
SUBSTITUTE SENATE BILL 5402

State of Washington**54th Legislature****1995 Regular Session**

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz and Franklin; by request of Department of Labor & Industries)

Read first time 02/17/95.

1 AN ACT Relating to industrial insurance penalties; amending RCW
2 51.16.200, 51.48.020, 51.48.120, and 51.48.150; adding a new section to
3 chapter 43.22 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 51.16.200 and 1986 c 9 s 6 are each amended to read as
6 follows:

7 Whenever any employer quits business, or sells out, exchanges, or
8 otherwise disposes of the employer's business or stock of goods, any
9 tax payable hereunder shall become immediately due and payable, and the
10 employer shall, within ten days thereafter, make a return and pay the
11 tax due; and any person who becomes a successor to such business shall
12 become liable for the full amount of the tax and withhold from the
13 purchase price a sum sufficient to pay any tax due from the employer
14 until such time as the employer shall produce a receipt from the
15 department showing payment in full of any tax due or a certificate that
16 no tax is due and, if such tax is not paid by the employer within ten
17 days from the date of such sale, exchange, or disposal, the successor
18 shall become liable for the payment of the full amount of tax, and the
19 payment thereof by such successor shall, to the extent thereof, be

1 deemed a payment upon the purchase price, and if such payment is
2 greater in amount than the purchase price the amount of the difference
3 shall become a debt due such successor from the employer.

4 No successor may be liable for any tax due from the person from
5 whom ((that person)) the successor has acquired a business or stock of
6 goods if ((that person)) the successor gives written notice to the
7 department of such acquisition and no assessment is issued by the
8 department within ((sixty)) one hundred eighty days of receipt of such
9 notice against the former operator of the business and a copy thereof
10 mailed to such successor.

11 **Sec. 2.** RCW 51.48.020 and 1987 c 221 s 1 are each amended to read
12 as follows:

13 (1) Any employer, who misrepresents to the department the amount of
14 his or her payroll or employee hours upon which the premium under this
15 title is based, shall be liable to the state in ten times the amount of
16 the difference in premiums paid and the amount the employer should have
17 paid and for the reasonable expenses of auditing his or her books and
18 collecting such sums. Such liability may be enforced in the name of
19 the department. If such misrepresentations are made knowingly, an
20 employer shall also be guilty of a felony, or gross misdemeanor in
21 accordance with the theft and anticipatory provisions of Title 9A RCW.

22 (2) Any person claiming benefits under this title, who knowingly
23 gives false information required in any claim or application under this
24 title shall be guilty of a felony, or gross misdemeanor in accordance
25 with the theft and anticipatory provisions of Title 9A RCW.

26 **Sec. 3.** RCW 51.48.120 and 1986 c 9 s 10 are each amended to read
27 as follows:

28 If any employer should default in any payment due to the state fund
29 the director or the director's designee may issue a notice of
30 assessment certifying the amount due, which notice shall be served upon
31 the employer by mailing such notice to the employer by certified mail
32 to the employer's last known address((, accompanied by an affidavit of
33 service by mailing,)) or served in the manner prescribed for the
34 service of a summons in a civil action. Such notice shall contain the
35 information that an appeal must be filed with the board of industrial
36 insurance appeals and the director by mail or personally within thirty
37 days of the date of service of the notice of assessment in order to

1 appeal the assessment unless a written request for reconsideration is
2 filed with the department of labor and industries.

3 **Sec. 4.** RCW 51.48.150 and 1987 c 442 s 1119 are each amended to
4 read as follows:

5 The director or the director's designee is hereby authorized to
6 issue to any person, firm, corporation, municipal corporation,
7 political subdivision of the state, a public corporation, or any agency
8 of the state, a notice and order to withhold and deliver property of
9 any kind whatsoever when he or she has reason to believe that there is
10 in the possession of such person, firm, corporation, municipal
11 corporation, political subdivision of the state, public corporation, or
12 any agency of the state, property which is or shall become due, owing,
13 or belonging to any employer upon whom a notice of assessment has been
14 served by the department for payments due to the state fund. The
15 effect of a notice and order to withhold and deliver shall be
16 continuous from the date such notice and order to withhold and deliver
17 is first made until the liability out of which such notice and order to
18 withhold and deliver arose is satisfied or becomes unenforceable
19 because of lapse of time. The department shall release the notice and
20 order to withhold and deliver when the liability out of which the
21 notice and order to withhold and deliver arose is satisfied or becomes
22 unenforceable by reason of lapse of time and shall notify the person
23 against whom the notice and order to withhold and deliver was made that
24 such notice and order to withhold and deliver has been released.

25 The notice and order to withhold and deliver shall be served by the
26 sheriff of the county or by the sheriff's deputy, by certified mail,
27 return receipt requested, or by any duly authorized representatives of
28 the director. Any person, firm, corporation, municipal corporation,
29 political subdivision of the state, public corporation or any agency of
30 the state upon whom service has been made is hereby required to answer
31 the notice within twenty days exclusive of the day of service, under
32 oath and in writing, and shall make true answers to the matters
33 inquired of in the notice and order to withhold and deliver. In the
34 event there is in the possession of the party named and served with a
35 notice and order to withhold and deliver, any property which may be
36 subject to the claim of the department, such property shall be
37 delivered forthwith to the director or the director's duly authorized
38 representative upon service of the notice to withhold and deliver which

1 will be held in trust by the director for application on the employer's
2 indebtedness to the department, or for return without interest, in
3 accordance with a final determination of a petition for review, or in
4 the alternative such party shall furnish a good and sufficient surety
5 bond satisfactory to the director conditioned upon final determination
6 of liability. Should any party served and named in the notice to
7 withhold and deliver fail to make answer to such notice and order to
8 withhold and deliver, within the time prescribed herein, it shall be
9 lawful for the court, after the time to answer such order has expired,
10 to render judgment by default against the party named in the notice to
11 withhold and deliver for the full amount claimed by the director in the
12 notice to withhold and deliver together with costs. In the event that
13 a notice to withhold and deliver is served upon an employer and the
14 property found to be subject thereto is wages, then the employer shall
15 be entitled to assert in the answer to all exemptions provided for by
16 chapter 6.27 RCW to which the wage earner may be entitled.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.22 RCW
18 to read as follows:

19 The department shall annually compile a comprehensive report on
20 workers' compensation fraud in Washington. The report shall include
21 the department's activities related to the prevention, detection, and
22 prosecution of worker, employer, and provider fraud and the cost of
23 such activities, as well as the actual and estimated cost savings of
24 such activities. The report shall be submitted to the appropriate
25 committees of the legislature prior to the start of the legislative
26 session in January.

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