

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2312**

Chapter 279, Laws of 1998

55th Legislature  
1998 Regular Session

WORKERS' COMPENSATION OBLIGATIONS OF EMPLOYERS NOT DOMICILED IN  
WASHINGTON

EFFECTIVE DATE: 6/11/98

Passed by the House March 12, 1998  
Yeas 98 Nays 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate March 12, 1998  
Yeas 47 Nays 0

BRAD OWEN  
**President of the Senate**

Approved April 2, 1998

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2312** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

April 2, 1998 - 2:16 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2312**

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AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

**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; amending RCW 51.12.120, 18.27.030, and  
3 19.28.120; and creating new sections.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that a competitive  
6 disadvantage exists in the construction industry because of a  
7 disparity in workers' compensation coverage requirements among the  
8 states. The intent of this act is (1) to provide an equal footing for  
9 all contractors bidding on or engaging in construction work in this  
10 state, (2) to ensure that all workers injured while in the course of  
11 employment in this state receive the benefits to which they are  
12 entitled, and (3) to not create disincentives for employers to hire  
13 workers in this state.

14            **Sec. 2.** RCW 51.12.120 and 1995 c 199 s 1 are each amended to read  
15 as follows:

16            (1) If a worker, while working outside the territorial limits of  
17 this state, suffers an injury on account of which he or she, or his or  
18 her beneficiaries, would have been entitled to compensation under this

1 title had (~~such~~) the injury occurred within this state, (~~such~~) the  
2 worker, or his or her beneficiaries, shall be entitled to compensation  
3 under this title(~~(:—PROVIDED, That)~~) if at the time of (~~such~~) the  
4 injury:

5 (a) His or her employment is principally localized in this state;  
6 or

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

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

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

14 (2) The payment or award of compensation or other recoveries,  
15 including settlement proceeds, under the workers' compensation law of  
16 another state, territory, province, or foreign nation to a worker or  
17 his or her beneficiaries otherwise entitled on account of such injury  
18 to compensation under this title shall not be a bar to a claim for  
19 compensation under this title(~~(:—PROVIDED,)~~) if that claim under this  
20 title is timely filed. If compensation is paid or awarded under this  
21 title, the total amount of compensation or other recoveries, including  
22 settlement proceeds, paid or awarded the worker or beneficiary under  
23 such other workers' compensation law shall be credited against the  
24 compensation due the worker or beneficiary under this title.

25 (3)(a) An employer not domiciled in this state who is employing  
26 workers in this state in work for which the employer must be registered  
27 under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or  
28 prequalified under RCW 47.28.070, must secure the payment of  
29 compensation under this title by:

30 (i) Insuring the employer's workers' compensation obligation under  
31 this title with the department;

32 (ii) Being qualified as a self-insurer under this title; or

33 (iii) For employers domiciled in a state or province of Canada  
34 subject to an agreement entered into under subsection (7) of this  
35 section, as permitted by the agreement, filing with the department a  
36 certificate of coverage issued by the agency that administers the  
37 workers' compensation law in the employer's state or province of  
38 domicile certifying that the employer has secured the payment of

1 compensation under the other state's or province's workers'  
2 compensation law.

3 (b) The department shall adopt rules to implement this subsection.

4 (4) If a worker or beneficiary is entitled to compensation under  
5 this title by reason of an injury sustained in this state while in the  
6 employ of an employer who is domiciled in another state or province of  
7 Canada and the employer:

8 (a) Is not subject to subsection (3) of this section and ((who))  
9 has neither opened an account with the department nor qualified as a  
10 self-insurer under this title, ((such-an)) the employer or his or her  
11 insurance carrier shall file with the director a certificate issued by  
12 the agency ((which)) that administers the workers' compensation law in  
13 the state of the employer's domicile, certifying that ((such)) the  
14 employer has secured the payment of compensation under the workers'  
15 compensation law of ((such)) the other state and that with respect to  
16 ((said)) the injury ((such)) the worker or beneficiary is entitled to  
17 the benefits provided under ((such)) the other state's law. ((In such  
18 event:

