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**SUBSTITUTE HOUSE BILL 1691**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Mitchell, Honeyford, Lisk and Mulliken)

Read first time 03/05/97.

1 AN ACT Relating to restricting actions against employers under  
2 industrial insurance; amending RCW 51.24.020; and creating a new  
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the historic  
6 covenant between workers and employers that resulted in the industrial  
7 insurance system in Washington was intended to provide both "sure and  
8 certain" relief to workers and foreclosure of law suits against  
9 employers, without regard to questions of fault by either party.  
10 However, this historic compromise also recognized that employers who  
11 deliberately injured their employees should not be immune from civil  
12 law suit. The legislature therefore finds that the standard used for  
13 determining the injuries for which employers can be subject to suit is  
14 critical to maintaining the covenant between workers and employers. To  
15 protect the no-fault system intended for industrial insurance, this  
16 standard must narrowly limit suits against employers to situations in  
17 which the employer determined to injure the employee and used some  
18 means appropriate to that end.

1       **Sec. 2.** RCW 51.24.020 and 1984 c 218 s 2 are each amended to read  
2 as follows:

3       If injury results to a worker from the deliberate intention of his  
4 or her employer to produce such injury, the worker or beneficiary of  
5 the worker shall have the privilege to take under this title and also  
6 have cause of action against the employer as if this title had not been  
7 enacted, for any damages in excess of compensation and benefits paid or  
8 payable under this title. For the purposes of this section, a worker's  
9 injury does not result from the deliberate intention of his or her  
10 employer unless the employer had specific intent to injure the  
11 employee. The specific intent required under this section must relate  
12 to the injury, not to the act causing the injury. The employer has the  
13 specific intent required under this section if the employer acts with  
14 the objective or purpose to accomplish the worker's injury, using some  
15 means appropriate to that end. The court shall determine, as a  
16 question of law, the employer's intent.

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