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**SUBSTITUTE HOUSE BILL 2312**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Doumit, Pennington, Hatfield, Kenney, Clements, Carlson, Kessler, Anderson, Dunn and Tokuda)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to workers' compensation obligations of employers  
2 not domiciled in Washington; and amending RCW 51.12.120, 18.27.030, and  
3 19.28.120.

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

5 **Sec. 1.** RCW 51.12.120 and 1995 c 199 s 1 are each amended to read  
6 as follows:

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

14 (a) His or her employment is principally localized in this state;  
15 or

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

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

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

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

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

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

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

38 (~~(c)(i) If such employer is a self-insurer under the workers'  
39 compensation law of such other state, such employer shall, upon~~

1 ~~submission of evidence or security, satisfactory to the director, of~~  
2 ~~his or her ability to meet his or her liability to such claimant under~~  
3 ~~this title, be deemed to be a qualified self-insurer under this title;~~

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

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

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

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

28 ~~(4)) An employer not domiciled in this state who is employing~~  
29 ~~workers performing work in this state must secure the payment of~~  
30 ~~compensation under this title by:~~

31 ~~(a) Having an account with the department;~~

32 ~~(b) Qualifying as a self-insurer under this title; or~~

33 ~~(c)(i) With respect to employers subject to an agreement entered~~  
34 ~~into under subsection (7) of this section, filing with the department~~  
35 ~~a certificate of coverage issued by the agency which administers the~~  
36 ~~workers' compensation law in the employer's state or province of~~  
37 ~~domicile certifying that, for coverage of workers who are not~~  
38 ~~Washington workers, the employer either is qualified as a self-insurer~~  
39 ~~under the other state's or province's workers' compensation law or has~~

1 secured the payment of compensation under the other state's or  
2 province's workers' compensation law. The employer must comply with  
3 (a) or (b) of this subsection to cover Washington workers.

4 (ii) The filing of a certificate under this subsection authorizes  
5 the department to act on behalf of the employer or the employer's  
6 insurance carrier with regard to a claim filed under this title and  
7 constitutes appointment by the employer or his or her insurance carrier  
8 of the director as its agent for acceptance of the service of process  
9 in any proceeding brought by any claimant to enforce rights under this  
10 title.

11 (4) When a worker or beneficiary is entitled to compensation under  
12 this title because of an injury sustained in this state while in the  
13 employ of an employer who is not domiciled in this state:

14 (a) If the employer has filed a certificate under subsection (3)(c)  
15 of this section:

16 (i) The director shall send to the employer or his or her insurance  
17 carrier, by registered or certified mail to the address shown on the  
18 certificate, a true copy of any notice of claim or other process served  
19 on the director by the claimant in any proceeding brought to enforce  
20 rights under this title; and

21 (ii)(A) If the employer's liability under the other state's or  
22 province's workers' compensation law is insured:

23 (I) The employer's carrier, as to such claimant only, shall be  
24 deemed to be subject to this title. However, unless the insurer's  
25 contract with the employer requires the insurer to pay an amount  
26 equivalent to the compensation benefits provided by this title, the  
27 insurer's liability for compensation shall not exceed the insurer's  
28 liability under the workers' compensation law of the employer's state  
29 or province of domicile; and

30 (II) If the total amount for which the employer's insurer is liable  
31 under (a)(ii)(A)(I) of this subsection is less than the total of the  
32 compensation to which the claimant is entitled under this title, the  
33 employer is liable for the total of the compensation and the director  
34 may require the employer to file security satisfactory to the director  
35 to secure the payment of compensation under this title; or

36 (B) If the employer is self-insured under the other state's or  
37 province's workers' compensation law, the employer is liable for the  
38 total of the compensation to which the claimant is entitled under this  
39 title and the director may require the employer to file security

1 satisfactory to the director to secure the payment of compensation  
2 under this title; or

3 (b) If the employer has not complied with subsection (3) of this  
4 section:

5 (i) The claimant shall be paid compensation by the department; and

6 (ii) The employer shall have the same rights and obligations, and  
7 be subject to the same penalties, as other employers subject to this  
8 title.

9 (5) As used in this section:

10 (a) A person's employment is principally localized in this or  
11 another state when: (i) His or her employer has a place of business in  
12 this or ~~((such))~~ the other state and he or she regularly works at or  
13 from ~~((such))~~ the place of business~~((r))~~; or (ii) if ~~((clause (i)~~  
14 ~~foregoing))~~ (a)(i) of this subsection is not applicable, he or she is  
15 domiciled in and spends a substantial part of his or her working time  
16 in the service of his or her employer in this or ~~((such))~~ the other  
17 state;

18 (b) "Workers' compensation law" includes "occupational disease law"  
19 for the purposes of this section; and

20 (c) "Washington worker" means an employee working in Washington who  
21 either was: (i) Hired in Washington; or (ii) hired in another state  
22 for the purpose of working in Washington and not in the other state.

23 ~~((+5))~~ (6) A worker whose duties require him or her to travel  
24 regularly in the service of his or her employer in this and one or more  
25 other states may agree in writing with his or her employer that his or  
26 her employment is principally localized in this or another state, and,  
27 unless ~~((such))~~ the other state refuses jurisdiction, ~~((such))~~ the  
28 agreement shall govern as to any injury occurring after the effective  
29 date of the agreement.