19 (a)) (b) Has filed a certificate under subsection (3)(a)(iii) of  
20 this section or (a) of this subsection (4):

21 (i) The filing of ((such)) the certificate ((shall)) constitutes  
22 appointment by the employer or his or her insurance carrier of the  
23 director as its agent for acceptance of the service of process in any  
24 proceeding brought by any claimant to enforce rights under this title;

25 ((b)) (ii) The director shall send to such employer or his or her  
26 insurance carrier, by registered or certified mail to the address shown  
27 on such certificate, a true copy of any notice of claim or other  
28 process served on the director by the claimant in any proceeding  
29 brought to enforce rights under this title;

30 ((e)(i)) (iii) If ((such)) the employer is a self-insurer under  
31 the workers' compensation law of ((such)) the other state or province  
32 of Canada, ((such)) the employer shall, upon submission of evidence or  
33 security, satisfactory to the director, of his or her ability to meet  
34 his or her liability to ((such)) the claimant under this title, be  
35 deemed to be a qualified self-insurer under this title; and

36 ((ii)) (iv) If ((such)) the employer's liability under the  
37 workers' compensation law of ((such)) the other state or province of  
38 Canada is insured((, such)):

1       (A) The employer's carrier, as to such claimant only, shall be  
2 deemed to be subject to this title~~((:—PROVIDED, That))~~. However,  
3 unless ~~((its))~~ the insurer's contract with ~~((said))~~ the employer  
4 requires ~~((it))~~ the insurer to pay an amount equivalent to the  
5 compensation benefits provided by this title, the insurer's liability  
6 for compensation shall not exceed ~~((its))~~ the insurer's liability under  
7 the workers' compensation law of ~~((such))~~ the other state or province;  
8 and

9       ~~((d))~~ (B) If the total amount for which ~~((such))~~ the employer's  
10 insurer is liable under ~~((e)(ii) above))~~ (b)(iv)(A) of this subsection  
11 is less than the total of the compensation to which ~~((such))~~ the  
12 claimant is entitled under this title, the director may require the  
13 employer to file security satisfactory to the director to secure the  
14 payment of compensation under this title~~((?))~~.

15       ~~((e))~~ (c) If ~~((such employer))~~ subject to subsection (3) of this  
16 section, has not complied with subsection (3) of this section or, if  
17 not subject to subsection (3) of this section, has neither qualified as  
18 a self-insurer nor secured insurance coverage under the workers'  
19 compensation law of another state or province of Canada, ~~((such))~~ the  
20 claimant shall be paid compensation by the department~~((?))~~ and

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

30       ~~((4))~~ (5) As used in this section:

31       (a) A person's employment is principally localized in this or  
32 another state when: (i) His or her employer has a place of business in  
33 this or ~~((such))~~ the other state and he or she regularly works at or  
34 from ~~((such))~~ the place of business~~((?))~~; or (ii) if ~~((clause (i)~~  
35 ~~foregoing))~~ (a)(i) of this subsection is not applicable, he or she is  
36 domiciled in and spends a substantial part of his or her working time  
37 in the service of his or her employer in this or ~~((such))~~ the other  
38 state;

1 (b) "Workers' compensation law" includes "occupational disease law"  
2 for the purposes of this section.

3 ~~((+5))~~ (6) A worker whose duties require him or her to travel  
4 regularly in the service of his or her employer in this and one or more  
5 other states may agree in writing with his or her employer that his or  
6 her employment is principally localized in this or another state, and,  
7 unless ~~((such))~~ the other state refuses jurisdiction, ~~((such))~~ the  
8 agreement shall govern as to any injury occurring after the effective  
9 date of the agreement.

