

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1353**

Chapter 168, Laws of 1993

53rd Legislature  
1993 Regular Session

WORKERS' COMPENSATION--ASBESTOS DISEASE BENEFIT CLAIMS

EFFECTIVE DATE: 7/1/93

Passed by the House March 13, 1993  
Yeas 93 Nays 0

BRIAN EBERSOLE  
**Speaker of the  
House of Representatives**

Passed by the Senate April 15, 1993  
Yeas 32 Nays 5

JOEL PRITCHARD  
**President of the Senate**

Approved April 30, 1993

MIKE LOWRY  
**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1353** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON  
**Chief Clerk**

FILED

April 30, 1993 - 2:21 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 1353**

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Passed Legislature - 1993 Regular Session

**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** Representatives G. Cole, Franklin, Heavey and King; by request of  
Department of Labor & Industries

Read first time 01/25/93. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to asbestos disease benefits; amending RCW  
2 51.12.102; creating a new section; providing an effective date; and  
3 declaring an emergency.

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

5            **Sec. 1.** RCW 51.12.102 and 1988 c 271 s 1 are each amended to read  
6 as follows:

7            (1) The department shall furnish the benefits provided under this  
8 title to any worker or beneficiary who may have a right or claim for  
9 benefits under the maritime laws of the United States resulting from an  
10 asbestos-related disease if (a) there are objective clinical findings  
11 to substantiate that the worker has an asbestos-related claim for  
12 occupational disease and (b) the worker's employment history has a  
13 prima facie indicia of injurious exposure to asbestos fibers while  
14 employed in the state of Washington in employment covered under this  
15 title. The department shall render a decision as to the liable insurer  
16 and shall continue to pay benefits until the liable insurer initiates  
17 payments or benefits are otherwise properly terminated under this  
18 title.

1 (2) The benefits authorized under subsection (1) of this section  
2 shall be paid from the medical aid fund, with the self-insurers and the  
3 state fund each paying a pro rata share, based on number of worker  
4 hours, of the costs necessary to fund the payments. For the purposes  
5 of this subsection only, the employees of self-insured employers shall  
6 pay an amount equal to one-half of the share charged to the self-  
7 insured employer.

8 (3) If the department determines that the benefits paid under  
9 subsection (1) of this section are owed to the worker or beneficiary by  
10 a self-insurer or the state fund, then the self-insurer or state fund  
11 shall reimburse the medical aid fund for all benefits paid and costs  
12 incurred by the fund.

13 (4) If the department determines that the benefits paid under  
14 subsection (1) of this section are owed to the worker or beneficiary by  
15 a federal program other than the federal social security, old age  
16 survivors, and disability insurance act, 42 U.S.C. or an insurer under  
17 the maritime laws of the United States:

18 (a) The department shall pursue the federal program insurer on  
19 behalf of the worker or beneficiary to recover from the federal program  
20 insurer the benefits due the worker or beneficiary and on its own  
21 behalf to recover the benefits previously paid to the worker or  
22 beneficiary and costs incurred;

23 (b) For the purpose of pursuing recovery under this subsection, the  
24 department shall be subrogated to all of the rights of the worker or  
25 beneficiary receiving compensation under subsection (1) of this  
26 section; and

27 (c) The department shall not pursue the worker or beneficiary for  
28 the recovery of benefits paid under subsection (1) of this section  
29 unless the worker or beneficiary receives recovery from the federal  
30 program insurer, in addition to receiving benefits authorized under  
31 this section. The director may exercise his or her discretion to  
32 waive, in whole or in part, the recovery of any such benefits where the  
33 recovery would be against equity and good conscience.

34 (d) Actions pursued against federal program insurers determined by  
35 the department to be liable for benefits under this section may be  
36 prosecuted by special assistant attorneys general. The attorney  
37 general shall select special assistant attorneys general from a list  
38 compiled by the department and the Washington state bar association.  
39 The attorney general, in conjunction with the department and the

1 Washington state bar association, shall adopt rules and regulations  
2 outlining the criteria and the procedure by which private attorneys may  
3 have their names placed on the list of attorneys available for  
4 appointment as special assistant attorneys general to litigate actions  
5 under this subsection. Attorneys' fees and costs shall be paid in  
6 conformity with applicable federal and state law. Any legal costs  
7 remaining as an obligation of the department shall be paid from the  
8 medical aid fund.

9 (5) The provisions of subsection (1) of this section shall not  
10 apply if the worker or beneficiary refuses, for whatever reason, to  
11 assist the department in making a proper determination of coverage. If  
12 a worker or beneficiary refuses to cooperate with the department, self-  
13 insurer, or federal program insurer by failing to provide information  
14 that, in the opinion of the department, is relevant in determining the  
15 liable insurer, or if a worker refuses to submit to medical  
16 examination, or obstructs or fails to cooperate with the examination,  
17 or if the worker or beneficiary fails to cooperate with the department  
18 in pursuing benefits from the federal program insurer, the department  
19 shall reject the application for benefits. No information obtained  
20 under this section is subject to release by subpoena or other legal  
21 process.

22 (6) The amount of any third party recovery by the worker or  
23 beneficiary shall be subject to a lien by the department to the full  
24 extent that the medical aid fund has not been otherwise reimbursed by  
25 another insurer. Reimbursement shall be made immediately to the  
26 medical aid fund upon recovery from the third party suit. If the  
27 department determines that the benefits paid under subsection (1) of  
28 this section are owed to the worker or beneficiary by a federal program  
29 insurer, the department shall not participate in the costs or  
30 attorneys' fees incurred in bringing the third party suit.

31 (~~(7) This section shall expire July 1, 1993.~~)

32 NEW SECTION. Sec. 2. This act applies to all claims without  
33 regard to the date of injury or date of filing of the claim.

34 NEW SECTION. Sec. 3. This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of the  
36 state government and its existing public institutions, and shall take  
37 effect July 1, 1993.

Passed the House March 13, 1993.  
Passed the Senate April 15, 1993.  
Approved by the Governor April 30, 1993.  
Filed in Office of Secretary of State April 30, 1993.