30 ~~((+6))~~ (7) The director ~~((shall be))~~ is authorized to enter into  
31 agreements with the appropriate agencies of other states and provinces  
32 of Canada which administer their workers' compensation law with respect  
33 to conflicts of jurisdiction and the assumption of jurisdiction in  
34 cases where the contract of employment arises in one state or province  
35 and the injury occurs in another, and when any such agreement has been  
36 executed and ~~((promulgated))~~ adopted as a ~~((regulation))~~ rule of the  
37 department under chapter 34.05 RCW, it shall bind all employers and  
38 workers subject to this title and the jurisdiction of this title shall  
39 be governed by this regulation.

1       **Sec. 2.** RCW 18.27.030 and 1997 c 314 s 4 are each amended to read  
2 as follows:

3       (1) An applicant for registration as a contractor shall submit an  
4 application under oath upon a form to be prescribed by the director and  
5 which shall include the following information pertaining to the  
6 applicant:

7       (a) Employer social security number.

8       (b) As applicable: (i) The industrial insurance account number  
9 covering ~~((employees domiciled in))~~ Washington workers; and (ii)  
10 evidence ~~((of workers' compensation coverage in the applicant's state~~  
11 ~~of domicile for))~~ acceptable to the director of compliance with RCW  
12 51.12.120 for coverage of the applicant's employees working in  
13 Washington who are not ((domiciled in)) Washington workers. For the  
14 purposes of this subsection, "Washington worker" has the same  
15 definition as RCW 51.12.120(5)(c).

16       (c) Employment security department number.

17       (d) State excise tax registration number.

18       (e) Unified business identifier (UBI) account number may be  
19 substituted for the information required by (b)~~((7))~~ of this subsection  
20 if the applicant will not employ workers in Washington, and by (c)~~((7))~~  
21 and (d) of this subsection.

22       (f) Type of contracting activity, whether a general or a specialty  
23 contractor and if the latter, the type of specialty.

24       (g) The name and address of each partner if the applicant be a firm  
25 or partnership, or the name and address of the owner if the applicant  
26 be an individual proprietorship, or the name and address of the  
27 corporate officers and statutory agent, if any, if the applicant be a  
28 corporation. The information contained in such application shall be a  
29 matter of public record and open to public inspection.

30       (2) The department may verify the workers' compensation coverage  
31 information provided by the applicant under subsection (1)(b) of this  
32 section, including but not limited to information regarding the  
33 coverage of an individual employee of the applicant. If coverage is  
34 provided under the laws of another state, the department may notify the  
35 other state that the applicant is employing employees in Washington.

36       (3) The department shall deny an application for registration if  
37 the applicant has been previously registered as a sole proprietor,  
38 partnership, or corporation and the applicant has an unsatisfied final

1 judgment against him or her in an action based on this chapter that was  
2 incurred during a previous registration under this chapter.

3 **Sec. 3.** RCW 19.28.120 and 1992 c 217 s 2 are each amended to read  
4 as follows:

5 (1) It is unlawful for any person, firm, partnership, corporation,  
6 or other entity to engage in, conduct, or carry on the business of  
7 installing or maintaining wires or equipment to convey electric  
8 current, or installing or maintaining equipment to be operated by  
9 electric current as it pertains to the electrical industry, without  
10 having an unrevoked, unsuspended, and unexpired electrical contractor  
11 license, issued by the department in accordance with this chapter. All  
12 electrical contractor licenses expire twenty-four calendar months  
13 following the day of their issue. The department may issue an  
14 electrical contractors license for a period of less than twenty-four  
15 months only for the purpose of equalizing the number of electrical  
16 contractor licenses which expire each month. Application for an  
17 electrical contractor license shall be made in writing to the  
18 department, accompanied by the required fee. The application shall  
19 state:

20 (a) The name and address of the applicant; in case of firms or  
21 partnerships, the names of the individuals composing the firm or  
22 partnership; in case of corporations, the names of the managing  
23 officials thereof;

24 (b) The location of the place of business of the applicant and the  
25 name under which the business is conducted;

26 (c) Employer social security number;

27 (d) As applicable: (i) The industrial insurance account number  
28 covering ~~((employees domiciled in))~~ Washington workers; and (ii)  
29 evidence ~~((of workers' compensation coverage in the applicant's state  
30 of domicile for))~~ acceptable to the director of compliance with RCW  
31 51.12.120 for coverage of the applicant's employees working in  
32 Washington who are not ((domiciled in)) Washington workers. For the  
33 purposes of this subsection, "Washington worker" has the same  
34 definition as RCW 51.12.120(5)(c);

35 (e) Employment security department number;

36 (f) State excise tax registration number;

37 (g) Unified business identifier (UBI) account number may be  
38 substituted for the information required by (d)~~((7))~~ of this subsection

1 if the applicant will not employ workers in Washington, and by (e)((7))  
2 and (f) of this subsection; and