10 ~~((+6))~~ (7) The director ~~((shall be))~~ is authorized to enter into  
11 agreements with the appropriate agencies of other states and provinces  
12 of Canada ~~((which))~~ that administer their workers' compensation law  
13 with respect to conflicts of jurisdiction and the assumption of  
14 jurisdiction in cases where the contract of employment arises in one  
15 state or province and the injury occurs in another~~((, and))~~. If the  
16 other state's or province's law requires Washington employers to secure  
17 the payment of compensation under the other state's or province's  
18 workers' compensation laws for work that in Washington requires the  
19 employer to be registered under chapter 18.27 RCW or licensed under  
20 chapter 19.28 RCW, or prequalified under RCW 47.28.070, then employers  
21 domiciled in that state or province must purchase compensation covering  
22 their workers engaged in that work in this state under this state's  
23 industrial insurance law. When ~~((any such))~~ an agreement under this  
24 subsection has been executed and ~~((promulgated))~~ adopted as a  
25 ~~((regulation))~~ rule of the department under chapter 34.05 RCW, it  
26 ~~((shall))~~ binds all employers and workers subject to this title and the  
27 jurisdiction of this title ~~((shall be))~~ is governed by this  
28 ~~((regulation))~~ rule.

29 **Sec. 3.** RCW 18.27.030 and 1997 c 314 s 4 are each amended to read  
30 as follows:

31 (1) An applicant for registration as a contractor shall submit an  
32 application under oath upon a form to be prescribed by the director and  
33 which shall include the following information pertaining to the  
34 applicant:

35 (a) Employer social security number.

36 (b) ~~((As applicable:—(i) The industrial insurance account number~~  
37 ~~covering employees domiciled in Washington; and (ii) evidence of~~  
38 ~~workers' compensation coverage in the applicant's state of domicile for~~

1 the applicant's employees working in Washington who are not domiciled  
2 in Washington)) Evidence of workers' compensation coverage for the  
3 applicant's employees working in Washington, as follows:

4 (i) The applicant's industrial insurance account number issued by  
5 the department;

6 (ii) The applicant's self-insurer number issued by the department;  
7 or

8 (iii) For applicants domiciled in a state or province of Canada  
9 subject to an agreement entered into under RCW 51.12.120(7), as  
10 permitted by the agreement, filing a certificate of coverage issued by  
11 the agency that administers the workers' compensation law in the  
12 applicant's state or province of domicile certifying that the applicant  
13 has secured the payment of compensation under the other state's or  
14 province's workers' compensation law.

15 (c) Employment security department number.

16 (d) State excise tax registration number.

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

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

23 (g) The name and address of each partner if the applicant ((be)) is  
24 a firm or partnership, or the name and address of the owner if the  
25 applicant ((be)) is an individual proprietorship, or the name and  
26 address of the corporate officers and statutory agent, if any, if the  
27 applicant ((be)) is a corporation. The information contained in such  
28 application ((shall be)) is a matter of public record and open to  
29 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. 4.** 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))~~ that expire each month. Application for  
17 an 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; and (ii) evidence of~~  
29 ~~workers' compensation coverage in the applicant's state of domicile for~~  
30 ~~the applicant's employees working in Washington who are not domiciled~~  
31 ~~in Washington)) Evidence of workers' compensation coverage for the  
32 applicant's employees working in Washington, as follows:~~

33 (i) The applicant's industrial insurance account number issued by  
34 the department;

35 (ii) The applicant's self-insurer number issued by the department;  
36 or

37 (iii) For applicants domiciled in a state or province of Canada  
38 subject to an agreement entered into under RCW 51.12.120(7), as



1 permitted by the agreement, filing a certificate of coverage issued by  
2 the agency that administers the workers' compensation law in the  
3 applicant's state or province of domicile certifying that the applicant  
4 has secured the payment of compensation under the other state's or  
5 province's workers' compensation law;

