

WAC 296-17-31004 Coverage requirements. (1) I own a business. Am I required to have workers' compensation insurance coverage for my employees? Nearly every employer doing business in the state of Washington is required to have workers' compensation insurance for his/her employees. Washington law (RCW 51.12.020) does exempt certain types of employment from coverage. If you employ only individuals who are excluded from mandatory workers' compensation insurance coverage, you are not required to have workers' compensation insurance coverage.

(2) I hire contractors to perform work for me. Do I need to be concerned about premiums on their work? Yes. There are two ways you may be liable for premiums on the work they do.

First, they may be "workers" for whom you are required to report and pay premiums. The law defines worker to include both your employees and independent contractors you hire, when the essence of the contract is personal labor. See RCW 51.08.070, 51.08.180, 51.08.181, and 51.08.195 for more guidance about when independent contractors will be considered workers.

Second, the Industrial Insurance Act imposes premium liability on anyone who contracts with another to have work performed. Even if the contractor you hire is not your worker (for example, if the contractor uses one or more workers on the job), you could be liable for their premiums if they fail to pay.

(3) Is there any way for me to protect myself from being held liable for premiums owed by construction contractors I hire? Yes, if you are a registered construction contractor or licensed electrical contractor, and you hire a registered construction contractor or a licensed electrical contractor to do construction work that requires licensing or registration, you can protect yourself from being found liable for the premiums on the work that contractor does for you if:

(a) They have a principal place of business eligible for IRS deduction;

(b) They keep books and records that reflect all items of income and all expenses of the business; and

(c) You have verified that they have an industrial insurance account in good standing, or are a self-insured employer approved by the department.

(4) What does "in good standing" mean? For someone's account to be in good standing, they must:

(a) Be registered with the department of labor and industries for industrial insurance coverage with the state fund;

(b) Have a certificate of coverage, also known as a liability certificate, that has not been revoked or canceled;

(c) Have submitted all reports and supplements required by the department within the past year; and

(d) Be current with all payments due to the state fund, or are current with an approved written payment agreement with the department regarding all unpaid amounts due the state fund.

(5) How do I know that someone's account is considered to be "in good standing"? You can find out whether someone's account is in good standing by visiting the department's website or calling your account manager. If the account is in good standing, the website will state "account is current."

(6) I use the same subcontractors over and over. Do I have to verify that they have an industrial insurance account in good standing every time I use them? No. In RCW 51.12.070 protection for construction contractors only requires that you have confirmed a subcontractor's account within a year prior to letting a contract. When you

check out your subcontractors on the department's website or by calling your account manager, a confirmation number will be provided as proof you checked them out. This confirmation number is valid for one year from the time it is issued.

If you are notified by the department of labor and industries that a subcontractor's account is no longer in good standing, you may be liable for their industrial insurance premiums from the date of notification forward.

(7) Can I, as a construction contractor, be held liable if I verify that the accounts of construction contractors I hire are in good standing, but they fail to confirm the accounts of the construction subcontractors they hire? No. If you make sure you and your construction subcontractors meet the requirements of RCW 51.12.070, you cannot be held liable if they fail to make sure their construction subcontractors meet the requirements.

[Statutory Authority: RCW 51.04.020 and 51.16.035. WSR 20-20-108, § 296-17-31004, filed 10/6/20, effective 1/1/21; WSR 13-11-128, § 296-17-31004, filed 5/21/13, effective 7/1/13. Statutory Authority: 2004 c 243, RCW 51.04.020 and 51.16.035. WSR 04-20-023, § 296-17-31004, filed 9/28/04, effective 11/1/04. Statutory Authority: RCW 51.16.035. WSR 98-18-042, § 296-17-31004, filed 8/28/98, effective 10/1/98.]