3 (h) Whether a general or specialty electrical contractor license is  
4 sought and, if the latter, the type of specialty. Electrical  
5 contractor specialties include, but are not limited to: Residential,  
6 domestic appliances, pump and irrigation, limited energy system, signs,  
7 nonresidential maintenance, and a combination specialty. A general  
8 electrical contractor license shall grant to the holder the right to  
9 engage in, conduct, or carry on the business of installing or  
10 maintaining wires or equipment to carry electric current, and  
11 installing or maintaining equipment, or installing or maintaining  
12 material to fasten or insulate such wires or equipment to be operated  
13 by electric current, in the state of Washington. A specialty  
14 electrical contractor license shall grant to the holder a limited right  
15 to engage in, conduct, or carry on the business of installing or  
16 maintaining wires or equipment to carry electrical current, and  
17 installing or maintaining equipment; or installing or maintaining  
18 material to fasten or insulate such wires or equipment to be operated  
19 by electric current in the state of Washington as expressly allowed by  
20 the license.

21 (2) The department may verify the workers' compensation coverage  
22 information provided by the applicant under subsection (1)(d) of this  
23 section, including but not limited to information regarding the  
24 coverage of an individual employee of the applicant. If coverage is  
25 provided under the laws of another state, the department may notify the  
26 other state that the applicant is employing employees in Washington.

27 (3) The application for a contractor license shall be accompanied  
28 by a bond in the sum of four thousand dollars with the state of  
29 Washington named as obligee in the bond, with good and sufficient  
30 surety, to be approved by the department. The bond shall at all times  
31 be kept in full force and effect, and any cancellation or revocation  
32 thereof, or withdrawal of the surety therefrom, suspends the license  
33 issued to the principal until a new bond has been filed and approved as  
34 provided in this section. Upon approval of a bond, the department  
35 shall on the next business day deposit the fee accompanying the  
36 application in the electrical license fund and shall file the bond in  
37 the office. The department shall upon request furnish to any person,  
38 firm, partnership, corporation, or other entity a certified copy of the  
39 bond upon the payment of a fee that the department shall set by rule.



1 The fee shall cover but not exceed the cost of furnishing the certified  
2 copy. The bond shall be conditioned that in any installation or  
3 maintenance of wires or equipment to convey electrical current, and  
4 equipment to be operated by electrical current, the principal will  
5 comply with the provisions of this chapter and with any electrical  
6 ordinance, building code, or regulation of a city or town adopted  
7 pursuant to RCW 19.28.010(~~(+2)~~) (3) that is in effect at the time of  
8 entering into a contract. The bond shall be conditioned further that  
9 the principal will pay for all labor, including employee benefits, and  
10 material furnished or used upon the work, taxes and contributions to  
11 the state of Washington, and all damages that may be sustained by any  
12 person, firm, partnership, corporation, or other entity due to a  
13 failure of the principal to make the installation or maintenance in  
14 accordance with this chapter or any applicable ordinance, building  
15 code, or regulation of a city or town adopted pursuant to RCW  
16 19.28.010(~~(+2)~~) (3). In lieu of the surety bond required by this  
17 section the license applicant may file with the department a cash  
18 deposit or other negotiable security acceptable to the department. If  
19 the license applicant has filed a cash deposit, the department shall  
20 deposit the funds in a special trust savings account in a commercial  
21 bank, mutual savings bank, or savings and loan association and shall  
22 pay annually to the depositor the interest derived from the account.

23 (4) The department shall issue general or specialty electrical  
24 contractor licenses to applicants meeting all of the requirements of  
25 this chapter. The provisions of this chapter relating to the licensing  
26 of any person, firm, partnership, corporation, or other entity  
27 including the requirement of a bond with the state of Washington named  
28 as obligee therein and the collection of a fee therefor, are exclusive,  
29 and no political subdivision of the state of Washington may require or  
30 issue any licenses or bonds or charge any fee for the same or a similar  
31 purpose. No person, firm, partnership, corporation, or other entity  
32 holding more than one specialty contractor license under this chapter  
33 may be required to pay an annual fee for more than one such license or  
34 to post more than one four thousand dollar bond, equivalent cash  
35 deposit, or other negotiable security.

36 (5) To obtain a general or specialty electrical contractor license  
37 the applicant must designate an individual who currently possesses an  
38 administrator's certificate as a general electrical contractor  
39 administrator or as a specialty electrical contractor administrator in

1 the specialty for which application has been made. Administrator  
2 certificate specialties include but are not limited to: Residential,  
3 domestic, appliance, pump and irrigation, limited energy system, signs,  
4 nonresidential maintenance, and combination specialty. To obtain an  
5 administrator's certificate an individual must pass an examination as  
6 set forth in RCW 19.28.123 unless the applicant was a licensed  
7 electrical contractor at any time during 1974. Applicants who were  
8 electrical contractors licensed by the state of Washington at any time  
9 during 1974 are entitled to receive a general electrical contractor  
10 administrator's certificate without examination if the applicants apply  
11 prior to January 1, 1984. The board of electrical examiners shall  
12 certify to the department the names of all persons who are entitled to  
13 either a general or specialty electrical contractor administrator's  
14 certificate.

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