6 (e) Employment security department number;

7 (f) State excise tax registration number;

8 (g) Unified business identifier (UBI) account number may be  
9 substituted for the information required by (d)((7)) of this subsection  
10 if the applicant will not employ employees in Washington, and by  
11 (e)((7)) and (f) of this subsection; and

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

30 (2) The department may verify the workers' compensation coverage  
31 information provided by the applicant under subsection (1)(d) 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 application for a contractor license shall be accompanied  
37 by a bond in the sum of four thousand dollars with the state of  
38 Washington named as obligee in the bond, with good and sufficient  
39 surety, to be approved by the department. The bond shall at all times

1 be kept in full force and effect, and any cancellation or revocation  
2 thereof, or withdrawal of the surety therefrom, suspends the license  
3 issued to the principal until a new bond has been filed and approved as  
4 provided in this section. Upon approval of a bond, the department  
5 shall on the next business day deposit the fee accompanying the  
6 application in the electrical license fund and shall file the bond in  
7 the office. The department shall upon request furnish to any person,  
8 firm, partnership, corporation, or other entity a certified copy of the  
9 bond upon the payment of a fee that the department shall set by rule.  
10 The fee shall cover but not exceed the cost of furnishing the certified  
11 copy. The bond shall be conditioned that in any installation or  
12 maintenance of wires or equipment to convey electrical current, and  
13 equipment to be operated by electrical current, the principal will  
14 comply with the provisions of this chapter and with any electrical  
15 ordinance, building code, or regulation of a city or town adopted  
16 pursuant to RCW 19.28.010(~~(+2)~~) (3) that is in effect at the time of  
17 entering into a contract. The bond shall be conditioned further that  
18 the principal will pay for all labor, including employee benefits, and  
19 material furnished or used upon the work, taxes and contributions to  
20 the state of Washington, and all damages that may be sustained by any  
21 person, firm, partnership, corporation, or other entity due to a  
22 failure of the principal to make the installation or maintenance in  
23 accordance with this chapter or any applicable ordinance, building  
24 code, or regulation of a city or town adopted pursuant to RCW  
25 19.28.010(~~(+2)~~) (3). In lieu of the surety bond required by this  
26 section the license applicant may file with the department a cash  
27 deposit or other negotiable security acceptable to the department. If  
28 the license applicant has filed a cash deposit, the department shall  
29 deposit the funds in a special trust savings account in a commercial  
30 bank, mutual savings bank, or savings and loan association and shall  
31 pay annually to the depositor the interest derived from the account.

32 (4) The department shall issue general or specialty electrical  
33 contractor licenses to applicants meeting all of the requirements of  
34 this chapter. The provisions of this chapter relating to the licensing  
35 of any person, firm, partnership, corporation, or other entity  
36 including the requirement of a bond with the state of Washington named  
37 as obligee therein and the collection of a fee therefor, are exclusive,  
38 and no political subdivision of the state of Washington may require or  
39 issue any licenses or bonds or charge any fee for the same or a similar

1 purpose. No person, firm, partnership, corporation, or other entity  
2 holding more than one specialty contractor license under this chapter  
3 may be required to pay an annual fee for more than one such license or  
4 to post more than one four thousand dollar bond, equivalent cash  
5 deposit, or other negotiable security.

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

24 NEW SECTION. **Sec. 5.** The workers' compensation advisory committee  
25 established under RCW 51.04.110 shall appoint a subcommittee to review  
26 section 2 of this act and related issues, as determined by the  
27 committee, and report its findings and recommendations to the  
28 committee. The committee shall make a final report to the department  
29 of labor and industries by December 15, 1998. The department shall  
30 report on the study to the appropriate committees of the legislature by  
31 January 15, 1999.

Passed the House March 12, 1998.

Passed the Senate March 12, 1998.

Approved by the Governor April 2, 1998.

Filed in Office of Secretary of State April 2, 1998.