

HOUSE BILL REPORT

SHB 1464

*As Passed House
March 19, 1991*

Title: An act relating to prohibited practices in industrial insurance.

Brief Description: Providing civil penalties for prohibited practices in industrial insurance.

Sponsor(s): By House Committee on Commerce & Labor (originally sponsored by Representatives Prentice, Cole, Heavey, Jacobsen, Franklin, Leonard, Ogden, R. King, Riley, Phillips, Winsley, Jones and R. Meyers).

Brief History:

Reported by House Committee on:
Commerce & Labor, February 22, 1991, DPS;
Passed House, March 19, 1991, 67-31.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *That Substitute House Bill No. 1464 be substituted therefor, and the substitute bill do pass.* Signed by 7 members: Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman, Ranking Minority Member; Franklin; Jones; R. King; and Prentice.

Minority Report: *Do not pass.* Signed by 2 members: Representatives Lisk, Assistant Ranking Minority Member; and Vance.

Staff: Chris Cordes (786-7117).

Background: Various penalties have been established under the industrial insurance act for violation of the act or rules adopted under the act. Employers are subject to a penalty of up to \$250 for failing to report the injury or illness of an employee if the employee has received medical treatment or is disabled from work and if the employer has notice or knowledge of the injury or illness. Physicians who fail to file a report required by the Department of Labor and Industries are subject to a penalty of up to \$250. Any person who violates a rule adopted by the department under the industrial insurance act is subject to a penalty of up to \$500.

Self-insured employers may be subject to decertification or corrective action if the employer: (1) intentionally or repeatedly induces employees to fail to report injuries, induces the employee to treat the injury as an off-the-job injury, persuades the employee to accept less than the benefits due, or unreasonably makes it necessary for the employee to resort to proceedings to obtain compensation; (2) habitually fails to comply with department rules; or (3) habitually engages in arbitrarily or unreasonably refusing employment to applicants because of nondisabling bodily conditions.

To be timely, a claim for an industrial injury must be filed within one year of the injury. For occupational diseases, the time limit is two years from the date that the worker receives notice from a physician of the existence of the disease.

Summary of Bill: It is unlawful for an employer, employer's representative, or any person to:

- (1) Induce or coerce an employee not to report an industrial accident;
- (2) Induce or coerce an employee to treat an industrial accident as an off-the-job injury;
- (3) Persuade an employee to accept less than the benefits due under the industrial insurance law;
- (4) Unreasonably make it necessary for the employee to resort to proceedings against the employer to obtain industrial insurance compensation;
- (5) Fail to comply with the rules of the Department of Labor and Industries regarding reports or other requirements under industrial insurance;
- (6) Engage in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of non-disabling bodily conditions; and
- (7) Unduly influence the employee's attending physician with regard to releasing the employee for return to work.

No employer or employer's representative may communicate with the attending physician, the department, or the employee's vocational rehabilitation counselor without first notifying the employee or employee's representative.

Any employer, employer representative, or person who violates any of these provisions is subject to a civil penalty of \$1,000 for each offense that the department will collect for the benefit of the worker.

A claim for an industrial insurance injury or occupational disease is exempt from the applicable time limit for filing

the claim if the failure to file within the time limit resulted from an act prohibited by these provisions.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Workers covered by self-insured industrial insurance programs are not treated the same as workers under the state fund. This bill is needed to make the system fair and to prevent harassment of workers and delay in getting their benefits from self-insurers. Monetary penalties are needed to assure adequate enforcement.

Testimony Against: The actions prohibited by this bill are already prohibited if done repeatedly or habitually by a self-insurer. Penalties are already in place. The bill will create a major difficulty in claim adjudication if no one is able to talk to the worker's physician or counselor without permission. The department will be unable to adjudicate the claims. If the statute of limitations is dispensed with, there may be a large number of additional claims.

Witnesses: (in favor) Cindy Zehnder, Teamsters; Dennis Martin and Sidney Swan, Washington State Trial Lawyers Association; and Manuel Arambul, Injured Workers United. (with concerns) Brett Buckley, Department of Labor and Industries. (opposed) Wayne Williams, Washington Self-Insurers Association; and Gary Smith, Independent Business Association.