGE OF WORKERS UNDER INDUSTRIAL INSURANCE

The Washington industrial insurance law, with certain exemptions, covers all workers employed by persons or entities engaged, through trade or business, in Washington in work subject to the industrial insurance law.

Under case law, this coverage does not include workers hired in Washington to work exclusively in another state by employers not engaged in any business in Washington. In addition, there may not be coverage if the worker's employment in Washington is subject to a reciprocal agreement. The industrial insurance law permits the director of the Department of Labor and Industries to enter into reciprocal agreements with other states and provinces governing jurisdiction over claims when the contract of employment arises in one jurisdiction and the injury occurs in another.

The department has entered into reciprocal agreements with Idaho, Montana, North Dakota, Nevada, Oregon, South Dakota, and Wyoming. Under the Oregon reciprocal agreement, the Washington state fund is responsible for coverage of a Washington employer's Washington workers who are injured in Oregon while the employer has a temporary workplace in Oregon, and Oregon is similarly responsible for Oregon employers' Oregon workers working in a temporary workplace in Washington. Under the agreement, a "Washington worker" is a person hired to work in Washington, while an "Oregon worker" is a person hired to work in Oregon.

RESPONSIBILITY OF OUT-OF-STATE EMPLOYERS TO SECURE WORKERS' COMPENSATION COVERAGE

However, Oregon's public works law requires all public works contracts to contain a clause making employers working under the contract subject to Oregon's workers' compensation law.

SUMMARY OF BILL:

Out-of-state employers who are employing workers in Washington must comply with one of the following:

- ⌋ have an account with the Department of Labor and Industries (the Washington state fund);
- ⌋ be qualified as a self-insurer; or
- ⌋ file a certificate with the department from the workers' compensation agency of the employer's state of domicile showing: (1) that the employer has workers' compensation coverage in the other state; and (2) that the employer is subject to a reciprocal agreement between the two states.

Out-of-state employers who fail to comply with these requirements are subject to the same penalties as Washington employers who fail to comply. (These penalties include a penalty of \$500 or double the premiums that were incurred before obtaining coverage, and from 50 to 100 percent of the cost of the benefits paid to a worker before coverage is obtained.)

RULES AUTHORITY: The bill does not contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Not requested.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.