

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5402

54th Legislature
1995 Regular Session

Passed by the Senate April 17, 1995
YEAS 43 NAYS 0

President of the Senate

Passed by the House April 6, 1995
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5402** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5402

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

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, 51.32.020, 51.32.040, 51.48.020, 51.48.120, and 51.48.150;
3 adding a new section to chapter 43.22 RCW; prescribing penalties; and
4 creating a new section.

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

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

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

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

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

12 **Sec. 2.** RCW 51.32.020 and 1977 ex.s. c 350 s 39 are each amended
13 to read as follows:

14 If injury or death results to a worker from the deliberate
15 intention of the worker himself or herself to produce such injury or
16 death, or while the worker is engaged in the attempt to commit, or the
17 commission of, a felony, neither the worker nor the widow, widower,
18 child, or dependent of the worker shall receive any payment under this
19 title.

20 If injury or death results to a worker from the deliberate
21 intention of a beneficiary of that worker to produce the injury or
22 death, or if injury or death results to a worker as a consequence of a
23 beneficiary of that worker engaging in the attempt to commit, or the
24 commission of, a felony, the beneficiary shall not receive any payment
25 under this title.

26 An invalid child, while being supported and cared for in a state
27 institution, shall not receive compensation under this chapter.

28 No payment shall be made to or for a natural child of a deceased
29 worker and, at the same time, as the stepchild of a deceased worker.

30 **Sec. 3.** RCW 51.32.040 and 1987 c 75 s 7 are each amended to read
31 as follows:

32 (1) Except as provided in RCW 43.20B.720 and 74.20A.260, no money
33 paid or payable under this title shall, (~~except as provided for in RCW~~
34 43.20B.720 or 74.20A.260, prior to)) before the issuance and delivery
35 of the check or warrant (~~therefor~~), be (~~capable of being~~) assigned,
36 charged, or (~~ever be~~) taken in execution (~~or~~), attached (~~or~~),
37 garnished, (~~nor shall the same~~) or pass(~~or~~) or be paid(~~or~~) to any

1 other person by operation of law, (~~or by~~) any form of voluntary
2 assignment, or power of attorney. Any such assignment or charge
3 (~~shall be~~) is void(~~)~~ unless the transfer is to a financial
4 institution at the request of a worker or other beneficiary and made in
5 accordance with RCW 51.32.045 (~~shall be made: PROVIDED, That~~)).

6 (2)(a) If any worker suffers (i) a permanent partial injury(~~)~~
7 and dies from some other cause than the accident which produced
8 (~~such~~) the injury before he or she (~~shall have received~~) receives
9 payment of (~~his or her~~) the award for (~~such~~) the permanent partial
10 injury(~~)~~ or (~~if any worker suffers~~) (ii) any other injury before
11 he or she (~~shall have received~~) receives payment of any monthly
12 installment covering any period of time (~~prior to~~) before his or her
13 death, the amount of (~~such~~) the permanent partial disability
14 award(~~)~~ or (~~of such~~) the monthly payment, or both, shall be paid
15 to the surviving spouse(~~)~~ or (~~to~~) the child or children if there
16 is no surviving spouse(~~: PROVIDED FURTHER, That~~)).

17 (b) If any worker suffers an injury and dies (~~therefrom~~) from it
18 before he or she (~~shall have received~~) receives payment of any
19 monthly installment covering time loss for any period of time (~~prior~~
20 ~~to~~) before his or her death, the amount of (~~such~~) the monthly
21 payment shall be paid to the surviving spouse(~~)~~ or (~~to~~) the child
22 or children if there is no surviving spouse(~~: PROVIDED FURTHER,~~
23 ~~That~~)).

24 (c) Any application for compensation under (~~the foregoing provisos~~
25 ~~of this section~~) this subsection (2) shall be filed with the
26 department or self-insuring employer within one year of the date of
27 death(~~: PROVIDED FURTHER, That~~)). However, if the injured worker
28 resided in the United States as long as three years (~~prior to~~) before
29 the date of injury, (~~such~~) payment under this subsection (2) shall
30 not be made to any surviving spouse or child who was at the time of the
31 injury a nonresident of the United States(~~: PROVIDED FURTHER, That~~)).

32 (3)(a) Any worker or beneficiary receiving benefits under this
33 title who is subsequently confined in, or who subsequently becomes
34 eligible (~~therefor~~) for benefits under this title while confined in,
35 any institution under conviction and sentence shall have all payments
36 of (~~such~~) the compensation canceled during the period of confinement
37 (~~but~~). After discharge from the institution, payment of benefits
38 (~~thereafter~~) due afterward shall be paid if (~~such~~) the worker or
39 beneficiary would, (~~but~~) except for the provisions of this

1 (~~provisø~~) subsection (3), otherwise be entitled (~~thereto: PROVIDED~~
2 ~~FURTHER, That~~) to them.

3 (b) If any prisoner is injured in the course of his or her
4 employment while participating in a work or training release program
5 authorized by chapter 72.65 RCW and is subject to the provisions of
6 this title, he or she (~~shall be~~) is entitled to payments under this
7 title, subject to the requirements of chapter 72.65 RCW, unless his or
8 her participation in (~~such~~) the program has been canceled, or unless
9 he or she is returned to a state correctional institution, as defined
10 in RCW 72.65.010(3), as a result of revocation of parole or new
11 sentence(~~: PROVIDED FURTHER, That~~).

12 (c) If (~~such incarcerated~~) the confined worker has any
13 beneficiaries during (~~such~~) the confinement period during which
14 benefits are canceled under (a) or (b) of this subsection, (~~any~~
15 ~~beneficiaries,~~) they shall be paid directly the monthly benefits which
16 would have been paid to (~~him or her~~) the worker for himself or
17 herself and (~~his or her~~) the worker's beneficiaries had (~~he or she~~)
18 the worker not been (~~so~~) confined.

19 (4) Any lump sum benefits to which (~~the~~) a worker would otherwise
20 be entitled but for the provisions of (~~these provisos~~) this section
21 shall be paid on a monthly basis to his or her beneficiaries.

22 **Sec. 4.** RCW 51.48.020 and 1987 c 221 s 1 are each amended to read
23 as follows:

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

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

1 **Sec. 5.** RCW 51.48.120 and 1986 c 9 s 10 are each amended to read
2 as follows:

3 If any employer should default in any payment due to the state fund
4 the director or the director's designee may issue a notice of
5 assessment certifying the amount due, which notice shall be served upon
6 the employer by mailing such notice to the employer by certified mail
7 to the employer's last known address(~~(, accompanied by an affidavit of~~
8 ~~service by mailing,)~~) or served in the manner prescribed for the
9 service of a summons in a civil action. Such notice shall contain the
10 information that an appeal must be filed with the board of industrial
11 insurance appeals and the director by mail or personally within thirty
12 days of the date of service of the notice of assessment in order to
13 appeal the assessment unless a written request for reconsideration is
14 filed with the department of labor and industries.

15 **Sec. 6.** RCW 51.48.150 and 1987 c 442 s 1119 are each amended to
16 read as follows:

17 The director or the director's designee is hereby authorized to
18 issue to any person, firm, corporation, municipal corporation,
19 political subdivision of the state, a public corporation, or any agency
20 of the state, a notice and order to withhold and deliver property of
21 any kind whatsoever when he or she has reason to believe that there is
22 in the possession of such person, firm, corporation, municipal
23 corporation, political subdivision of the state, public corporation, or
24 any agency of the state, property which is or shall become due, owing,
25 or belonging to any employer upon whom a notice of assessment has been
26 served by the department for payments due to the state fund. The
27 effect of a notice and order to withhold and deliver shall be
28 continuous from the date such notice and order to withhold and deliver
29 is first made until the liability out of which such notice and order to
30 withhold and deliver arose is satisfied or becomes unenforceable
31 because of lapse of time. The department shall release the notice and
32 order to withhold and deliver when the liability out of which the
33 notice and order to withhold and deliver arose is satisfied or becomes
34 unenforceable by reason of lapse of time and shall notify the person
35 against whom the notice and order to withhold and deliver was made that
36 such notice and order to withhold and deliver has been released.

37 The notice and order to withhold and deliver shall be served by the
38 sheriff of the county or by the sheriff's deputy, by certified mail,

1 return receipt requested, or by any duly authorized representatives of
2 the director. Any person, firm, corporation, municipal corporation,
3 political subdivision of the state, public corporation or any agency of
4 the state upon whom service has been made is hereby required to answer
5 the notice within twenty days exclusive of the day of service, under
6 oath and in writing, and shall make true answers to the matters
7 inquired of in the notice and order to withhold and deliver. In the
8 event there is in the possession of the party named and served with a
9 notice and order to withhold and deliver, any property which may be
10 subject to the claim of the department, such property shall be
11 delivered forthwith to the director or the director's duly authorized
12 representative upon service of the notice to withhold and deliver which
13 will be held in trust by the director for application on the employer's
14 indebtedness to the department, or for return without interest, in
15 accordance with a final determination of a petition for review, or in
16 the alternative such party shall furnish a good and sufficient surety
17 bond satisfactory to the director conditioned upon final determination
18 of liability. Should any party served and named in the notice to
19 withhold and deliver fail to make answer to such notice and order to
20 withhold and deliver, within the time prescribed herein, it shall be
21 lawful for the court, after the time to answer such order has expired,
22 to render judgment by default against the party named in the notice to
23 withhold and deliver for the full amount claimed by the director in the
24 notice to withhold and deliver together with costs. In the event that
25 a notice to withhold and deliver is served upon an employer and the
26 property found to be subject thereto is wages, then the employer shall
27 be entitled to assert in the answer to all exemptions provided for by
28 chapter 6.27 RCW to which the wage earner may be entitled.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.22 RCW
30 to read as follows:

31 The department shall annually compile a comprehensive report on
32 workers' compensation fraud in Washington. The report shall include
33 the department's activities related to the prevention, detection, and
34 prosecution of worker, employer, and provider fraud and the cost of
35 such activities, as well as the actual and estimated cost savings of
36 such activities. The report shall be submitted to the appropriate

1 committees of the legislature prior to the start of the legislative
2 session in January.

3 NEW SECTION. **Sec. 8.** Sections 2 and 3 of this act shall apply
4 from the effective date of this act without regard to the date of
5 injury or the date of filing a claim.

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